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House of Representatives

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas, Mr. GENE GREEN, come forward and lead the House in the Pledge of Allegiance?

Mr. GENE GREEN of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize 20 Members on each side for the purposes of making a 1-minute address to the House.

SUPPORT URGED FOR A REAFFIRMATION OF UNITED STATES COMMITMENT TO DEMOCRACY IN CUBA

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

Ms. ROS-LEHTINEN. Mr. Speaker, today the House resumes consideration of the American Overseas Interests Act. This bill reduces spending by $3 billion over the next 2 years, and reforms our foreign policy institutions by folding three agencies into the State Department. Five recent Secretaries of State—Eagleburger, Baker, Shultz, Haig, and Kissinger—endorse this plan. The bill addresses important policy issues. It stops aid to countries that supply weapons to terrorist States and those who vote consistently against us in the United Nations. It cuts off aid to countries that provide aid to the Castro regime or which engage in subsidized trade with the Cuban dictatorship.

Tomorrow, freedom-loving people are rallying at noon in Lafayette Park in front of the White House to protest the administration’s policy of forcible repatriation of Cuban refugees. I encourage all of my colleagues to join in this protest and to demand a reaffirmation of this country’s commitment to freedom and democracy in Cuba, and please support our bill this week.

HOUSTON ROCKETS PLAYING FOR CHAMPIONSHIP

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

Mr. GENE GREEN of Texas. Mr. Speaker, let me take just a minute away from the budget cutting debate and the foreign aid debate. Tonight the world champion Houston Rockets will be playing in the finals with the Orlando Magic. I just wanted to talk about it, because this is the second year in a row those of us in Houston have been honored to have the Rockets in the world championship. This has been a tough year. That is why we are starting in on the road, even though we are world champions. We are blessed by not only a great basketball team but a great city in Houston. I was honored a couple months ago to receive an award along with Hakeem Olajuwon, an outstanding alumnus of the University of Houston. I am proud that the University of Houston is playing a part in tonight’s world championship, because both of the Rockets’ stars, Olajuwon and Clyde Drexler, were on the University of Houston teams in 1983 and 1984 when they went to the NCAA championship. The Rockets are fighting to have a back-to-back championship. They have overcome adversity and injuries to become the world champion.

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. Riggs].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, June 7, 1995.

I hereby designate the Honorable FRANK RIGGS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

O gracious God, from whom comes every good thing, we ask that Your Spirit lead us along the right way, hold our lives in Your providence, direct our minds and enlighten our hearts and heal us and make us strong. We begin each day with gratefulness and confidence that any anxiety or concern that we may have will be sanctified by Your gifts to us and made well by Your presence. May Your renewing Spirit, O God, touch the lives of every person, that we will be the people You would have us be, and do those good works that honor You and serve people everywhere. In Your name, we pray. Amen.

THE JOURNAL

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

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

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
CLINTON SHOULD PASS THE BALL

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

Mr. HAYWORTH. Mr. Speaker, I would join with my colleague, the gentleman from Texas, in all well wishes to the Houston Rockets, and also really to the Orlando Magic, because cheering for the Magic we are going to see some great basketball.

Also during the finals we will hear terms like air ball and slam dunk. These terms can also apply to what is happening right here in Washington. The new Republican majority is a slam dunk on the liberal establishment and the bloated Federal bureaucracy. The new Congress wants to deliver a facelift on deficit spending.

On the other hand, President Clinton's administration is an air ball. Every time the President tries to show leadership, he is throwing up a brick. The latest example is his threatened veto of the rescission bill. In his first veto Bill Clinton will cut off funds to flooding victims in Missouri, earthquake victims in California, and those who suffered as a result of the Oklahoma City bombing.

Mr. Speaker, instead of constantly throwing up air balls, Bill Clinton should pass the ball to the team who will not choke when the getting gets tough.

PROTECT THE FLAG

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

Mr. TRAFICANT. Mr. Speaker, in many cities and towns across America it is illegal to kiss in public. It is illegal in some places to ride a skateboard. It is illegal to burn trash or leaves. It is illegal to yodel or sing in public, and it is illegal, Mr. Speaker, to tamper with a mailbox. However, in America, it is completely legal to burn the flag, completely legal to desecrate the flag. It is even legal, Mr. Speaker, to urinate on Old Glory. In the words of a Russian comedian, “America, what a country.” The truth is, Congress, the debate on protecting the flag is not about Old Glory. It is about national pride. Think about it.

STAY OUT OF BOSNIA

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

Mr. FUNDERBURK. Mr. Speaker, as we speak the President is laying the groundwork for military action in Bosnia. Our troops are about to be put in harm's way by an administration with no Bosnia policy, no public support, and no idea how and when to stop our involvement once we get in.

Mr. Speaker, what is happening in Bosnia is a tragedy, but I ask you, has the President defined any legitimate American interest in the 900-year war in the Balkans, worth risking thousands of Americans? There is a better way—let the Bosnians defend Bosnia—lift the arms embargo.

Those who think lifting the embargo will prolong the war assume that the Serbs will win. As we speak, the Bosnian Government is preparing to launch a campaign to reverse Serbian gains. Serbia is in the grip of a severe internal crisis. Why not let the people of Bosnia make the price of Serbian aggression high? Why not let the people of Bosnia fight for their own freedom?

Mr. Speaker, this administration should start listening to the American people instead of the United Nations. Mr. President, stay out of Bosnia. Lift the arms embargo or be prepared to tell us why you want to leap into a war that will cost more American lives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will advise that Members should address their remarks to the Chair and not to the President.

SEX TRAFFICKING IN THAILAND

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

Ms. SLAUGHTER. Mr. Speaker, I rise today to urge all my colleagues to support my resolution to demand that our Government work to stop the sex trafficking and forced prostitution of women and girls from Burma into Thailand. I am pleased that my colleague from Washington, Senator MURRAY, has introduced this same bill in the Senate.

I was appalled and disgusted to discover that the Government of Thailand has permitted the trafficking of women of brothels. Credible reports have indicated that thousands of Burmese women and girls, as young as 14, are being led into Thailand with false promises of employment, only to be forced into brothels under conditions which include sexual and physical violence, debt bondage, exposure to HIV, passport deprivation, and illegal confinement. In addition, members of the Thai police are often actively involved.

And now we read in our own New York Times, that Thai women are being brought to the United States for the same purpose. This is a practice the U.S. Government must not support and we must work to stop it, before it becomes a practice quietly condoned and supported worldwide.

As we debate the foreign aid budget, we must remember the gross human rights violations which occur against women, and we must remember we have a moral duty to pay attention. We have ignored it for too long. This is an issue of fundamental human rights.

STUDENT LOANS

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

Mrs. KENNELLY. Mr. Speaker, I had the honor in the Memorial Day break to have been chosen as the commencement speaker at two schools, Trinity College in Hartford and Central Connecticut State University in Connecticut. As a result, I talked to many students during this time that we were in our districts. They are very worried. A perfect example of these students right here is Vincent Federici. He has worked hard in high school, got good grades, got accepted to a good college. His mother is a computer worker, his father works at a machine shop. They have worked hard to make sure that Vincent can go to college. They have three sons coming along. They have put every dollar in order. They know where every penny is going.

Mr. Speaker, as we consider changes in the Student Loan Program, I ask Members to think about Vincent and the millions of other young men and women across this country who are doing the right thing, going to college so they can compete in this world competitive market. Please, Mr. Speaker, do not make the students that are going to college pay more and have a bigger burden. It is the wrong thing to do.

ON REPLACING THE FEDERAL INCOME TAX

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

Mr. CHRISTENSEN. Mr. Speaker, this week on the Committee on Ways and Means we are looking at alternatives for making our tax system more clear, simple, and fair. There is no longer a question that we should re-vamp our Federal tax system.

President Carter was right when he stated that our income tax system is a disgrace to the human race. In 1914 we had just 14 pages of Federal income tax law. Today we have over 9,000 pages. A decade ago the IRS commissioned a study that said that it cost $159 billion in compliance. Today it cost nearly $500 billion in compliance costs alone.

Today one economist has estimated that last year more hours were spent doing taxes than were used to build a car, van, and truck in the United States. I look forward to working with my colleagues to design a Federal tax system that encourages savings and investment, rather than punishing those who plan for the future.
URGING SUPPORT FOR FEDERAL LAW ENFORCEMENT OFFICERS IN THE NATIONAL PARK SERVICE AND THE BLM

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

Mr. MILLER of California. Mr. Speaker, National Park rangers and BLM rangers and other Federal law enforcement officers are daily subjected to threats of violence and danger. The men and women who protect our resources and our citizens deserve our respect and our support, whether they wear the uniform in the streets of our cities or in the desolate back woods of our public lands. However, we see a Bureau of Land Management law enforcement ranger in Montana responding to knife assaults, a BLM ranger in California coming upon a drug deal that is turning into a shootout, guns are fired at BLM vehicles in New Mexico, and the list of violent incidents are growing: 29 homicides, 110 cases of arson, 166 weapons violations, and hundreds of more serious offenses on BLM land every year.

That is why Americans are shocked to hear about Members of this House calling for the disarming of law enforcement officials or suggesting that those who violate public laws have an irrational fear of their government.

Now they are getting very specific. The Chairman of the House Committee on Resources, in a letter to the Committee on Appropriations, has called for zero BLM law enforcement protection of law enforcement and huge cuts in law enforcement in the Forest Service. The Members of this House should stand with law enforcement.

URGING A “YES” VOTE ON THE AMERICAN OVERSEAS INTERESTS ACT

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

Mrs. CHENOWETH. Mr. Speaker, today the House resumes work on legislation designed to take our Nation’s foreign affairs operations out of the dark days of the cold war and into the sunshine of the 21st century.

H. R. 1561—the American Overseas Interests Act—recognizes that we won the cold war. It reorganizes our foreign affairs agencies, cuts spending, and refocuses our resources to priorities that support American interests.

The bill eliminates three agencies that our cold war victory has rendered obsolete—the Agency for International Development, the U.S. Information Agency, and the Arms Control and Disarmament Agency.

It cuts spending by nearly $3 billion over 2 years—and by $21 billion over 7 years—while supporting our allies and punishing our opponents.

A vote in favor of this bill is a vote to downside the Federal Government and to cut foreign aid. I urge my colleagues to join me in voting “yes” on final passage of the American Overseas Interests Act.

BREAKING THE PUBLIC TRUST—MAKING MONEY IN THE REPUBLICAN CONGRESS

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

Mr. LEWIS of Georgia. Mr. Speaker, the Republicans won the elections last November and they promised no more business as usual, and were they ever right. The ethical standards that have been adopted by the Republicans in this House are at the lowest level I have ever seen.

Lobbyists writing legislation, Members letting outside groups send out partisan political mailings on their office stationary and, of course, at the center of it all, the Speaker of the House and his infamous book deal.

Now, in this chapter, the Speaker has ignored the ethics committee and signed his contract with Rupert Murdoch. He has even launched a nationwide book tour. This, despite saying he would wait for the ethics committee to approve the deal, which they have not.

They cut school lunches, they cut Medicare, they cut students’ college loans, while the Speaker joins the club of millionaires.

For Republicans, it is no more business as usual, it is time for making money.

CHILD SURVIVAL PROGRAMS A PRIORITY IN FOREIGN AID BUDGET

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

Mr. WALSH. Mr. Speaker, I rise today in strong support of H.R. 966, the James P. Grant World Summit for Children Implementation Act. As we revise our foreign aid priorities it is critical that we not reduce spending for cost-effective programs like child survival that provide benefits to children throughout the world.

Spending for kids’ programs must continue to be a priority in our foreign aid budget. Minimum Federal investments in child survival, basic education, and micronutrient programs have made a dramatic impact in improving the lives and well-being of children in underdeveloped countries. In 1980, for example, over 5 million kids died from vaccine preventable diseases. Because of our investments in child survival programs such as immunization and oral rehydration therapy we are saving millions of children’s lives each year.

Nearly 13 million children worldwide die each year, 35,000 per day, due to largely preventable diseases and malnutrition. These miserable conditions create a cycle of poverty and hopeless-ness that can be broken through proven, cost-effective child survival strategies.

Last year, we provided $280 million for child survival program activities and increased funding for these activities is desperately needed. While it is clear that overall foreign aid levels will be reduced this year, it is essential that the committees dealing with foreign affairs ensure continued U.S. participation in child survival. The World Summit for Children Implementation Act, a bill which I have sponsored with my good friend and leading hunger advocate, Tony Hall, maintains and increases our investment in child survival, basic education, micronutrient programs, and UNICEF. Congress needs to keep its commitment to these cost-effective child development assistance programs and I plan on working with my colleagues to see that these priorities are incorporated into foreign affairs legislation.

ABSENCE OF APPROVAL BY ETHICS COMMITTEE REVIVES TALK OF OUTSIDE COUNSEL ON SPEAKER’S BOOK DEAL

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

Ms. DELAURO. Mr. Speaker, earlier this year, Speaker Gingrich promised to get approval for his book deal from the Ethics Committee before signing the contract. Now, the Speaker has embarked on a nationwide book tour, so the Ethics Committee must have given it OK, right? Wrong.

In fact, the Ethics Committee did not get a chance to rule on the propriety of the Speaker’s multimillion-dollar book contract, before it received a letter from Mr. Gingrich’s lawyer saying that Mr. Gingrich was going ahead with the deal. The letter reads: “We will assume that Mr. Gingrich’s book publishing complies with House rules.”

But, the chairwoman and the ranking member of the committee quickly wrote back to Mr. Gingrich’s lawyer saying: “You should make no such assumption.” This advice was ignored.

The Speaker never received approval from the Ethics Committee on his book contract, as he promised. Mr. Gingrich’s wanton disregard of the Ethics Committee makes it necessary for me to seek outside counsel to investigate the other charges pending against him. The Speaker will be unable to ignore the ruling of an outside counsel in the way
that he has ignored the Ethics Committee.

RESCISSION BILL VETO WILL AFFECT DISASTER VICTIMS
(Mr. WHITFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITFIELD. Mr. Speaker, President Clinton is threatening to veto the Republican rescission bill. This rescission bill would pay for emergency spending by cutting money out of the current year's budget. Responsible, commonsense action like this was seldom adopted when liberals controlled Congress.

The rescission bill provides $6.7 billion in disaster assistance to victims in 40 States, including victims in Oklahoma City, flood victims in Missouri and Kentucky, and earthquake victims in California. These victims need assistance, but the President is trying to stop the money by playing politics.

We know he is upset because we reduced funding for his AmeriCorps. But, Mr. President, don't veto this bill. It provides money and it is paid for. Be a compassionate President and don't make the victims of these disasters wait any longer for help.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (Mr. Riggs). The Chair would remind Members that they must address their remarks to the Chair and not address their remarks to the President.

RECOGNIZING CHANDA RUBIN, PROFESSIONAL TENNIS PLAYER
(Mr. FIELDS of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS of Louisiana. Mr. Speaker, today I take special pride in recognizing a very outstanding constituent of mine. She is a 19-year-old professional tennis player from Lafayette, LA. I speak of no other than Chanda Rubin, daughter of Judge and Mrs. Edward D. Rubin.

I am proud to say that Chanda Rubin just completed her best ever grand slam performance at the French Open. Although Chanda fell short to the defending champion in the quarterfinals yesterday, she proved to be a tough fighter. Her courage has touched the lives of many individuals, particularly young people, across this Nation. I commend Chanda for her hard work and I wish her the best of luck in the future.

BIPARTISAN COMMISSION ON FUTURE OF MEDICARE
(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, just prior to the Memorial Day recess, I introduced legislation to establish a bipartisan Commission on the Future of Medicare. The goal of the Commission would be to find commonsense solutions to reforming and strengthening our Medicare system. It would be patterned after the Pepper Commission that was developed to preserve Social Security. The President should have received a "Dear Colleague" letter outlining this bill.

The Commission would submit to Congress a report that would contain its findings and recommendations regarding patterns of spending under the Medicare Program, long-term solvency of the Hospital Trust Fund, need to eliminate waste, fraud, and abuse, and administration of the current program. To go together in a bipartisan manner. We can then preserve, protect, and strengthen the Medicare system to ensure that our seniors will have access to this program well into the 21st century.

KILLING THE AMERICAN DREAM OF HIGHER EDUCATION
(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, I rise today to protest another one of the Republican plans to kill the American dream.

I am speaking of the budget that was rammed through last week. This budget gutted the Student Loan Program, taking away the hopes and dreams of young Americans who will not be able to go to college. The budget plan is bad. The Republicans have betrayed the future of America by getting rid of student loans in order to cut taxes for their rich friends.

To finance this despicable tax cut for the rich, they have sold out the young people of America. There are some great kids in Alabama and elsewhere in this fantastic country who now will never be able to reach their full potential. We have enticed them and lured them to sleep with dreams of a bright future, and the Republicans have turned those dreams into nightmares.

Wake up, Alabama. Wake up, America.

SUPPORT THE AMERICAN OVERSEAS INTERESTS ACT
(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, when the House resumes debate today on H.R. 1561, the American Overseas Interests Act, our colleagues on the other side of the aisle will remind us that President Clinton doesn't like this bill and has said he will veto it.

Of course Bill Clinton doesn't like this bill. It kills three Federal agencies and cuts spending by $3 billion in the next 2 years. It is not his style to support such cuts. But it also focuses on vital American interests by supporting peace and stability in the Middle East. This bill is about preventing nuclear weapons from being sold to Russia and the other former Soviet States—and locking in the gains of the cold war by supporting nations that want to join NATO.

It recognizes our enemies by cutting off countries that supply weapons to terrorist states—that give aid to Cuba—or that consistently vote against us in the United Nations.

So what if Bill Clinton is threatening to veto the American Overseas Interests Act? We should still support it. I urge my colleagues to join me in voting yes on final passage.

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

Mr. UNDERWOOD. Mr. Speaker, under the guise of saving Medicare, the majority would make funding cuts that would gut the effective benefits to Medicare recipients—and these funding cuts would be used to fund tax cuts that would primarily benefit the wealthy.

This fiscal trickery will not fool the American people.

We often hear of class warfare. Well, this majority has just given us generational warfare with its policies that make school children compete for school lunch funding with seniors on fixed incomes, whose Medicare funding in turn must compete with tax cuts for wealthy middle-aged citizens.

In this generational warfare the weapons are not missile launches but school lunches, and not stealth bombers but stealth tax cuts. And the greatest irony is that the generation that won World War II is now at risk with generational warfare being waged by this majority.

We can do better, and we can do it without pitting the American people against each other.

THE PRESIDENT DOESN'T GET IT
(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, isn't it ironic that the first bill the President lost increased spending by $17 billion, and the first bill he is going to veto cuts spending by almost $17 billion.

Where has the President been for the past 2 years? The mandate from the people in the last election was clear—cut spending first. Gone are the days when we were out of control. Spending habits are the norm. This new Congress is showing that Washington must act responsibly to balance the budget. And
that means that any increase in spending in one area will equal a decrease in another. It is simple accounting.

The rescission bill provides much-needed disaster assistance to people in Oklahoma City and to victims of earthquake and floods in 40 States. Yet the President has decided to play politics with these disaster victims. By vetoing the rescission bill, thousands of people will have their suffering prolonged.

Mr. Speaker, the President just doesn't get it. The people want us to act responsibly and we have.

THE REPUBLICANS' BAD DEAL ON STUDENT LOANS

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

Mr. BALLENGER. Mr. Speaker, the Republican budget cuts student loans, plain and simple. The Republicans say they want to protect the children, they want to provide incentives for investment, but they want to slam the door on middle-class kids who want to go to college.

The Republicans want to cut student aid by $9.5 billion by the year 2002. They will start by requiring students to pay interest on their loans before they have moved into their dormrooms, before they have even attended a class.

On average, a Texas student would pay up to $5,000 more to attend a 4-year college under the Republican plan. That's $5,000 most Texas families don't have to spend. Middle-class families will struggle to pay this amount when the cost of college is already rising twice as fast as their incomes.

Students in my district and the entire Houston area would especially be hit hard by these cuts. Rice University, one of the premier postsecondary institutions in this country, has 2,584 students enrolled this year in its undergraduate program. Of that number, 2,170 students receive financial aid—that's 82 percent of all undergraduates. Of those students, 715 receive Stafford loans totaling $47.7 million. It's difficult to imagine how these students will find an extra $3.6 million to complete their education.

The Republicans just don't get it when it comes to student loans. To companies in a world economy, we must encourage kids to get a higher education, not discourage them. Higher costs for higher education is a bad deal for Texas' students and an even worse deal for America's future.

A PLEA FOR SUPPORT OF AMERICAN OVERSEAS INTERESTS ACT

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

Mr. BALLENGER. Mr. Speaker, H.R. 1561—the American Overseas Interests Act—is the first major step toward reshaping and reorganizing our foreign policy operations since the cold war. It begins by recognizing that—with the end of the long, twilight struggle—we no longer need the specialized agencies that were created to help in the fight against world communism. Nor can we afford them, in a period when we are facing deficits in the range of $200 billion a year. H.R. 1561 begins the necessary task of reordering, eliminating the Agency for International Development, the U.S. Information Agency, and the Arms Control and Disarmament Agency—and transferring their responsibilities to the State Department.

Together with cuts in spending of $3 billion over 2 years—that is cuts below current spending—we are on the way toward modernizing and streamlining the way we project American power and influence around the world. I urge all colleagues to join in voting "yes" on final passage of the American Overseas Interests Act.

RECONSIDER THE VETO

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

Mr. HERGER. Mr. Speaker, President Clinton has threatened to veto the disaster assistance package produced by the Congress. I urge the President to reconsider that threat.

He should not sacrifice needed disaster assistance on the altar of domestic politics.

If the President vetoes this bill, he stops aid to victims of the tragedy in Oklahoma.

If the President vetoes this bill, he jeopardizes the peace process in the Middle East.

If he vetoes this bill, the President stops funds from flowing to aid victims of the natural disasters in California.

Mr. Speaker, if the President vetoes this bill, he allows $9 billion in unnecessary and wasteful spending to be spent.

Apparently, the President has issued the veto threat because he wants to appear relevant to the legislative process. But vetoing this crucially important piece of legislation seems to me to be a destructive way to prove relevance.

SUPPORT WORLD SUMMIT FOR CHILDREN IMPLEMENTATION ACT

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

Mrs. MEEK of Florida. Mr. Speaker, as we consider funding for U.S. foreign aid programs, I hope that Congress will remember the needs of children and enact the World Summit for Children Implementation Act.

We have all seen the pitiful photographs and the television videotape of children in other countries who are the helpless victims of poverty, ignorance, and war—little children who enter life with great hopes but few chances, and who suffer terribly because they lack the most basic of human needs—nourishing food, safe water, basic vitamins, immunization, and routine sanitation, and basic education.

But we do not have to accept present reality. Progress has been made. Worldwide, childhood mortality rates have been cut in half in the last three decades. Eighty percent of the world's children are immunized against disease, saving 3 million children annually.

We need to continue this progress, and we can do it by implementing the goals of the World Summit for Children Implementation Act.

This is something we ought to do.

SUPPORT AMERICAN OVERSEAS INTERESTS ACT

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

Mr. KIM. Mr. Speaker, today we are going to adopt H.R. 1561, the American Overseas Interests Act. Everybody knows that our foreign aid programs are among the least accountable to our
taxpayers and the most dubious in their results. I did not say that. That is the letter sent by the Americans for Tax Reform group.

Taxpayer group after taxpayer group sends us letters urging us to revise and overhaul this long-overdue, complicated, foreign bureaucracy we have.

This is what we have, how complicated it is. Even Dr. Henry Kissinger says that the Agency for International Development is among the worst agencies has ever seen. It is that bad.

By making common sense from this complicated bureaucratic system we have in controlling foreign aid, changing to this, under our new bill, from year to year, we can save $1.8 billion.

That is why we support this bill today. I urge my colleagues to support this.

MEDICARE CUTS TO MISSOURI RURAL HOSPITALS PAY FOR TAX BREAKS FOR WEALTHY

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

Mr. VOLKMER. Mr. Speaker, it is still calm time in the U.S. House of Representatives again. What do I mean by that? When we passed the budget, the Republican budget calls for huge cuts in Medicare in order to give tax breaks for the wealthy.

But when the Republican Members went back home, they said, "No, we're not making big cuts in Medicare. We're strengthening Medicare. We're improving Medicare."

Well, I went home and I talked to my hospital administrators, three of them, including one in my hometown. On Friday, I will be visiting three more rural hospitals.

What did they say? They did not say that Republican budget cuts in Medicare will improve Medicare, will strengthen Medicare. No. In my regional hospital at Hannibal, MO, by the year 2002, a loss of $1.5 million a year in cuts—$1.5 million jeopardizes my hospital.

What about Moberly Regional, $1 million in lost revenue. Audrain County Medicare, $1 million in lost revenue, jeopardizing rural hospital care with those Medicare cuts to give tax breaks for the wealthy.

Our legislation rolls up three independent cold war agencies and cuts spending by $3 billion over 2 years. While the administration threatens to veto our bill, a broad array of grassroots organizations supports it, including citizens against government waste, the National Taxpayers Union, the International Forum, the Association of Concerned Taxpayers, and the Eagle Forum, to name just a few.

Mr. Speaker, H.R. 1561 offers an opportunity to streamline and downsize the Federal Government and cut spending while continuing to project American influence and power around the world in a cost-effective manner.

Accordinly, I urge my colleagues to support the American Overseas Interests Act on final passage.

MEDICARE CUTS THREATEN HOSPITALS IN SMALL-TOWN AMERICA

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

Mr. DURBIN. Mr. Speaker, if you have ever gotten into your car in the middle of the night to drive a critically injured or critically ill person to the hospital, you know that every minute seems like an hour. You pray to God that you will get to that hospital in time to save the life of someone you love very much.

That is what the debate on the floor or the House of Representatives is all about when we talk about the future of Medicare. Because if the Republicans have their way and cut $282 billion out of Medicare over the next several years, we are going to see hospitals closing in America, particularly in my part of the world in small-town America. It will mean for a lot of people a much longer drive in the middle of the night, a lot more prayers, and a lot more hope that they will make it in time.

Is this the then the vision of America which people voted for last November? I don't think so. I hope the Gingrich Republicans will abandon this tax cut program that they have put forward and will instead focus on really strengthening Medicare instead of the cuts that are proposing which will close hospitals across the United States.

A MODIFIED FLAT TAX PROPOSAL CALLED McFLAT

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

Mr. SOUDER. Mr. Speaker, I favor tax cuts for the richest families. I believe American families can do more for themselves than the Government.

Mr. Speaker, the American people de vote 5.4 billion hours and $232 billion every year to comply with the United States Tax Code. Furthermore, billions of dollars are then spent by the IRS to administer and enforce these tax laws. To reform this unwieldy system, our majority leader, Congressman Dick Armey has put forward a flat tax proposal that can simplify our system and provide a new contract with the American people.

We have all heard the phrase "you deserve a break today" and now I want to help put those words into action. Today I will be introducing a modified flat tax proposal called McFlat. The "m" stands for mortgage and the "c" stands for charitable. McFlat incorporates the meat of Congressman Armey's flat tax along with deductions for mortgage interest and charitable contributions.

McFlat can provide the arches, so to speak, between those that want a simpler and fairer system and those of us who feel that it is essential to retain deductions for homes, churches, and charities. McFlat is the simple and fair way to revolutionize the American Tax Code.

THE NEED FOR THE APPOINTMENT OF AN OUTSIDE COUNSEL

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

Mr. BONIOR. Mr. Speaker, when is Newt Gingrich going to learn that he is not above the rules of this House?

Earlier this year, Mr. Gingrich announced he would not sign his $4.5 million book deal until the Ethics Committee approved it. But now he has changed his mind.

Even though the book is still under investigation, not only has Mr. Gingrich signed the book deal, he has embarked on a Rupert Murdoch-financed book tour to hawk his book.

The time when the American taxpayers will be paying his salary, Mr. Gingrich is going to be on the road promoting a book that will make him a multimillionaire.

Mr. Gingrich's lawyers said that since there has been no ruling, they just assumed that no rules have been broken. The Ethics Committee issued a strong rebuke: "You should make no such assumption."

Mr. Speaker, no Member of this House is above the rules, not even the Speaker.

The only way we are going to get to the bottom of this case is to appoint an outside counsel to investigate.

THE UNITED STATES-JAPAN AUTO DISPUTE

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

Ms. KAPTUR. Mr. Speaker, what is wrong with this picture? Regardless of the yen-dollar exchange rate, United States market share of the Japanese
auto and auto part market has remained flat for nearly two decades. As a matter of fact, the import share for all foreign manufacturers in Japan has remained stuck at 4.6 percent for autos and 2.6 percent for auto parts.

The United States automotive deficit with Japan defies all economic rationale. In 1985, when the yen was 240 to the dollar, the United States had an automotive deficit with Japan of $23.9 billion. Now, with the yen hovering around 80 to the dollar—a 300 percent decrease in the dollar’s value against the yen—our automotive trade deficit is on track to break last year’s record of $37 billion.

As this chart shows, the facts are on our side. The United States has a trade surplus in the automotive sector with the rest of the world. Isn’t it time for Japan to play fair?

THE OVERSEAS INTERESTS ACT
(Mr. CHRYSLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRYSLER. Mr. Speaker, the reason we do not sell cars in Japan is because we do not build right-hand drive cars in this country, and for no other reason.

Mr. Speaker, today and tomorrow the House will debate the Overseas Interests Act. This bill cuts foreign aid and ends the status quo of the bloated foreign aid bureaucracy.

The American people, by very lopsided majorities, have expressed their desire to make these cuts. But unfortunately, the liberal Democrats in the White House and in Congress stand in the way. Liberals oppose any cut in the Federal bureaucracy and are wedded to the old Washington ways. They refuse to see that out-of-control Government is causing deficits and debt. If we do not cut the growth of Washington, our children will be saddled with unimaginable debt and unimaginable taxation.

The Overseas Interest Act addresses these concerns. It will cut foreign aid and the bureaucracies that attempt to globally redistribute the hard-earned tax dollars of ordinary Americans. Republicans realize that we can no longer base our policies on waste, fraud, and ever-expanding bureaucracies. Instead, we must insure that the interests of Americans are served, and not just those of the Federal Government.

MORE ON THE UNITED STATES-JAPAN AUTO DISPUTE
(Mr. WISE asked and was given permission to address the House for 1 minute.)

Mr. WISE. Mr. Speaker, I would yield to the gentlewoman from Ohio [Ms. KAPUTUR].

Ms. KAPUTUR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in referring to what the previous speaker said, he made an untrue statement. United States manu-

William J. Clinton.


COMMUNICATION FROM HON. BOB FRANKS, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. Bob Franks, Member of Congress:

Seventh District, N.J.
May 24, 1995.

Hon. Newt Gingrich,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has received a subpoena issued by the Municipal Court of Manville, New Jersey. After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

Bob Franks, Member of Congress.

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT DURING 5-MINUTE RULE

Mr. Goss. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on the Judiciary; Committee on National Security; and Committee on Science.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. Wise. Mr. Speaker, reserving the right to object, the gentleman is correct. The Democrat leadership has been consulted and agrees with all of these requests.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 1561, AMERICAN OVERSEAS INTERESTS ACT OF 1995

Mr. Goss. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 156 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 156

Resolved, That when the Committee of the Whole House on the state of the Union resumes consideration of H.R. 1561 pursuant to House Resolution 155, consideration for amendment under the five-minute rule may continue beyond the initial period of ten hours prescribed in House Resolution 155 for an additional period of six further hours. Consideration of amendment may not continue beyond such additional period. During further consideration for amendment only the following further amendments to the statement of the purpose of the nature of any amendment, substitute, as modified and amended, shall be in order—

(1) pro forma amendments for the purpose of debate;

(2) amendments printed before May 25, 1995, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII; and

(3) amendments described in sec-

6 of rule XXIII; and

(3) amendments en bloc described in sec-

6 of rule XXIII; and

(3) amendments en bloc described in sec-

2 of House Resolution 155, but only if consisting solely of amendments so printed before May 25, 1995, in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII or germane modifications of any such amendment; and

(4) one amendment offered by the chairman of the Committee on International Relations after consultation with the ranking minority member of that Committee.

The SPEAKER pro tempore. The gentleman from Florida [Mr. Goss] is recognized for 1 hour.

Mr. Goss. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Georgia [Mr. Hall] during which time I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

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

There was no objection.

Mr. Goss asked and was given permission to include extraneous material.

Mr. Goss. Mr. Speaker, as most Members know, this rule is the product of an emergency rules committee meeting held the day before the House adjourned for the Memorial Day recess. At that time, H.R. 1561 had been under consideration for almost 12 hours and a host of amendments were still pending—amendments offered by Republicans and Democrats. Using past precedents on similar bills as our guide, we had hoped that the original allotment of 2 hours of general debate and 10 hours of open amendment process would be sufficient, if properly managed, to allow a full and free debate on all the major issues at play in this important foreign policy bill. Looking back at the rules granted for this important debate during past Congresses, where 1 hour of general debate and amendment time caps of 8 to 10 hours were standard, we felt that our formula would be sufficient.

Clearly we underestimated Members’ interest in extending debate on several standard issues along the way. That’s somewhat understandable, partially because we have so many new Members and these programs have not been properly reauthorized since 1985. So, when it became clear that more time would be needed on this bill, our leadership attempted to work out a compromise with the minority to allow the extension of debate by unanimous consent. Unfortunately, some Members of the minority were interested in that type of bipartisan cooperation. Hence the emergency rules meeting that produced this rule, a rule which responds to Members requests to add debate time, hopefully for some important points.

I commend Chairman Solomon for his flexibility and his efforts to work this out in a congenial manner—and I do believe this rule leans over backwards to provide a fair solution. Under this rule we will have an additional 6 hours of open debate, with Members having the opportunity to offer any amendment that was properly prefixed by May 24. In addition, this rule allows the chairman of the international relations committee, in consultation with the minority, to offer one amendment that was not prefixed but is otherwise in order under the rules of the House.

Mr. Speaker, as we gear up for the appropriations cycle in the immediate months ahead it is crucial that we complete our work on H.R. 1561, and I am pleased that our rules committee was able to develop a plan to ensure that the major issues properly managed can be dealt with in a reasonable period of time without jeopardizing that legislative schedule. I say “properly managed,” because under this type of fair open rule, there is always a possibility for some abuse of allotted time by some Members who for whatever motive choose to indulge in dilatory tactics. Nevertheless, I urge support for this good workable, fair rule.

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

Mr. Goss. I yield to the gentleman from Maryland.

Mr. Hoyer. Mr. Speaker, I thank my friend from Florida for yielding.

I understand the rules granted me, the gentleman, tell me, at the end of the 6 hours, if there are still pending printed amendments, will they be allowed to be offered without debate?

Mr. Goss. Reclaiming my time, my understanding is that we have used the fiveminute rule, so we will have to complete all of the business in the time left for debate; that is, 6 hours plus, I understand, with some 25 or 35 minutes of carryover. I am not sure what the exact number was. It is at that time we will be finished with the debate.

Mr. Hoyer. If the gentleman would yield further for a question, does that mean there are 35 minutes remaining under the old rule? Is that correct?

Mr. Goss. I cannot confirm that. I believe approximately.

Mr. Hoyer. Approximately a half an hour?

Mr. Goss. I believe it is in that order.
Mr. HOYER. At the end of that half hour, would it be in order for anybody to offer an amendment without debate?

Mr. GOSS. Reclaiming my time, my understanding of the rule, as it was originally filed before we had the second proclamation, it is to a time limit being placed on a certain date for that provision. So, therefore, that provision is not available, and all Members need to be advised that the rule, as I explained it in my statements, would be the way we carry on, and after the 35 minutes or 30 minutes, plus the 6 hours of debate, that is the end, subject to the other parts of the rule.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his clarification.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I rise in opposition to House Resolution 156, the second rule limiting debate on H.R. 1561, the American Overseas Interests Act. While this rule provides an additional 6 hours of debate for previously printed amendments, capping time on a bill of this magnitude is unnecessary and impedes the proper legislative process. As my colleague on the other side of the aisle well knows, an additional 6 hours will only slightly improve a bad situation. We have 90 amendments remaining. The 6 hours allowed under this rule will not provide enough time to debate many of these amendments, especially because voting time is counted under the time restriction. Under this rule, only a handful of amendments will be likely to receive consideration.

Mr. Speaker, as I indicated in my May 23 speech on the first time limit rule, the bill before us is a mixture of foreign policy initiatives and reorganizations that could change and weaken the conduct of U.S. foreign policy. In the few days following the bill's original consideration we have seen major developments around the world, including an escalation of hostilities in Bosnia. Yet this rule, which admittedly takes a step forward by providing some additional time, continues the pattern of shutting out amendments simply because hours is not enough. Many of us argued against the first rule because it did not provide enough time. Here we have a second rule with the exact same problem. Again, we will be making substantive foreign policy decisions based on what is recognized before the time runs out.

In addition to the obvious procedural problems, this bill itself is seriously flawed. In addition to cutting funds in the wrong areas, it includes the elimination of 600 AID employees, including the entire Agency of International Development [AID]. Yet no sound evidence exists to show this will save the taxpayers any money. The American people do not want us to be ramming bills through for the sake of reorganization without any kind of cost analysis. I support the work of AID and believe, at minimum, we should seriously study the merits of reorganizing its functions before doing so in this bill.

Fortunately, this rule does make in order one amendment to be offered by the chairman of the International Relations Committee, Mr. GILMAN, even though it was not printed in the Congressional Record. Since the rule is being under the previous rule. There is an opportunity, therefore, for improvements to be made in the legislation.

I sincerely hope that funds for both development assistance and Africa in this bill can be restored, and the AID reorganization will be considered. The International Affairs budget represents only 1.3 percent of total Federal spending. It has already been cut by 40 percent since 1985. I am particularly troubled with the 34 percent cut in development assistance. While the bill earmarks $280 million for the Child Survival Fund, the overall reduction squeezes necessary prevention efforts such as basic education, microenterprise programs, and self-help initiatives that have been proven to work. It makes no sense to have the United States functioning as the world's ambulance when famine and disaster occur in countries when we could have prevented them.

In addition to saving lives, development assistance enables many countries to become self-sufficient enough to buy U.S. exports. Between 1990 and 1993, U.S. exports to the developing countries grew by $46 billion, creating 920,000 new jobs in this country. It is in our economic interests to continue meeting our foreign assistance obligations.

Mr. Speaker, this bill has many, many flaws. However, it would be more palatable to many of us if it did not devastate development aid. This is not the time to turn our backs on the world's poor. I sincerely hope the overall spending priorities will be reworked.

At any rate, Mr. Speaker, this rule simply does not provide enough time for us to handle this comprehensive, complicated piece of legislation. There are major reorganizations of agencies in this bill. There are also major restraints and new conditions our Government must follow when dealing with other nations.

Because of this time cap, I am going to oppose this rule and urge my colleagues to join me in voting "no" on this restrictive rule.

□ 1300

Mr. GOSS. Mr. Speaker, I yield such time as I may consume to offer an amendment without debate. Since I have been given permission to revise and extend my remarks. (Mr. GOSS was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I have been a leader in this type of legislation, for his continuing hard work.

Mr. Speaker, this is the second rule we have granted for this bill. The first time around we said 10 hours was not enough. We said that the drop dead time was a losing idea and no one believed us. Now, here we are again, 2 weeks later, taking up rule No. 2 that still will not do the job. There are still
at least 99 preprinted amendments that we cannot possibly finish in 6 hours.

The floor schedule for this week is unusually light. There is no reason to shut down the amendment process, particularly when we are considering an issue as important as this one.

Mr. Speaker, I urge my colleagues to oppose this rule. We have plenty of time. Let us open up this rule and give members a chance to fix this bill.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to a distinguished gentleman from California [Mr. Kim].

Mr. KIM. Mr. Speaker, I rise to support this rule; however, as we debate this important legislation today, I think it is important that we address North Korea's denial of a bipartisan congressional delegation trip to North Korea.

For the first time in 40 years, we finally have a Republican Speaker of the House, and our Republican committee chairmen have requested that I pick a small bipartisan delegation to North Korea. This is a bipartisan group of both Republicans and Democrats, yet the North Koreans denied our group's entry. We have contacted North Korea again for an August trip, yet we have not still received an answer yet. All this happened while the other Member of Congress have visited North Korea.

Ironically that Member was a Democrat.

This picking and choosing of Member visits is a discriminatory policy. This is simply unacceptable. This is an insult to the Speaker of the House, the House leadership, and to this Committee of International Relations.

This is the most serious insult in my opinion to the U.S. Congress. We should not tolerate these actions, otherwise the entire world will laugh at us, laugh at this Congress.

My original course of action was to offer amendment to this legislation boycotting a congressional visit to North Korea until this issue is resolved. I can understand why they are afraid of my going up there, because of my unique background, but I understand that our chairmen prefer to dress this issue in conference if the North Koreans fail to change their position.

Again I would like to say for the Record this issue must be addressed during conference meeting.

Mr. HALL of Ohio. Mr. Speaker, I yield 9 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise to inform my colleagues that later this afternoon I hope to have the opportunity to offer an amendment to lift the arms embargo against Bosnia and Herzegovina.

Mr. Chairman, I do so knowing that difficult circumstances confront the United States as well as our allies. It is after all their forces that are still being held hostage by Bosnian Serb forces.

I think we all recognize that the U.N. peacekeeping forces went in to provide critically needed humanitarian aid.

But, it has ended up providing a cover, enabling the Serbs to continue the war largely without the credible threat of a resolute military action by the United Nation or NATO.

The fact is there is no peace being kept in this the United Nation has failed.

I am encouraged by the more forceful actions that are being planned by our allies, that is the plan to deploy a rapid-expansion force to protect UNPROFOR and UN observers, and to muscle to those forces in Bosnia. I am also pleased by the statements coming from a number of our allies, notably priority Chirac that France "refuses to yield to fait accompli and irresponsibility."

My concern remains, however, that we are still confronted with a U.N. force that is mandated to be "impartial" in a war of aggression and a genocide that claims the lives of mostly civilians. It is an untenable position both from the members of UNPROFOR who must stand by and watch the killings, and the ethnic-cleansing, and for the nations that have failed to take the necessary action to protect the hundreds of thousands of victims from their persecutors. It is a position which enables us to choose no sides to treat the aggressor and victim the same. Yet at the same time UNPROFOR watches in horror, the arms embargo has the effect of denying the right of Bosnians to defend themselves, their families, and their nation from a well-armed and well-trained military force that seeks to annihilate them.

Once this current crisis is resolved we must not allow the status quo to be reinstated. And what I mean by that is for a slightly reinforced UNPROFOR merely to go back to what it was doing, or I should say not doing.

This is a war between sovereign nations in the heart of Europe. It is a war that continues to be the result of an illegal act of aggression by Serbia against the peoples of Bosnia and Herzegovina. It is a war and genocide of a scale that we have not witnessed since World War II in Europe. And most tragically of all it is a war that we have succeeded to the Yugoslav arms heavy weapons.

Mr. Speaker, I have had a discussion with the chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN]. He is my good friend and I believe a supporter of this amendment. I do not want to speak for him. He and I have fought together on the side of preventing the genocide that has occurred in Bosnia and Herzegovina.

But, I must tell you that I am deeply disappointed we will not be able to, if that is the case, address this issue today. As a result, I will not support the rule, because I believe we need more time.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, just in response, of course we would like to be supportive of the gentleman's proposal. We are concerned about the limited amount of time in this measure to enable Members on both sides of the aisle to take up their amendments. I

I believe, Mr. Speaker, that the United States must act to lift the arms embargo against the victims of a war of aggression not of their making. I urge my colleagues to join me in supporting that amendment.

Mr. Speaker, I also rise to express concern about this rule. This issue is a critically important issue. I believe that this amendment to be supported by the gentleman from Illinois [Mr. HYDE], the War Powers Act amendment, is also a critically important amendment, worthy of more than a few minutes of debate on the floor of the House of Representatives.

The gentleman from Ohio is correct: If we are serious about being the policy makers and enunciating the policies that this Nation ought to pursue, I believe the American public expects us to do so in a considered way, allowing full time for debate.

These are not unseemly issues. These are not issues of little consequence. Indeed, the issue of which I speak speaks to the very essence of what America stands for, of what the United Nations stands for, and what NATO has pledged to protect: The opportunities of a people freely elected to be free from international aggression. That is what America stands for.

The gentleman who just preceded me spoke about the unwillingness of North Korea to allow a bipartisan delegation to come in and to talk and to see. The lesson that we learned in World War II and the lesson that we ought to be learning today is that foreign policy leads to international security on all sides.

I regret very much, Mr. Speaker, that time is being limited; that in effect some of us are going to be, I think, punted, and that is that the French are conducting a critically important amendment that passed this House overwhelming 1 year ago, when we said then we ought to lift unilaterally the embargo imposed upon Bosnia and Herzegovina.

What does that mean in real terms? It means you have two people confronting one another in a war. One is heavily armed and one is very lightly armed, and we say we are neutral. We will not allow any arms to go in. We will not allow others to help the combatants.

What does that mean? That means by definition you have taken the side of the party that has been heavily armed, in this case the Bosnian-Serb aggressors who have succeeded to the Yugoslav arms heavy weapons.

Mr. Speaker, I have had a discussion with the chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN]. He is my good friend and I believe a supporter of this amendment. I do not want to speak for him. He and I have fought together on the side of preventing the genocide that has occurred in Bosnia and Herzegovina.

But, I must tell you that I am deeply disappointed we will not be able to, if that is the case, address this issue today. As a result, I will not support the rule, because I believe we need more time.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, just in response, of course we would like to be supportive of the gentleman's proposal. We are concerned about the limited amount of time in this measure to enable Members on both sides of the aisle to take up their amendments. I
hope the gentleman will be able to present his bill as a free standing bill shortly after the consideration of this measure so that the House will have a full opportunity to debate the gentleman's measure.

Mr. Speaker, Mr. Speaker, reclaiming my time, I want to thank the gentleman from New York [Mr. GILMAN] who, as I say, is a very close friend of mine. We say that about most, but in this case it is really the case. He has always been fair, and he and I have always seen eye to eye, not just on the same side of issues as they relate to justice and international fairness and opposition to human rights abuses.

I would say to my friend that I appreciate that effort and, obviously, if I am not successful today, I will work with the gentleman to bring that bill forward as quickly as we can.

But I say to my friend, it is unfortunate that we do not allow sufficient time on this issue, which is so timely. There is no more timely foreign policy issue that currently confronts the United States and its western allies than the issue of Bosnia and Herzegovina, as we all know.

Mr. GILMAN. Mr. Speaker, if the gentleman wishes to preserve time, I want to assure him I will be pleased to work with him to bring this to the floor in a timely manner.

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

Mr. Speaker, Mr. Chairman, I am happy to yield 5 minutes to the gentleman from Maryland [Mr. HOYER] for his very articulate presentation, and look forward to being able to deal with that issue in the very near future. I would point out there are some aspects to the American Overseas Interests Act that do deal with some of the problems, particularly this dual management problem with the United Nations, which I am sure every American—if they read about this issue this morning as I am outraged this morning as I am about, that we cannot defend our aircraft, but only expose our aircraft. Some of those problems that demand immediate attention are provided for here.

Mr. Chairman, I am happy to yield 5 minutes to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations. [Mr. GILMAN asked and was given permission to revise and extend his remarks.]

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 156, the rule under which the House would be afforded an opportunity to debate an additional 6 hours for consideration of H.R. 1561, the American Overseas Interests Act.

As my colleagues recall, the initial rule under which this bill was brought to the floor provided for 10 hours for debate on amendments. When the Committee of the Whole rose on Wednesday, May 24, 96 hours of that time had been consumed. Nine amendments have been disposed of out of some 75 that had been filed under the rule.

It was obvious that more time would be needed to enable the House to fully consider the measure. Moreover, an additional 25 amendments were filed so that when the House adjourned for the Memorial Day recess, there were 91 amendments pending—51 by Republicans and 39 by Democrats.

Mr. Speaker, H.R. 1561 is the first major challenge to the foreign policy status quo since the cold war began nearly 50 years ago—providing for the first major reorganization and consolidation of our foreign affairs apparatus in that period. It also reauthorizes our foreign assistance programs and reduces current spending by nearly $3 billion over 2 years—while redirecting and targeting our resources on high priority programs.

H.R. 1561 is about projecting American power and influence around the world at a cost of 1 cent on the Federal dollars.

It defends our national security—supports our trade and economic interests—provides for those who have been struck by disaster and cannot provide for themselves—and cuts duplication and waste in dozens of programs.

Similarly, with the cold war over—it is now time to put away our cold war agencies and policies and re-target our priorities. H.R. 1561 does just that.

Mr. Speaker, House Resolution 1561 provides the House with an additional 6 hours to consider the first major record of our foreign affairs operations since the cold war began, and I urge its adoption.

Mr. Speaker, I would like to yield for a moment to the gentleman from California [Mr. Kim].

Mr. KIM. Mr. Speaker, I thank the chairman for yielding.

Mr. GILMAN. Mr. Kim earlier addressed the House with regard to his rejection of the opportunity to visit North Korea, is that correct. Mr. Kim? Mr. KIM. That is correct, Mr. Chairman.

Mr. GILMAN. If the gentleman would yield, I was dismayed by the North Korean Government's refusal to allow our good friend and respected member of our Committee on International Relations the opportunity to visit Pyongyang as an official of our Government. Along with the Speaker, I personally requested Mr. Kim to travel to North Korea. The House leadership and our committee support Mr. Kim in that endeavor. But we were rejected outright by the North Korean Government.

North Korea has yet to respond to Mr. Kim's third request to be allowed to travel to North Korea in August. This rejection is an outright insult, not only to Representative Kim, but to our committee and the House leadership. I believe we should take this opportunity to send a clear message to the North Koreans that they must satisfy our demand that Mr. Kim be allowed to join a congressional delegation to North Korea.

The State Department must know that there is an appropriate solution, that an appropriate solution is needed and must be reached. I am prepared to address that issue during the conference on our bill to ensure that North Korea accepts all congressional visitors or faces some repercussion.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time. I would briefly conclude by yielding myself such time as I may consume.

Mr. Speaker, I believe truly that this bill that is before us, if it passes, is going to go backwards for the Congress and for the President of the United States. It ties the hands of the President, of any President. It abolishes departments and agencies by incorporating them into the arm of the department. Issues like AID and the Arms Agency and USAID, those issues have not even been debated on this floor of the House, and yet we are kind of confusing the whole situation by just kind of throwing them under the State Department. Nobody knows what is going to happen. They are being put under the idea that in fact it will save money, but nobody has been able to prove that. We are doing that without debate.

The second thing is there is over 90 amendments left, with only 6 hours. I suspect that probably with the tremendous number of controversial issues that come up, we will only be able to address 4 or 5 amendments of all the 90 amendments that are previously printed in the Record.

So that rule is not a good rule. It is devastating to the whole process, and to the whole direction we are trying to give our President as far as being a leader in the world. This ties his hands.

The way the United States goes in the world, a lot of nations follow us. We have cut foreign aid since 1985 by 40 percent. But under this bill, there are further cuts that are devastating. There is going to be a 34 percent cut in development assistance, something that Americans have asked us for years to get involved. Why aren't we helping these people help themselves? But we are cutting the very thing that America wants us to.

The second thing is we are cutting the African Fund, where most of the humanitarian crises are going on today. So many of these cuts could be redirected in a better way. And I am not sure that this bill can be improved upon. There is a chance to do it. But the way the bill stands now, it is devastating, it ties the hands of the
U.S. Government, it is a step backwards, with substantial cuts in areas that for the most part are going to hurt a lot of women and children in poor nations, and it is not something that our Government, our Congress, ought to do.

For that reason, I hope that the Congress votes the rule down and votes the bill down.

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

I have no further requests for time. Before yielding back the balance of my time, I would just simply like to say that this act is called the American Overseas Interests Act. Usually the labels that we have on a lot of our legislation around here are somewhat grandiose. I think this label actually means something.

I think we are making a shift from the past, when we used to call foreign aid to put the emphasis on something that is truly what are America's interests overseas. I think that is a major departure from some of the direction that we have been struggling with in the past 10 years or so here. It is one of the reasons we have not gotten the bill through.

I think this is a new time, and I think that justifies in part this extra debate time which is really an extraordinary amount of time, almost 20 hours when you count the rules and general debate, that is an awful lot of time.

With regard to the observation of the gentleman from Maryland that there probably is no greater time or no more important thing right now than discussing Bosnia, there, of course is another avenue, as the distinguished chairman of the Committee on International Relations has pointed out.

And the thing about what goes on in the world is that every day there is always something new. That is very important for us, not that Bosnia is not critically important, but there will be other things that are critically important.

We have to make sure we have a process to bring those things forward. But the basis, the structure, the foundation of what we are trying to signal here in this legislation are American overseas interests and to provide for them appropriately, well aware of the message we have had from our American constituency that says we have got to be a little bit more careful about how we spend our money, make sure it really counts for national security and true interests overseas and we are not in the business of being the world's policeman or the world's welfare source.

I think that this bill goes a long way in dealing with that.

The ranking Member and distinguished gentleman from Massachusetts [Mr. McGovern], a wonderful man and a good friend, has said we need more time, more debate, and that we might not even have enough after this 20 hours. I do not know how much debate is enough debate on any particular bill, but it seems to me this is an extraordinary amount of time for a very important subject, where we are having a change of direction which is part of the change that was promised in the November 8 election that we have got it pretty well covered now.

I urge my colleagues to support this rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until later today.

Mr. GOSS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GOSS. Mr. Speaker, will that vote be automatically called by the Chair?

The SPEAKER pro tempore. That is correct; the yeas and nays have been ordered, and it will automatically be called later today.

Mr. GOSS. Mr. Speaker, I did not hear, but was a time certain set for that?

The SPEAKER pro tempore. It will be after the three fish hatchery bills, which are next on the calendar.

Mr. GOSS. I thank the Chair.

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this noncontroversial legislation. H.R. 535 seeks to convey the Corning National Fish Hatchery to the State of Arkansas.

Transferring the Corning Hatchery, which the Fish and Wildlife Service has managed since 1925, to the State of Arkansas is a step back from modernizing the facility, but cannot obtain the necessary funding to do so. The State of Arkansas has been operating and maintaining the Corning hatchery since 1983. Arkansas has recognized the need to modernize the facility, but cannot obtain the necessary funding to do so because the State does not hold title to the hatchery. The Fish and Wildlife Service, which does hold title, fully supports the conveyance of the title to the State of Arkansas.

During our subcommittee markup, I offered an amendment—which was adopted unanimously—to expand the mission of the hatchery. In that way, the Corning facility would not be limited to fish cultures only and would be able to perform a broader range of fishery-related activities. In addition, the amendment ensures that if this property ever reverts to the Federal Government, it will be in the same or better condition as the time of the transfer. These changes are reflected in the bill pending before the House today.

I am confident that H.R. 535 as written will satisfy the U.S. Fish and Wildlife Service and the State of Arkansas. I urge you to support H.R. 535 without amendment.

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

Mr. STUDDS. Mr. Chairman, the gentleman from New Jersey has said it all. This is a bill without controversy. It is very much like many others we have had in years gone by. I must say for the life of me I cannot figure out what it is doing under a rule. If there was ever a bill that was ready for suspension, it would be these three. They are routine. They are without controversy.

Mr. Speaker, I rise in support of H.R. 535, a bill to transfer title of the Corning National Fish Hatchery to the State of Arkansas.

The Corning hatchery, which has been operated by the State of Arkansas under a memorandum of understanding with the Fish and Wildlife Service since 1983, produces bass, bluegill, sunfish, crappies, and catfish for State fishery programs.

While the State has made minor improvements to the facility, it is now interested in modernizing the facility. I urge the sponsor of the bill, H.R. 535, to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, with Mr. Camp in the chair.

Mr. Camp in the chair.

The Clerk reads the title of the bill.

H.R. 535: To direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas, with Mr. Camp in the chair.

Mr. Speaker, I rise in support of H.R. 535, a bill to transfer title of the Corning National Fish Hatchery to the State of Arkansas.
Mr. Chairman, I yield 3 minutes to the gentlewoman from Arkansas [Mrs. Lincoln], the author of the bill. (Mrs. Lincoln asked and was given permission to revise and extend her remarks.)

Mrs. Lincoln. Mr. Chairman, today I rise to urge my colleagues to support H.R. 535. Before I list all the reasons why my colleagues should support this bill, I first want to extend my deepest thanks to the chairman of the full committee, Mr. Young, the chairman of the subcommittee, Mr. Saxton, and the ranking minority member of the Fishes Subcommittee, Mr. Studds, for taking action on this bill in such a prompt manner. I worked with all these distinguished gentlemen last year on the Merchant Marine Committee, and I certainly must say that I miss working with them on a more regular basis.

I urge my colleagues to support this non-controversial bill. H.R. 535 would transfer property rights in the Corning National Fish Hatchery from the Federal Government to the State of Arkansas. Due to previous Federal budget cuts, the fish hatchery was closed in early 1983. However, the Arkansas Game and Fish Commission resumed hatchery fish production in May 1983 after entering into an agreement with the fish and wildlife service. The fish hatchery has been operating since 1983 as William H. Donham State Fish Hatchery. With funds provided by the State of Arkansas.

This fish hatchery has become an important part of the Arkansas Fishery Division Fish Culture Program and I believe that this transfer will greatly benefit the sportsmen and women of Arkansas and the Nation. This warm water hatchery is very active and successful, producing up to 1,000,000 fish annually.

Currently, and since 1983 no Federal funds are used to operate or maintain the Corning National Fish Hatchery. Let me repeat, this fish hatchery does not cost Federal taxpayers a red cent. It is financed solely by funds derived from resident and non-resident fishing licenses sales. This transfer of ownership has the support from both the Arkansas Game and Fish Commission and the Fish and Wildlife Service.

It is appropriate to transfer the property to the State of Arkansas since the funds used to finance the hatchery's programs are raised within the borders of Arkansas. In addition, without this transfer, Arkansas would be unable to make the same commitments to the direction the hatchery will take in its operations or risk of abandonment.

Identical legislation passed both the House and the Senate last Congress only to be stymied in the Senate during the last minutes of the 103rd. I urge my colleagues to support H.R. 555 and to oppose any amendments.

Mr. Saxton. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. Studds. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Miller].

Mr. Miller of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, those who have spoken already quite properly represent the presentation of this legislation and they, in fact, are not controversial. I do have an amendment to the legislation that would require that prior to the transfer of title, prior to the transfer of title from the Federal Government to the State government that the Federal Government would get an appraisal as to the fair market value and the State would in fact pay the Federal Government in the fair market value for these assets.

The fact is that we have been transferring these assets historically for many, many years from the Federal Government to the states without questioning the value of the property being transferred. Federal taxpayers would support the transfer of title from the Federal Government to the State government. The State has spent in excess of $1.5 million to date to maintain it. H.R. 535 would simply convey that property to the State of Arkansas.

We see a whole hose of programs that are being cut, some much smaller in value than the value of these hatcheries, but the point is this, that no longer are we in a position simply to transfer assets of the Federal Government and receive nothing in return at a time when we are trying to balance the budget. So the amendment that I will offer to all three of these bills later on is an amendment to require an appraisal and a fair market value assessment, crediting the State with the cost of some of their improvements that they have made and then making sure that the State either pay the Federal Government in cash or in-kind contributions for that fair market value.

I think this is fair to the taxpayers of the country. I think it is fair to other committees that are making cuts in very vital programs and that we ought to do our share. The value of these assets, of these hatcheries, we really do not know. There are no current appraisals of these. Appraisals were done in 1983, back in 1979. We have comparable sales in some cases for much smaller parcels adjacent to these lands that we transferred earlier that have been sold in some cases for higher value than the appraised value of the hatcheries.

Let us remember that in fact when the hatcheries are, they have been run for the benefit of the States, so the fact that the State has been running this at their cost should be no mystery to us or surprise us because in fact the State has been the beneficiary of the programs being run there and the State will continuity operate it.

If the Federal Government is going to turn these assets over, I think the least that we can do is ask that we return to the Treasury some ability to recapture the cost that the Federal Government has spent on these assets.

Finally, let me make this point, Mr. Chairman: This is only the beginning as we come to the floor seeking transfers from the Federal Government either to the private sector and/or to other segments of the Government. I think it is very important that we understand that when we do make these transfers to other entities, that we ought to make some effort to try and recapture the fair market value of these assets.

There will be assets developed in the energy area, in the timber area, in a whole range of programs that the Federal Government is currently engaged in, mainly throughout the western United States, but in some cases, as we see with these hatcheries, in other areas of the Federal Government. I urge Members to support these very common-sense and very-fair-to-the-taxpayer amendments asking for fair market value.

Mr. Young. Mr. Chairman, I support H.R. 535, a bill to transfer title of the Corning National Fish Hatchery to the State of Arkansas for use by the Arkansas Game and Fish Commission.

The Corning National Fish Hatchery includes approximately 137 acres, buildings, structures, and related equipment. It is a warm water hatchery that produces between 250,000 to 1,000,000 fish each year. About 95 percent of these hatchery-reared fish are stocked in new or renovated public lakes, providing recreational opportunities for thousands of Americans.

It is my understanding that the State of Arkansas has been effectively operating this hatchery facility since 1983, under an agreement with the U.S. Fish and Wildlife Service. The State has spent in excess of $1.5 million to maintain it. H.R. 535 would simply convey all right, title, and interest of the United States to the State of Arkansas.

Finally, this legislation contains language providing that the property revert back to the Federal Government if the State of Arkansas no longer wishes to use the facility as part of its fisheries resources management program. It also stipulates that the property be returned in substantially the same or better condition than it was in at the time it was transferred to the State.

The U.S. Fish and Wildlife Service supports the transfer and I compliment the gentlelady from Arkansas [Mrs. Lincoln] for bringing this matter to our attention.

Mr. Chairman, I urge my colleagues to support the bill.

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

Mr. Saxton. Mr. Chairman, I yield back the balance of my time.

The Chairman. All time for general debate has expired.

Pursuant to the rule, the bill and the amendment printed in the bill are considered as having been read for amendment under the 5-minute rule.
The text of H.R. 525 is as follows:

H.R. 525

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 "Corning National Fish Hatchery Conveyance Act".

SEC. 2. CONVEYANCE OF CORNING NATIONAL FISH HATCHERY TO THE STATE OF ARKANSAS.

(a) Conveyance Requirement.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Arkansas, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Arkansas Game and Fish Commission as part of the State of Arkansas' game and fish program.

(b) Property Described.—The property referred to in subsection (a) is the property known as the William H. Donham State Fish Hatchery (popularly known as the Corning National Fish Hatchery), located one mile west of Corning, Arkansas, on Arkansas State Highway 67 in Clay County, Arkansas, consisting of 137.34 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment.

(c) Reversionary Interest of United States.—All right, title, and interest in property described in subsection (b) shall revert to the United States if the property ceases to be used as part of the State of Arkansas' fish culture program. The State of Arkansas shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

Mr. MILLER of California (during debate): I offer an amendment.

Amend section 2(c) (page 3, beginning at line 3) to read as follows:

(c) Consideration.—

(1) Consideration Required.—The Secretary of the Interior shall require that, as consideration for any property conveyed by the Secretary under subsection (a), the State of Arkansas shall—

(A) pay to the United States an amount equal to the fair market value of the property conveyed by the Secretary under subsection (a), reduced in accordance with paragraph (3); or

(B) convey to the United States real property that the Secretary determines—

(i) has a fair market value not less than an amount equal to the fair market value of the property conveyed by the Secretary under subsection (a), reduced in accordance with paragraph (3); and

(ii) is useful for promoting fish restoration and management.

(2) Appraisal Required.—The Secretary shall determine fair market value of property for purposes of this subsection after considering an appraisal of the property prepared for the Secretary after the date of the enactment of this Act.

(3) Reduction of fair market value of property conveyed.—For purposes of subparagraphs (A) and (B) of paragraph (1), the fair market value of property conveyed under this subsection is reduced by the fair market value of any capital improvements to the property that were made by the State of Arkansas before the date of the enactment of this Act.

(4) Deposit of payment.—

(A) Deposit.—Amounts received by the United States as payment under this subsection shall be deposited into the Sport Fish Restoration Account of the Aquatic Resources Trust Fund established by section 9504(b)(2) of title 16, United States Code (commonly referred to as the Wallop-Breaux Fund).

(B) Limitation on use of deposits for purposes not related to fish restoration and management.—Section 9504(b)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504), commonly referred to as the Wallop-Breaux Fund, does not apply to amounts deposited under this subsection.

The CHAIRMAN. The Clerk will designate the committee amendment.

The text of the committee amendment is as follows:

Committee amendment: Page 2, line 21, strike subsection (c) and insert the following:

(c) Use and Reversionary Interest.—The property conveyed to the State of Arkansas pursuant to this section shall be used by the State for purposes of fishery resources management, and if it is used for any other purposes all right, title, and interest in and to all property conveyed pursuant to this section shall revert to the United States. The Secretary of Arkansas shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. MILLER of California, Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California:

In section 2(a) (page 2, beginning at line 3), strike "Within" and all that follows through "reimbursement" and insert "Upon the provision of consideration by the State of Arkansas in accordance with subsection (c) within 180 days after the date of this Act, the Secretary of the Interior shall convey to the State of Arkansas':

If the State pays cash, the amendment provides that the proceeds would be deposited in the sport fish restoration account which is better known as the Wallop-Breaux Fund. Every State receives Wallop-Breaux funds which are then used to support those kinds of fish restoration projects. The amounts devoted to fish restoration are decreasing, so this amendment will help assure that all of our constituents continue to benefit from this fund.

Mr. Chairman, as I said earlier in the general debate on this legislation, I think this is simply a matter of equity for the taxpayers, that they receive some semblance, and hopefully will receive, in fact, fair market value for these Federal assets that the Federal Government has built and developed, when they transfer them to the State. It also provides the additional benefit that the funds received not only will return to the Federal Treasury, but they will help fund those portions of the Federal programs and cooperative programs between the States and the Federal Government that come under the Wallop-Breaux funds for the improvement of this Nation's sport fisheries.

Again, the amounts of money are not large, but I think the principle is sound. I think the principle is fundamental as we continue upon our legislative journey, living under the hard cap of going to a balanced budget in the next 7 years. Every committee, every Member of Congress, and all our constituencies are going to have to make sacrifices to deal with that. Quite clearly, we have been transferring these assets for the past 20 years. That has become what we believe is normal. These are not normal times. We believed that highway demonstration projects were normal up until this year. They no longer are normal, because we cannot justify the expenditures those monies fund and the need to balance the budget and to meet higher priorities of this Nation.

Mr. Chairman, I would hope, again, that the Members of Congress would support this amendment to provide for a return of fair market value to the taxpayers of the Nation.

Mr. SAXTON. Mr. Chairman, I rise in opposition to the gentleman's amendment.

Mr. Chairman, as the gentleman well knows, we have discussed this amendment at length at the subcommittee level, and I believe at the full committee level as well. While I would generally tend to agree with the gentleman, that certainly if this is an early version of many transfers that will occur as part of the budget-balancing process that we will go through during the months and years ahead, certainly it would be good to start this in a way that is the most fiscally prudent. That is exactly the reason that I oppose the gentleman's amendment.

It is noteworthy, I believe, to point out here that it was in 1983 that the Federal Government decided that we
no longer had the resources to justify the implementation of a Federal program at this hatchery. In that year, the State of Arkansas decided that since it was a very important program to that region of the country, that the State of Arkansas would supplement what the Federal Government had previously spent, and continue the program on forward.

To the extent that this bill changes that situation, it does so for one very good reason. That is that the hatchery is in dire need of upgrading and renovation, and perhaps some additional facilities to be built on the premises which require financial considerations. Those considerations can be forthcoming only when the State of Arkansas has title to the property.

Therefore, Mr. Chairman, this bill becomes very necessary. In order to ensure the Federal equity position, however, it is noted in the bill that there is a clause which ensures that if the hatchery is not turned over to the Federal Government, that they would be in as good or better condition than they are at the time of transfer.

Mr. Chairman, there are a number of other reasons that I could go on and explain in some length, but certainly the gentleman will have ample opportunity to help Members on both sides of the aisle find savings as we make our way through this budget process. This, in my opinion, Mr. Chairman, is not the place to be penny-wise and dollar foolish, and risk the very existence of this very vital hatchery facility.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it is not very often that I find myself differing from the gentleman from California [Mr. MILLER], the gentleman has indicated, go through this in subcommittee and in full. I am the first to concede that this is not one of the more cosmic issues of our day, and really ought not to be taking up a great deal of time, with all due respect to the State and the gentlewoman who represents it.

However, let me just say that I think I know what the gentleman from California is concerned about as he looks down the road, but certainly the gentleman will have ample opportunity to help Members on both sides of the aisle find savings as we make our way through this budget process. This, in my opinion, Mr. Chairman, is not the place to be penny-wise and dollar foolish, and risk the very existence of this very vital hatchery facility.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. MILLER].

I think there are many issues here to be debated. One point that was just brought up, in terms of preservation, if we want to do is preserve some of the wonderful natural resources that we have in this Nation, we do have to give the States the capability. The fact is most States, and I think we have heard from many of our fish and wildlife agency representatives, the States cannot afford it.

The other point that I would make is the value of the property has changed considerably since 1983. If you are going to talk about the fair market value, since 1983 the State of Arkansas has put well over $2 million, almost $2.5 million into the property, which has enhanced its value. If it had been abandoned in 1983 by the Federal Government, it would be worth next to nothing at this point right now anyway.

In terms of the justification given by the gentleman from California [Mr. MILLER], in terms of what he is trying to do, I do not disagree. I tend to find myself very fiscally responsible as well and wanting desperately to balance the budget, and I feel he has chosen a poor target in this area.

This is an industry, quite frankly, where we are producing fish for an industry of tourism and sport fishing. It is one of the largest in our State. It is one across the Nation that does have a tremendous amount of return on the dollars that are invested. I do think it is a poor target.

The property is the Federal Government's, but they did give it up an awful long time ago. We are simply legalizing that situation to make sure that the State of Arkansas can adequately prepare and make the necessary decisions that they need to keep it a productive industry. Again, I would certainly focus that that is exactly what it is.

Mr. Chairman, I would just ask my colleagues to reason in terms of fiscal responsibility. This is a good industry for us across the Nation, and the fish hatcheries are a big part of that. We have invested a great deal in the State of Arkansas.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has expired.

(Mr. SAXTON moved to proceed for 1 additional minute.)

Mrs. LINCOLN. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentlewoman from Arkansas.

Mrs. LINCOLN. Again, Mr. Chairman, the proceeds from the industry in sport fishing far exceed the cost of what we are talking here. I do think it is important to point out that we are able to preserve these wonderful facilities that we have in the Federal Government to allow the States to do that.

The chairman of the subcommittee did point out there is a reversion clause. If by any chance the States do not use these facilities for what they were intended, they do revert back to the Federal Government. As I said before, I think in all good intentions that my colleague, the gentleman from California, may have had, I do think that this is a poor target in terms of trying to make a point of saving money and in terms of billing the States, who cannot afford it, in losing the preservation of these natural resources that we have.

I just urge my colleagues to oppose the amendment and pass this bill and the other two, which are really non-controversial bills.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER]. The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 96, noes 315, not voting 23, as follows:

[Roll No. 356]

AYES—96

Ackerman
Andresen
Andrews
Barker (WI)
Becher
Belien
Bond
Borner
Brown (CA)
Brown (OH)
Bryant (TX)
Clay
Clayton
Coble
Coleman
Coleman (IL)
Conyers
Costello
Coyne
Danner
DeLauro
De Leo
Delahunt
DeMint
Deutsch
Dixon
Durbin
Ehlers
Ehlers (OH)
Fattah
Flake
Ford
Furse
Gephardt
Gutierrez
Harrington
Hastings (FL)
Hinchey
Jackson
Johnson (SD)
Jacobs
Johnson (TX)
Kaptur
Kennedy
Kildee
Kilbourn
Kuhl
Lantos
Lewis (GA)
Lobb
Lofgren
Lowe
Lowey
Martinez
Marcos
Martin
Martinez
McKee
Mfume
Miller (CA)
The amendment was agreed to. The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA

The SPEAKER pro tempore. Pursuant to House Resolution 145 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 584.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa, with Mr. Camp in the chair.

The Chair reads the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. Saxton] and the gentleman from Massachusetts [Mr. Studds] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. Saxton].

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of this noncontroversial legislation.

H.R. 584 was introduced by Mr. Leach. It would convey the Fairport National Fish Hatchery from the U.S. Fish and Wildlife Service to the State of Iowa. It is my understanding that this facility was built in the 1930's, and as you can imagine, it is in need of improvement. Due to Federal budget constraints, the State of Iowa agreed to assume operational control of the facility in 1973. The State of Iowa has managed, maintained, and staffed the Fairport Fish Hatchery for the past 22 years, and has made some cosmetic changes. If the State of Iowa had not stepped in when the Federal Government found its management too costly, this hatchery would have closed and its fishery resources would have ceased to exist.

Now the State of Iowa would like the authority to modernize the facility, which would be accomplished by this legislation. H.R. 584 will formalize a permanent transfer of title between the Federal and State Government. The State of Iowa has committed over $2 million to the operation of this facility over the past 22 years. Further, it has spent $22,000 on necessary improvements to the hatchery.

This is a noncontroversial bill and will accomplish its goal without...
amendment. I urge you to support H.R. 584 without amendment.

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

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. STUDDS. Mr. Chairman, once again the gentleman from New Jersey has said it all. The issues are virtually identical in this bill as they were in the past and as they will be in the next one, and therefore in consideration of sheer humanity they need not be repeated.

Mr. Chairman, I rise in support of H.R. 584, a bill to transfer title of the Fairport National Fish Hatchery to the State of Iowa.

The Fairport hatchery has been operated by the State of Iowa under a memorandum of understanding with the Fish and Wildlife Service since 1972. It produces bass, bluegill, and channel catfish for stockings programs throughout the Federal and State governments.

After 20 years of operation, the State is now interested in making capital improvements to the facility but needs title to the property before doing so. This bill would give title to the State, while protecting the interests of the Federal Government by requiring that title revert to the Fish and Wildlife Service in the event that Iowa no longer wants to operate the facility as a fish hatchery.

The bill is supported by both the State and the administration, and I urge Members to support it today.

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

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, 3 weeks ago in thunderous debate the House considered the “mega” implications of the budget resolution. Now we have before us perhaps the smallest bill of the year, H.R. 584, which would have the effect of conveying a small federally owned, State-operated, fish hatchery to the State of Iowa.

This hatchery, operated by the State of Iowa since 1973, is crucial to the fishery resources program in my State, and the legislation before us formalizes a permanent transfer of title between the Federal and State government.

The hatchery is located in Fairport, an unincorporated town of 50 people situated on a beautiful hillside embankment overlooking the Mississippi River approximately 8 miles east of the community of Muscatine. The facility was originally donated at the turn of the century to the Federal Government by an association ofbutton manufacturers who, prior to the advent of plastic alternatives, utilized the shells of freshwater mussels from the Mississippi River as raw material for the making of buttons.

With the subsequent acquisition of surfing equipment landing and storage facilities, the facility grew from the Bureau of Sport Fisheries and Wildlife.

In 1973, as a result of Federal budgetary constraints, operation and maintenance of the facility was assumed by the Iowa Department of Natural Resources. Since that time, the hatchery has served as an important part of the State’s fish hatchery system since that time.

The State of Iowa agreed to assume responsibility for the facility partly to assist sport fishermen but mainly to help advance a growing/midwestern aquaculture industry, particularly for the stocking of farm ponds. As an augment to farming the land and feeding livestock, increasing numbers of farmers are diversifying their activities to help them diversify into aquaculture.

The Fairport facility is one of three warmwater fish hatcheries within Iowa’s hatcheries program. The facility fills the need for several fish including the bass, bluegill, and channel catfish, which are utilized throughout the State as a part of the Iowa stocking program. Simply put, fish that are not hatched cannot be caught or bred.

The State of Iowa has committed substantial resources to providing for its fisheries needs through the operation and maintenance of the Fairport facility. Unlike other States, it has done so without seeking Federal funds for 22 years. The Iowa Department of Natural Resources estimates that it has expended $2,100,000 for the operation of the hatchery under the memorandum of understanding with the Fish and Wildlife Service since 1973. This sum is substantially greater than the market value of the property. According to an 1983 appraisal, it was $717,000. It is possible that the property has slightly increased in value since then, but before use by others, numerous ponds would have to be filled and the extensive infrastructure, which has been removed at considerable cost.

In addition to its current operating budget of $175,000, the State of Iowa has to date spent $220,000 on necessary improvements to the hatchery. If title to the property is transferred, the State intends to make an additional $350,000 investment in the facility, including a new holding house and dike improvements.

But the State of Iowa cannot afford both to buy the property and then improve the facility. Without this transfer the facility is likely to close and the Federal Government will have to either make necessary improvements and operate it itself or take on the costly task of closing it.

Iowa’s interest in obtaining title to the hatchery is based on the concern that the State be able to make these needed improvements to the facility without risk of loss. If the State does not have title to the property, the Federal Government could decide itself of the hatchery along with any investment the State might make in it. The State would be left vulnerable to property confiscation precipitated either by the executive branch in Washington or capricious Federal legislators.

Because investment without ownership would be imprudent, Iowa has secured the U.S. Fish and Wildlife Service’s agreement to transfer title to the property to the State. To obviate concerns that the State of Iowa might accept property conveyance and then cease to care for the land and market or use it for another purpose, the agreement between the Department of Interior and the State provides that if the property ceases its fish related functions, it will revert back to the Federal Government.

Mr. Speaker, conveyances of national fish hatcheries to States are normally noncontroversial. Indeed, since 1969, four almost identical conveyances have taken place—in the States of South Carolina, Georgia, Kentucky, and Ohio—all with the unanimous approval of this House. And, in an analogous transaction for a different purpose the 103d Congress transferred land to Imperial Beach, CA.

Federal and State officials involved in the Fairport conveyance unremittingly support this transfer. Mr. J. Edward Brown, State Water Coordinator for the Iowa Department of Natural Resources, is particularly to be commended for his long and hard work in this effort to secure the future of the Fairport Fish Hatchery. I also wish to thank Mr. SAXTON of New Jersey, the chairman of the Subcommittee on Fisheries, Wildlife, and Oceans, and Mr. STUDDS of Alaska, the distinguished chairman of the Committee on Natural Resources and their staffs for providing the residents of my State and my district with a great service by moving this legislation quickly to the floor.

While by precedent such conveyances to States are normally routine, I was surprised to learn that the distinguished gentleman from California [Mr. MILLER] objects and in the committee report as well as in a “Dear Colleague” letter suggests that it is the taxpayers who, along with the fish, are being “soaked.” Actually, it is citizens who are being served by this approach and politician who are being “fishy” in their arguments in opposition.

This is, after all, a country with one Government of, by, and for the people. It is true there are different levels of governmental organization—local, State, and Federal—but the obligation is the same: to serve the people. Transferring property from one level of government to another has implications that must be assessed on a careful basis—on this, Mr. MILLER is correct—but, when the purpose is to maintain a public service which otherwise would be dropped; when the cost is dismaying, when there is no intent to take advantage of anyone or any institution; when the public body the property is transferred to has a historical commitment to and investment in the property and public program in question; and when all national bodies—private and governmental—are in concurrence, there is no credible reason not to proceed.

In this regard, let me tell a tale of two States and two fish hatcheries to illustrate why I believe Mr. MILLER’s
protestations represent “upstream” logic with a fishy “downwind” odor.

Iowa, unlike California, has no national parks. Iowa, unlike California, has no Bureau of Land Management projects. And, Mr. Chairman, Iowa, unlike California, has no federally subsidized fish hatchery.

In Iowa, private citizens almost a century ago gave a piece of property to the Federal Government for the purpose of advancing Mississippi River aquaculture. For the last generation the State of Iowa has exclusively borne the cost of such activities and maintained and upgraded the property. On the other hand, in the State of California there exists a fish hatchery which the Federal Government bought on a yearly basis. Indeed, this year the Federal Government has committed $1,902,000 to the Coleman National Fish Hatchery in Anderson, CA, a sum which is 688% of the 87 percent more that Iowa dedicated just 4 years ago. By comparison, the value of the Fairport property is about one-third the annual Federal subsidy to California’s fish hatchery and less than the increase in that subsidy authorized in the last 4 years.

A fair question might therefore be asked: Which fish are more important—California’s federally subsidized steelhead trout or the Mississippi River catfish which do not receive a Federal subsidy?

Mr. Chairman, I do not rise today, nor have I ever risen, to object to the California Fish and Wildlife Protection Act, which the gentleman from California sponsored; nor do I rise to object to nor did I vote against passage of the California Desert Protection Act, which Mr. MILLER assured us was vital to the needs of his State; nor, Mr. Speaker, do I rise to object to nor did I vote against addition of land to the John Muir National Historic Site in Martinez, CA.

But I do think it fair to point out some irony in the fact that the gentleman from California has proposed new environmental projects costing multibillions in the gentleman’s home state while he now objects to the transfer of an existing small fish hatchery which will cost the Federal Government nothing and which the Federal Government paid next to nothing for to begin with. Mr. MILLER thinks it hollow conservatism for the gentleman to protest so much. Why, pray tell, is it fair for Iowans to pay for California fish propagation when Californians object to Iowans taking responsibility for their own aquaculture?

The issue, let me stress, is not traditional congressional logrolling. I ask no money for anything from anyone. I ask only that this Congress allow a transfer of property and responsibility to take place between one level of government and another. This transfer, as small as it is, represents a symbolic step away from all-knowing Washington hegemony toward a new federalism in which States rights are matched by State responsibility. Beyond this, it is particularly poignant that the transfer contemplated symbolizes a State taking responsibility for a governmental service after the Federal Government has abdicated its traditional role. In other words, Mr. Chairman, the Transfer Act of 1995, the Fairport Fish Hatchery provides regular advice and information to the U.S. Army Corps of Engineers on the Mississippi River ecosystem. The State in other words, willingly provides a service to its own government, without charge or complaint. It is a commonsense thing to do.

The gentleman might wonder why I object so strenuously to his legislative sophistry. Let me say as carefully as I can: I don’t like legislative games being played with people’s livelihoods and a town’s well-being. At a personal level I spoke twice to the gentleman this year asking for comity. For the last generation citizens of my State have provided tax revenues to advance environmental projects all over the country. All Iowans ask today is the opportunity to invest in our future at our expense. Aquaculture and the study of the Mississippi River ecosystem are important to our region. It is simply not fair to ask Iowa taxpayers to foot the bill for environmental projects in virtually every other State but their own and then pay Washington for a facility the State of Iowa has invested more in than the Federal Government.

Let me conclude by stressing that H.R. 584 is supported by all executive branch parties involved, including the Republican administration in Des Moines and the Democratic administration in Washington. The approach it contains is consistent with precedent, in conformance with administration policy, and represents mutual fairness and all obligations being placed on the Federal taxpayer. I doubt if there is a stronger equity case anywhere in the federal system for the transfer of property from one level of government to another.

To turn down an agreement in which a State accepts responsibility for services the Federal Government abandons in some parts of the country but embraces elsewhere is not only unfair, it risks the transfer of an environmental jewel to industrial development. If Mr. MILLER’s irascible approach is adopted, a wonderful small town in my congressional district will be faced with the elimination of its second largest employer impacting the quality of life of this beautiful river community and severely retarding the development of aquaculture in the State of Iowa.

To paraphrase Daniel Webster in a reference he made in a court case involving a small private college: “Fairport is, Sir, but a small place but there are those who love it.”

Mr. STUDDS. Mr. Chairman, I yield myself 1 minute.

I just want to say to the distinguished gentleman from Iowa, I now feel extremely guilty that I did not speak at greater length on this matter. I do not recall a more scholarly presentation replete with more references to literature, to history, to Latin invec-tive, and to puns, and it was the part about the buttons that really got to me. I must say.

Also, let the record reflect for the duration of this debate I am not sitting between the gentleman from Iowa and the gentleman from California.

Mr. Chairman, I yield 5 minutes to the aforementioned distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California asked and was given permission to revise and extend his remarks.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, Members of the House, the amendment is not large, but the principle is important, and that is that we are now living under a zero-sum situation within the Federal Government in an effort to balance the Federal deficit, and that is what makes some of the things we have done in the ordinary course of business in this Congress in the past not possible in the ordinary course of business today because we have that mandate to meet.

The fact is, yes, we have transferred fish hatcheries in the past and we did not charge the States. That is before we were living under these rules of today.

The gentleman from California citates a number of transfers between agencies of the Federal Government which he suggests is analogous to this, and the fact of the matter is it is not. The California desert was created out of Federal lands currently owned. The fact is the money that goes into the hatchery in California are there because Federal actions have devastated the fisheries in that general area in the northern part of the State.

And the fact is this hatchery, once it is transferred, will continue to receive Federal funds for its operation, as do many of the other hatcheries. So this is not a question of Iowa only. There will be Federal funds, $2 million a year, to go to the State for the operation of this and other hatcheries.

The fact is the Federal Government operates this hatchery for 44 years, and I do not see anybody complain about that. Yes, Iowa operated it for 22 years. We could put it out and let it go. We are doing the State of Iowa a favor because we are continuing the hatchery program by making this available to them. We do not continue to have a program which, like the gentlewoman from Arkansas said, is a vital interest to that State for sport fishing revenues, recreational revenues, for all the revenues the State receives from fish. I would do so apparently also for the people who live in the small town.

The point is this, though, in the transfer of that we ought to receive for
the taxpayers of this country fair market value. The suggestion is it only $717,000. The fact is, again, we do not know that. It has been suggested it might be as much as $2 million. But $717,000 is half again as much as all of the tax that the Sturgeon family will pay to the Federal Government after working a lifetime.

So we hear very often, and I think quite correctly, that from time to time we have got to check what we have been doing. This gentlewoman has, in this Committee of Natural Resources for many years, forced the receipt of fair market value in land exchanges and land trades and land transfers to levels of local government, and I have been doing that for 20 years. And in most cases that is what the Federal law requires.

In this particular case, we simply are desiring to make a gift to the people of Arkansas, the people of Iowa, the people of Minnesota to a program that we hear very often, and I think very, very helpful to their economies, and simply saying the taxpayer will walk away from it.

All I am suggesting is we ought to get an appraisal. We ought to find out fair market value. This is not an attempt to gouge. We will give them credit for the improvements they have put into the facility, and everybody will be happy in their work as we transfer this facility.

Again, I would say that there is tremendous local benefit to the transfer of this project, the facility, to the State, ongoing benefit in terms of their economy, in terms of, I believe, this hatchery is even used in the private sector in aquaculture and other commercial ventures, and all I am saying is when you have got that, you know, we constantly go before town hall meetings, people, what do they say to you all the time? “Why don’t you run the government like this?” And the point is we ought to run the government like a business. And in this case, when you transfer an asset, what tenant would be able to go and say, “I would love to fix up this building so I can do a better job in this building; I am not going to do it if I don’t own it, but you have to give it to me for free.” I have never met that landlord, except the U.S. Government, that would say, “Oh, okay, take it for free, and then we will be on our merry way.”

I think that is the point, is that that we have got to make this effort, as I said before; there will be a rationale made for each and every one of these projects coming out of this Committee. Some of them are far grander than this in terms of transferring the assets that the people of this country have invested into the projects or the ideas or the purposes of a single region.

I think we ought to make some effort to prevent the recapitulation of that investment. We are not talking about recapturing the money that was spent for 44 years. We are not talking about recapturing the Federal money that will be spent after this. We are not talking about capturing the Federal money being spent today in this or any other hatchery. We are talking about the fair market value for the real estate transaction of this facility to the State of Iowa.

I think it is a very, very small thing to ask in behalf of the taxpayers of this country.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of H.R. 584, a noncontroversial bill to transfer the Fairport National Fish Hatchery to the State of Iowa.

This facility is an important component of Iowa's fish hatchery system. The State has operated this hatchery with its own funds since 1973, and it is one of three warm-water facilities within the State's program. The Fairport facility fills the need for several fish, including large-mouth bass, blue gills, and channel catfish. These fish are utilized throughout the State as part of their fisheries resources program.

While the Iowa Department of Natural Resources and agency to maintain the upgrading this facility, they cannot justify the expense of these improvements as long as the Federal Government holds title to this property. H.R. 584 was introduced by our distinguished colleague from Iowa, Jim Leach. It is strongly supported by the U.S. Fish and Wildlife Service, which indicated by letter that the Service has "no present, or foreseeable need for a hatchery at this site and recognizes the importance of this facility to the fishery resources program of the State of Iowa."

I urge our colleagues to support this legislation and I compliment the gentleman from Iowa for his outstanding leadership in this matter.

The CHAIRMAN. Is there further debate on the bill?

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

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

The CHAIRMAN. All time for general debate has elapsed.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 584 is as follows:

H.R. 584
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA.

(a) CONVEYANCE.—Within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Iowa all right, title, and interest of the United States in and to the fish hatchery described in subsection (b) for use by the State for purposes of fishery resources management.

(b) HATCHERY DESCRIBED.—The fish hatchery described in subsection (a) is the Fairport National Fish Hatchery located in Lucas County, Ohio, comprising all lands and improvements located on Highway 22 west of Davenport, Iowa, including all real property, improvements to real property, and personal property.

(c) USE AND REVERSIONARY INTEREST.—The property conveyed to the State of Iowa pursuant to this section shall be used by the State for purposes of fishery resources management, and if it is used for any other purpose all right, title, and interest in and to all property conveyed pursuant to this section shall revert to the United States.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California. In line 5, strike “Within” and all that follows through “without reimbursement”, and insert “Upon the provision of consideration by the State of Iowa in accordance with subsection (a), the State shall convey to the United States an amount equal to the fair market value of the property conveyed by the Secretary under subsection (a), reduced in accordance with paragraph (2); or

(b) convey to the United States real property that the Secretary determines—

(i) has a fair market value not less than an amount equal to the fair market value of the property conveyed by the Secretary under subsection (a), reduced in accordance with paragraph (3); and

(ii) is useful for promoting fish restoration and management.

(2) APPRAISAL REQUIRED.—The Secretary shall determine fair market value of property for purposes of this subsection after considering an appraisal of the property prepared for the Secretary before the date of the enactment of this Act.

(3) REDUCTION OF FAIR MARKET VALUE OF PROPERTY CONVEYED.—(A) Deposit of payment.—(i) FOR PURPOSES NOT RELATED TO FISH RESTORATION AND MANAGEMENT.—Section 9504(b)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)), commonly referred to as the Wallop-Breaux Fund.

(B) LIMITATION ON USE OF DEPOSITS FOR PURPOSES NOT RELATED TO FISH RESTORATION AND MANAGEMENT.—Section 9504(b)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(2)(B)) does not apply to amounts deposited under this paragraph.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in CONGRESSIONAL RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.
Mr. MILLER of California. Mr. Chairman and members of the committee, I rise in support of the amendment. This amendment has been previously explained in the debate, would provide for an appraisal of the fair market value of the facilities and facilitate the transfer of Federal Government to the State of Iowa for the continued use of a fish hatchery at Fairport, IA, a national hatchery. The purpose of this amendment, as I stated previously and with the previous amendment, is to try and have the property for the public interest. The Fairport fish facility, a facility that the gentleman from California [Mr. MILLER] has spent millions of dollars to operate this facility for 44 years. Preceding the State took it over at one point determining it was in such interest to the State that they would then run the annual operating expenses of this to continue to provide for the feed-stocks that are developed at this hatchery, and now they seek to gain clear title to that facility. I have a problem with the State gaining clear title to that facility, the State taking this over and the Federal Government getting out of this business. It all sort of makes sense. My problem is I think, when we exit there, when we turn over this facility to the State, that we owe it to the public to get an appraisal and to get fair market value for this facility, and the amendment also provides for the offsets for the moneys that the State has put into improving that facility during their tenancy in that facility.

Mr. Chairman, I would ask for a favorable reporting of this amendment. The CHAIRMAN. Is there any further debate on the amendment? Mr. SAXTON. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. MILLER].

Mr. Chairman, this proposal was debated at length during our subcommittee and full committee deliberations, and it was also deliberated at some length earlier today on the amendment when the gentleman offered an amendment on the Arkansas bill. While on the surface the amendment may appear to have certain amount of appeal, there are certain facts that are indisputable. I think I will just reference them very quickly.

First, Iowa has operated this hatchery with State funds for decades and have done so effectively for more than 23 years—22 years. Furthermore, Iowa has spent millions of dollars to operate the hatchery and to improve the infrastructure surrounding it.

Second, this bill contains language requiring the property to revert to the Federal Government in as good or if not better condition at the time that any transfer may be contemplated. This is not the first time the Federal fish hatchery has been transferred to a State at no cost. It has been done several times, as recently as the last Congress. This bill simply transfers an asset from one level of government to another to continue the partnership that is so important relative to this hatchery.

Fourth, recent real estate appraisals have not been conducted on this facility, and with Federal Government thousands of dollars to make such an assessment and would be a waste of the taxpayers’ money.

Finally, this bill is an important partnership with the State, and we will continue to support it if the Iowa administration and its professionals, as well as the Iowa administration and its professionals, are in concurrence.

With these five criteria met, I would suggest that there is no credible reason whatsoever not to proceed with this transfer, leaving open the philosophical question that the gentleman from California [Mr. MILLER] raises that there might well be a philosophical circumstance in which these criteria are not met in other kinds of situations. But I would stress to the gentleman, to the committee and to this body that to act on a line of reasoning because of something that might exist in another circumstance that does not relate to this precise circumstance where a series of very careful weighings have taken place and where, by the way, and I would stress again, this administration and its professionals, as well as the Iowa administration and its professionals, are in concurrence, would be a mistake.

I leave myself open to supporting the kind of amendment that the gentleman from California [Mr. MILLER] or any other member of this body may raise in other contexts at other times, but in my judgment, to apply it to the Fairport fish facility, a facility with two full-time employees and one part-time employee, a facility that is serving the interests of the State and the Midwest, would be a mistake of not large, but symbolically quite sad proportions.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words to remind Members the question before us is for all intents and purposes identical to the one that was before us in the preceding bill, although we have spent an unaccountably longer period of time discussing it, and I would urge Members, for reasons particularly stated by the gentleman from New Jersey and the gentleman from Iowa, to vote the way things were decided before, in opposition to the amendment.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.
Mr. Chairman, I just want to say to my good friend from California that God loves a repentant sinner, and I remember in the Bible when Paul is on the road to Damascus, then called Saul, and Christ appeared to him, and he had an immediate conversion and became, instead of a zealous against Christ, he became a supporter and became one of the greatest apostles of all, and the gentleman from California has been, at least to my recollection, one of the bigger spenders in the body, and so I have some new found fiscal conservatism, and I just like to say, I really appreciate that conversion, and I hope that conversion continues when we get to the appropriations bills later in the year, because later in the year we'll have the opportunity to make some major cuts in spending, and since this new found conservatism has risen in this gentleman's psyche, I hope it continues, and I would congratulate him on becoming a fiscal conservative.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I appreciate the gentleman's remarks, but they are somewhat off target. The fact of the matter is that in these issues before the committee, which I have now sat on for 20 years, my position has always been that the Federal funds come from the Federal taxpayer, whether it is in my district in California, in the Western United States or anywhere else, is entitled to fair market value for the resources. Most of these pieces of legislation that have made it to the floor the gentleman from the well has voted against for, I am sure, other reasons than those reasons, but the fact is we have voted, whether it is in water subsidies, mining subsidies, timber subsidies, and tried to regulate some control over those, that has been my historical record, and it has happened no matter without question where the project existed or elsewhere, and so the gentleman's arrow is somewhat misplaced at this point, but I appreciate his support for the concept that I am expressing here and expect his vote on this amendment because that road to Damascus was started with one small step, and the gentleman can take it here today. I am sure the gentleman from Iowa [Mr. LEACH] will have some other literary reference at some point—

Mr. BURTON of Indiana. Reclaiming my time, let me just say that I am happy to see that the gentleman is moving in the right direction, and I hope, with the Treausurw e Part to the appropria tions bills later this year, that he will continue to be fiscally conservative.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am concerned that we try to maintain a certain level of consistency, and I would point out to the gentleman from California that in November of 1993 he did vote for legislation that included the nonreimbursed advance of the hatchery in Senecaville, OH, and I am curious that now he has seen that this is no longer a good policy, he would like to depart from that. Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I heard somebody a minute ago from the other side of the aisle mention the National Taxpayers Union, and I appropriate to point out the lack of credibility that that organization has with most Members of this House and certainly with most Members of the other body. Some may wonder why that is. Let me remind him that when the Senate was controlled by the Republican Party, and the House was controlled by the Democratic Party, the National Taxpayers Union used double standards in order to rank and rate Members' votes about whether they were conservative enough or liberal enough. Whatever it was, they were going to make the report. So, when you pass an appropriations on this side of the House and voted for it, it was a bad vote for the taxpayers. That same bill passing the Senate, however, was not counted as a bad vote against a Senator.

So, I think it is appropriate, Mr. Chairman, that any time somebody gets up and touts that particular organization, that those of us who understand that they use a double standard ought to stand up and say so.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER]. The amendment was rejected.

The CHAIRMAN. Pursuant to the rule, there are no further amendments, under the rule, the Committee rises. Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 584) to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa, he reported the bill back to the House. The SPEAKER pro tempore. Under the rule, the previous question is ordered.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Sara Emery, one of his secretaries.

NEW LONDON NATIONAL FISH HATCHERY CONVEYANCE ACT

The SPEAKER pro tempore. Pursuant to House Resolution 146 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 614.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, with Mr. CAMP in the chair.

The Clerk read the title of the bill. The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey [Mr. SAXTON] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I suspect this debate will be somewhat shorter than the last one. I cannot think of anything that can be said that has not already been said, including references to outside organizations and other such debate. But this bill, which is brought to us by the gentleman from Minnesota [Mr. MINGE] with reference to the New London National Fish Hatchery in Minnesota, is substantively the same as the previous two bills. It is of the same level of importance as the previous two bills. I would hope that, once again, this bill would proceed to be passed without amendment.

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

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

(Mr. STUDDS asked and was given permission to revise and extend his remarks.)

Mr. STUDDS. Mr. Chairman, ditto. I really join the gentleman from New Jersey in being utterly unable to conjure anything that has not been said at least three times before.

I take that back, I can think of one thing. I understand the desire of the new majority to look up on the scoreboard the number of open rules that they have successfully adopted, but I would enter just one personal plea to go back to the old system of suspensions.

The gentleman from New Jersey and I and the gentleman from Alaska and I and others in the old days would have been finished these three bills approximately ½ hours ago. We could be well on our way toward dinner. There are more important that require the time of the House, but with all due respect, these three bills, which are very good and should be passed, do not require that much time. We should proceed.
Mr. Chairman, I rise in support of H.R. 614, a bill to transfer title of the New London National Fish Hatchery to the State of Minnesota.

The New London hatchery has been operated by the State of Minnesota under a memorandum of understanding with the fish and wildlife service since the early 1980’s. It produces walleye fingerlings and muskies for a wide range of State fishery programs.

The State of Minnesota has made some minor improvements to the facility in the past and two more hatcheries we are transferring today. It is supported by both the State and the administration, and I urge Members support.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. Minge].

(Mr. MINGE asked and was given permission to revise and extend his remarks.)

Mr. MINGE. Mr. Chairman, the previous speakers are indeed correct. Virtually everything has been said about fish hatchery bills today that needs to be said. There are two things, however, I would like to add, two comments.

First of all, you need to recognize that the hatchery has exchanged discussions this afternoon about the importance of the Federal Government being compensated for assets that transfer to State and local governments and to other parties. I wholeheartedly embrace that principle, and I applaud the gentleman from California for having raised our sensitivity to that important concept. I will not applaud out loud, but I will just do so figuratively.

I do think it is important, however, to recognize that these transfers are occurring. The gentleman from Iowa has certainly laid out a five-part test for whether or not we would go through the exercise of appraisal. If all five parts of his test are met, I would suggest that it is a futile expenditure of taxpayer funds to go through that appraisal process.

In the context of the Minnesota facility, I would like to mention two considerations which I think are important and which I hope that this property is of de minimis value to the Federal Government.

First, all of the land that is included in the Minnesota situation has been classified as wetlands. The Minnesota Department of Natural Resources has advised me of this. This means that this land is not suitable for development under State and Federal law. The Federal Government and the policies that we have developed under the Clean Water Act, wetlands, as a part of the farm bill, and other legislation, all indicate that it is inconsistent with Federal policy to so develop land.

The other point that I wish to make with respect to the Minnesota property is that the Federal law already authorizes the transfer of this property by the Secretary of the Interior to the States without compensation so long as it is used for the designated purpose. To put the gentleman’s difficulty in using this Federal procedure is that we would have to shut down the operation of the fish hatchery to confirm that it indeed is surplus property. To shut down the operation of the fish hatchery is going to cause a great deal of difficulty in determining that it is a surplus property, and then in turn conveying it to the States, simply adds to the complexity and the cost of the process.

Historically, we have operated in a very informal and expeditious fashion with these assets in Congress, and I see no reason to go back to the ad hoc disposal of this by the Secretary of the Interior in a more complex fashion. Therefore, I urge that this bill be approved.

Mr. SAXTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I hate to burn up the time, but I just feel as if I have to just say a word. When the gentleman from Massachusetts [Mr. Stupak] made note that these bills were being considered under an open rule, which for people who are not familiar with that gives any Member of the House the opportunity to stand, as the gentleman from California [Mr. Miller] has on two occasions so far, and unembarrassedly will again on this bill, to offer an amendment of his or her choice, this has come about because as I experienced during the time that I was here as a Member of the minority for 10 years, we did not enjoy, as Members of the minority, the opportunity to offer amendments very often under an open rule.

Some here may remember a few months ago there was a document that became known as the Contract With America. Part of the Contract With America was a provision or statement or series of statements that promised that we would open the process.

This is an example of, where possible, we are trying to open the process. If it were not for this open process, it is true that we would have consumed perhaps an hour total on these three bills, and the gentleman from California [Mr. Miller] who has unembarrasedly precluded his opportunity to make his statement in the form of amendments on these bills.

So there has been a great deal said in this session about promises made and promises kept. It is not always comfortable on either side to spend the time or the effort to keep promises. But today is a part of the promises that were made during the 1994 campaign, and once again a promise kept.

So I hope the gentleman will appreciate the opportunity that the new majority has taken of the purposes of these types of discussions and these types of amendment procedures, which are a relatively new phenomenon around here. We are quite proud to say we are keeping our promise.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I guess like my budget cutting tendencies, they were well kept secrets around here, but I just wanted the gentleman to know as the staff on your side knows, I never both brought a bill to the floor from the committee under a closed rule. They were always open rules. As the gentleman from California [Mr. Lewis], who sits behind you can testify, we had the most open rule and the longest debate in the history of the Congress.

I want to commend the minority for, hopefully, what will be an increasing commitment to open rules because I think it is the only way to do business. But I knew it was a well-kept secret.

Mr. SAXTON. I believe you the gentleman want to say “commend the majority.”

Mr. MILLER of California. Majority, soon to be minority.

Mr. STUDDS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am not going to prolong this, God help us all. But I cannot help but help observing that the debate on this bill under this rule could go on all night and tomorrow and for the rest of next week and into next month. For the first time of both taking openness, we are indebted to the new majority.

I must also observe the $16-billion-plus bill we are going to take up in 10 minutes terminates in 6½ hours. This might be called selective openness, not where we need it, but do not need it.

I would also observe in a personal matter that in my first term here, in thought open rules were a very good idea. Since then I have come to reconsider. The function of the Committee on Appropriations is to be one of oversight, and it seems to be reasonable to look at those major propositions that are before the House and to allow them to be voted on. But to let us go on indefinitely I think is a mistake. In any event, I shall cease going on indefinitely, and with great relief I will yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Chairman, I support H.R. 614, which was introduced by the gentleman from Minnesota [Mr. Minge].

This legislation would transfer the ownership of the New London Fish Hatchery facility from the U.S. Fish and Wildlife Service to the State of Minnesota’s Department of Natural Resources. H.R. 614 would convey all rights, title, and interest of the United States to the State of Minnesota. This includes all property, buildings, water rights, and easements of the New London facility.

It is my understanding that the hatchery has been operated by the Minnesota Department of Natural Resources for the Fish and Wildlife Service under a memorandum of agreement [MOA] since 1983. This MOA, which was extended in 1993, expired in 1998.

The hatchery facility is actually located on two separate pieces of land. One is located outside the town of New London and is owned...
Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. CAMP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 614) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, pursuant to House Resolution 146, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

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

The vote was taken by electronic device, and there were yeas 252, nays 168, not voting 14, as follows:

[Roll No. 357]

YEA—252

Leach

Brown (CA)

Brown (FL)

Brown (TX)

Bartlett

Bartlett (NE)

Barton

Bates

Baum

Bereuter

Belew

Boucher

Bouwer

Brownback

Bryan (TX)

Bunn

Frisa

Frost

Funderburk

Gallegly

Ganske

Gekas

Gilchrist

Gillmor

Gimlan

Goodlett

Goddings

Goss

Graham

Greenwood

Gunderson

Hansen

Hastert

Haworth

Heyefly

Hoffman

Horn

Hostettler

Hunt

Johnson (CT)

Johnson, Sam

Jones

Keach

Kelly

Kim

Kingston

Klug

Kolbe

LaHood

Lamant

LaGruette

Laughlin

Lazio

Leach

Leach

Abercrombie

Ackerman

Baladacci

Bacic

Barrett (WI)

Becerra

Belenson

Benjamin

Berman

Bishop

Boggs

Borski

Brown (CA)

Brown (FL)

Brown (OH)

Brown (TN)

Browning

Burke

Burr

Burton

Buchus

Buesener

Bachelder

Baker (CA)

Baker (LA)

Ballenger

Barrett

Bartlett

Bartton

Bates

Baum

Bereuter

Belew

Boucher

Bouwer

Brownback

Bryan (TX)

Bunn

by the Fish and Wildlife Service. The other is located within the town of New London; the State had owned the property but transferred it to the Fish and Wildlife Service in 1939.

Finally, the bill stipulates that this property revert to the Federal Government if the State of Minnesota decides it no longer wishes to operate the hatchery as a fishery resources management facility.

The Fish and Wildlife Service supports this transfer and I urge my colleagues to vote "aye" on this measure.

Mr. SAXTON. Mr. Chairman, I have no further remarks as to time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill and the amendment printed in the bill are considered as having been read for amendment under the 5-minute rule.

The text of H.R. 614 is as follows:

H.R. 614

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

SECTION 1. CONVEYANCE OF NEW LONDON NATIO- NAL FISH HATCHERY PRODUC- TION FACILITY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the State of Minnesota without reimbursement all right, title, and interest in and to all property conveyed pursuant to this section for purposes of fishery resources management, and if it is used for any other purpose, the State for purposes of fishery resources management, and if it is used for any other purpose, the State of Minnesota shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

The CHAIRMAN. The question is on the committee amendment.

The Committee amendment was agreed to.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.
Amendments en bloc described in section 2 of House Resolution 155 comprising only amendments printed before May 25, 1995; and
One amendment offered by the chairman of the Committee on International Relations.
Are there further amendments to the bill?
AMENDMENTS EN BLOC, AS MODIFIED, OFFERED BY MR. GILMAN
Mr. GILMAN. Mr. Chairman, I offer amendments en bloc, as modified.
The CHAIRMAN. The Clerk will designate the amendments and report the modifications.
The Clerk designated the amendments en bloc and proceeded to read the modifications.
Mr. GILMAN (reading). Mr. Chair, I ask unanimous consent that the modifications be considered as read and printed in the RECORD. The CHAIRMAN. Is there objection to the request of the gentleman from New York?
There was no objection.
The text of the amendments en bloc, as modified, is as follows:
Amendments en bloc, as modified, offered by Mr. GILMAN:
Amendment No. 12 offered by Mr. LANTOS:
After section 321, insert the following new section:
SEC. 3212. CENTRAL ASIAN ENTERPRISE FUND.
Notwithstanding section 201(d)(3)(A) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421(d)(3)(A)), the Central Asian-American Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each host country.
Amendment No. 13 as modified, offered by Mr. LIVINGSTON:
Page 47, strike line 9 and all that follows through line 2 (section 3418(e) of the bill), and insert the following:
(e) AUTHORIZATION OF APPROPRIATIONS.—
Section 8(a) of such Act (22 U.S.C. 1469(a)) is amended in the second sentence by striking “United States Information Agency” and inserting “Department of State”.
In section 201(a)(1)(A), strike line 9 and all that follows through line 2 (section 3418(e) of the bill), and insert the following:
(1) any program of assistance authorized by the Foreign Assistance Act of 1961 (such as above recorded).
the resolution was agreed to.
The result of the vote was announced as above recorded.
A motion to reconsider was laid on the table.

AMERICAN OVERSEAS INTERESTS ACT OF 1995
The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolutions 155 and 156 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1561.

IN THE COMMITTEE OF THE WHOLE
Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1561) to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997; and for other purposes, with Mr. GOODLATTE in the Chair.
The Clerk read the title of the bill.
The CHAIRMAN. When the Committee of the Whole rose on Wednesday, May 24, 1995, amendment number 42 offered by the gentleman from Florida [Mr. HASTINGS] had been disposed of, and the bill was open for amendment at any point.
Pursuant to House Resolutions 155 and 156, 6 hours and 35 minutes remain for consideration of the bill under the 5-minute rule.
Only the following further amendments to the committee amendment in the nature of a substitute, as modified and amended, are in order:
Pro forma amendments for the purpose of debate:
Amendments printed before May 25, 1995, in the CONGRESSIONAL RECORD;
as the development assistance program, the economic support fund program, and the international military education and training program) or authorized by the African Development Foundation Act, section 401 of the Foreign Assistance Act of 1961 (relating to the Inter-American Development Foundation), or any other foreign assistance legislation;
2. any program of grant, credit, or guaranty assistance under the Arms Export Control Act;
3. assistance under the Migration and Refugee Assistance Act of 1962;
4. assistance under any title of the Agriculture Trade Development and Assistance Act of 1954;
5. contributions to the International Monetary Fund;
6. contributions to the International Bank for Reconstruction and Development, the International Development Association, or any other institution within the World Bank group; and
7. contributions to any regional multilateral development bank.
Amendment No. 33, as modified by Mr. GILMAN: Page 203, line 2, strike "for such fiscal year".

SEC. 3194. RETURN AND EXCHANGES OF DEFENSE ARTICLES PREVIOUSLY TRANSFERRED PURSUANT TO THE ARMS EXPORT CONTROL ACT.
(a) REPAIR OF DEFENSE ARTICLES. Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following new subsection:
"(i) Authority.-(1) In general.—The President may accept the return of a defense article from a foreign country or international organization pursuant to a letter of offer and acceptance implemented in accordance with this Act; and
(2) Limitation.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—
(A) has a requirement for the defense article being returned; and
(B) has available sufficient funds authorized and appropriated for such purpose; or
(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.
(2) Limitation.—The President may exercise the authority provided in paragraph (1) only to the extent that the Department of Defense—
(A) has a requirement for the defense article being returned; and
(B) has available sufficient funds authorized and appropriated for such purpose; or
(C) will be exchanged for a defense article of the same type that is in the stocks of the Department of Defense.
(a) IRAN'S ACTS OF INTERNATIONAL TERRORISM. The Congress makes the following findings with respect to Iran's acts of international terrorism:
(1) As cited by the Department of State, the Government of Iran was the greatest supporter of state terrorism in 1992, supporting over 20 terrorist acts, including the bombing of the Israeli Embassy in Buenos Aires that killed 29 people.
(2) As cited by the Department of State, the Government of Iran is a sponsor of radical religious groups that have used terrorism as a tool. These include such groups as Hezbollah, HAMAS, the Turkish Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP—GHQ).
(3) As cited by the Department of State, the Government of Iran has resorted to international terrorism as a means of obtaining political gain. These actions have included not only the assassination of former Prime Minister Bakhitiar, but the death sentence imposed on Salman Rushdie, and the assassination of the leader of the Kurdish Democratic Party of Iran.
(4) As cited by the Department of State and the Vice President's Task Force on Combating Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of state terrorism has long been a proponent of terrorist actions.
(b) Exception. The President may provide foreign assistance to the government of a country that would otherwise be prohibited from receiving such assistance under subsection (a) if the President—
(1) determines that the provision of such assistance is in the national interest of the United States; and
(2) notifies the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.
(c) Definitions. As used in this section:
(1) Felony offense. — The term "felony offense" means an offense punishable by death or imprisonment for a term exceeding one year.
(2) Foreign assistance. — The term "foreign assistance" means any funds made available to carry out any program, project, or activity under the Foreign Assistance Act of 1961 or the Arms Export Control Act, except such term does not include funds used to provide humanitarian assistance.

SEC. 2712. POLICY TOWARD IRAN.
(a) IRAN'S ACTS OF INTERNATIONAL TERRORISM. The Congress makes the following findings with respect to Iran's acts of international terrorism:
(1) As cited by the Department of State, the Government of Iran was the greatest supporter of state terrorism in 1992, supporting over 20 terrorist acts, including the bombing of the Israeli Embassy in Buenos Aires that killed 29 people.
(2) As cited by the Department of State, the Government of Iran is a sponsor of radical religious groups that have used terrorism as a tool. These include such groups as Hezbollah, HAMAS, the Turkish Islamic Jihad, and the Popular Front for the Liberation of Palestine-General Command (PFLP—GHQ).
(3) As cited by the Department of State, the Government of Iran has resorted to international terrorism as a means of obtaining political gain. These actions have included not only the assassination of former Prime Minister Bakhitiar, but the death sentence imposed on Salman Rushdie, and the assassination of the leader of the Kurdish Democratic Party of Iran.
(4) As cited by the Department of State and the Vice President's Task Force on Combating Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of state terrorism has long been a proponent of terrorist actions.
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(4) As cited by the Department of State and the Vice President's Task Force on Combating Terrorism, the Government of Iran has long been a proponent of terrorist actions against the United States, beginning with the takeover of the United States Embassy in Tehran in 1979. Iranian support of state terrorism has long been a proponent of terrorist actions.
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(c) Definitions. As used in this section:
(1) Felony offense. — The term "felony offense" means an offense punishable by death or imprisonment for a term exceeding one year.
(2) Foreign assistance. — The term "foreign assistance" means any funds made available to carry out any program, project, or activity under the Foreign Assistance Act of 1961 or the Arms Export Control Act, except such term does not include funds used to provide humanitarian assistance.
tool to undermine the Middle East peace process.
(6) The Government of Iran provides financial, political, and logistical support and safe haven to the Revolutionary Guards of Iran, which seek the overthrow of secular governments in the Middle East and North Africa.
(b) IRAN'S PROGRAM TO ACQUIRE WEAPONS OF MASS DESTRUCTION AND THE MEANS BY WHICH TO DELIVER THEM.—The Congress makes the following findings with respect to Iran's program to acquire weapons of mass destruction and the means by which to deliver them:
(1) The Government of Iran has intensified its efforts to develop weapons of mass destruction and the means by which to deliver them;
(2) Iran's Brazil-based missiles use a technology banned by the United Nations Security Council;
(3) Iran ceased to comply with the Intermediate-Range Nuclear Forces Treaty on May 15, 1992, with respect to all systems identified by the United States as noncompliant with the terms of the treaty.
(iii) the ability of the United States to compete in foreign markets. The Secretary of State shall provide such assessments annually to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the ability of United States entities engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign markets. The Secretary shall provide such assessments annually to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.
(4) The United States has provided Russia with significant direct assistance to promote a free market economy, support democracy, and strengthen Russian human rights needs, and dismantle nuclear weapons.
(b) DECLARATION OF POLICY.—The Congress declares the following:}

SEC. 2172. CONFLICT IN CHECHNYA
(a) FINDINGS.—The Congress finds the following:}
(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—For purposes of this section, the term "appropriative congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

Amendment No. 78 Offered by: Mr. Zimmer: At the end of title XXXIII (relating to regional provisions), add the following new section:

SEC. 3314. PROHIBITION ON ECONOMIC ASSISTANCE, MILITARY ASSISTANCE OR ARMS TRANSFERS TO THE GOVERNMENT OF MAURITANIA UNLESS APPROPRIATE ACTION IS TAKEN TO ELIMINATE CHATTEL SLAVERY.

(a) PROHIBITION.—The President may not provide economic assistance, military assistance or arms transfers to the Government of Mauritania unless the President certifies to the Congress that such Government has taken appropriate action to eliminate chattel slavery in Mauritania, including—

(1) the enactment of anti-slavery laws that provide for adequate punishment for violating such laws; and

(2) the rigorous enforcement of such laws.

(b) DEFINITIONS.—For purposes of this section, the following terms shall have the meanings specified:

(1) ECONOMIC ASSISTANCE.—The term "economic assistance" means any assistance under parts I through IV of the Foreign Assistance Act of 1961 (22 U.S.C. 2294 et seq.) or for assistance under chapter 4 of part II of such Act (22 U.S.C. 2346 et seq.) (relating to the economic support fund), except that such term does not include humanitarian assistance.

(2) MILITARY ASSISTANCE OR ARMS TRANSFERS.—The term "military assistance or arms transfers" means—

(A) assistance under chapter 2 or chapter 5 of part II of this Act, by sale under chapter 2 of the Arms Export Control Act, by commercial sale under section 38 of that Act, or by any other authority.

Amendment No. 69 Offered by Mr. Smith of New Jersey: In section 2102(b)(2)(C) (relating to violations for failure to establish or maintain a war crimes tribunal for the former Yugoslavia)—

(1) in the heading strike "FOR THE FORMER YUGOSLAVIA";

(2) strike "budget for the tribunal" and insert "combined budgets for the tribunals"; and

(3) after "Yugoslavia" insert "and the United Nations International Criminal Tribunal for Rwanda".

Amendment No. 71 Offered by Mr. Toomey by amendment No. 87 offered by Mr. Hamilton: On page 286 after line 19, amend the subsection "(e)" which would be added to section 22 of the Foreign Assistance Act of 1961 by adding at the end a new sentence as follows:

"The provisions of this subsection shall not apply to guaranties which have been issued for the benefit of the Republic of South Africa."

Amendment No. 96, as modified, offered by Mrs. Schroeder: At the end of title XXVII insert the following new section:

SEC. 3315. TRANSFER OF FUNCTION.

No determination as to whether a transfer of function, carried out under this Act, constitutes a transfer of function for purposes of subsection (c) of section 35 of title 5, United States Code, shall be made without regard to whether or not the function involved is identical to functions already being performed by the receiving agency.

Amendment No. 87 Offered by: Mr. Hamilton: On page 286 after line 19, amend the subsection "(e)" which would be added to Section 22 of the Foreign Assistance Act of 1961 by adding at the end a new sentence as follows:

"The provisions of this subsection shall not apply to guaranties which have been issued for the benefit of the Republic of South Africa."
education and counseling about the dangers of female genital mutilation for women and men of all ages; and
(C) ensuring that all appropriate programs in which the United States participates include a component pertaining to female genital mutilation, so as to ensure consistency across the spectrum of health and child-related laws and regulations in any country in which female genital mutilation is known to be a problem.

Amendment No. 98, as modified, Offered by Mr. TRAFFICANT: At the end of title XXVII (relating to congressional statements), add the following new section:

SEC. 2712. SENSE OF THE CONGRESS REGARDING SYRIAN OCCUPATION OF LEBANON.

It is the sense of the Congress that—
(1) the Government of Syria should comply with the Taif Agreement and withdraw all of its troops from Lebanon;
(2) the United States should use its contacts at the highest level of the Syrian Government to encourage the Government of Syria to withdraw all of its troops from Lebanon within a timeframe to be negotiated between the Syrian and Lebanese Governments;
(3) the Secretary of State should inform the Congress as to the actions the United States is taking to encourage withdrawal of all Syrian troops from Lebanon.

Amendment No. 99, as modified, offered by Mr. TRAFFICANT: At the end of chapter 2 of title III (relating to various authorities and other provisions of foreign assistance authorizations), add the following new section:

SEC. 3420. LIMITATION ON PROCUREMENT OUTSIDE THE UNITED STATES.

(a) Funds made available for assistance for fiscal years 1996 and 1997 under the Foreign Assistance Act of 1996, for which amounts are authorized to be appropriated for such fiscal years, may be used for procurement outside the United States or less developed countries only if—
(1) such funds are used for the procurement of commodities or services, or defense articles or defense services, in the country in which the assistance is to be provided, except that this paragraph only applies if the total of such procurement for a project or activity in that country would cost less than procurement outside the United States;
(2) the provision of such assistance requires commodities or services, or defense articles or defense services, of a type that are not produced in, and available for purchase from, the United States, less developed countries, or the country in which the assistance is to be provided;
(3) the Congress has specifically authorized procurement outside the United States or less developed countries; or
(4) the President determines on a case-by-case basis that the procurement outside the United States or less developed countries would result in the more efficient use of United States foreign assistance resources, for which amounts are authorized to be appropriated for such fiscal years, and includes in the reports to the Committees on Appropriations of the Congress a statement regarding the circumstances that established the need for the procurement.

(b) For purposes of this section, the term "less developed country" includes the recipient country if that country is not a developed country.

The CHAIRMAN. Pursuant to House Resolution 355 and House Resolution 156, the gentleman from New York [Mr. GILMAN] will be recognized for 5 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 5 minutes.

Mr. GILMAN. Mr. Chairman, the House is not in order.

ANNOUNCEMENT BY THE CHAIRMAN

Mr. Chairman, Members and the guests in the gallery are advised that participants in this debate are entitled to be heard, and they should not conduct conversations on the floor of the House or in the gallery.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am pleased to offer this amendment, which hopefully will speed up and simplify the process of consideration of this bill.

I have an amendment that I am pleased to offer this amendment, which hopefully will speed up and simplify the process of consideration of this bill.

The amendment has been agreed to on both sides, and I want to thank the ranking Democratic Member, the gentleman from Indiana [Mr. HAMILTON], for his cooperation in putting together this list of amendments. These are non-controversial amendments.

There is only one amendment in this enrollment that affects funding levels. At the suggestion of the gentleman from Ohio [Mr. CHABOT] we have shifted another $20 million per year into the Development Fund for Africa. This money comes from the Economic Support Fund and Foreign Military Financing functions of the budget.

It does not increase the deficit or the overall spending levels in this bill.

I would like to point out to my colleagues that once we have passed this amendment, the Africa Development Fund will get 85 cents for every dollar the general development assistance account receives for the rest of the world. Right now, the Africa Fund only gets 62 cents for every dollar the general fund receives. Although we are cutting many accounts, comparatively speaking, Africa is being treated very well in this bill.

Mr. Chairman, the en bloc amendment contains new language affecting the transfer of functions, which recognizes the need to consolidate into the Department of State under this Act.

Under the law, when functions are transferred, the employees performing those functions are likewise transferred, and the employees in the new combined agency may or may not be subject to a reduction in force, depending on the needs of the agency.

However, an unduly restrictive interpretation of the phrase "transfer of function" has cropped up in a little known case from the Court of Claims in Childress v. United States, 650 F.2d 285, 222 Ct. Cl. 557, 558 (1980), and by the Merit Systems Protection Board in Kentner v. National Transportation Safety Board, 20 M.S.P.R. 595 (1984). This provision is meant to ensure that employees affected by a transfer of function and any attendant reduction in force are covered by OPM's regulations on transfers of functions, 5 C.F.R., Part 351, Subpart C.

Mr. Chairman, I urge support of the en bloc amendment, and I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I urge support of the en bloc amendment, and I yield myself such time as I may consume.

Mr. Chairman, the en bloc amendment, as modified, has been cleared by this side of the aisle. I want to express my appreciation to the chairman of the committee for his cooperation in working with us, and his willingness to do so, to modify some of the amendments so they could be included in the en bloc.

Mr. Chairman, I urge support of the en bloc amendment, and I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, while I have grave reservations about many parts of the bill, the en bloc is certainly acceptable. I want to commend the gentleman from New York [Mr. GILMAN] for the work we have done together on the Iranian provision within it. There is no country in the world today that is more active in the support of terrorism that is trying to derail the peace process in the Middle East to the degree that Iran is.

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The signal that we must send from this Congress and from every government official in this country is that that kind of behavior is unacceptable, the United States will continue to resist it, and clearly the President's leadership on this issue is something we need to stand behind.

As we learned in the first instance where Americans were taken hostage in Iran, Iran may begin terrorism elsewhere on the globe but the pain will inevitably come back to us in the United States. This is something we need to get our allies to join us on.

The efforts of this date are tremendous, but they are not sufficient without getting Europe to join us in this effort. Again, I would like to thank the gentleman from New York [Mr. GILMAN] for working together on this amendment.

Mr. Chairman, I am pleased to co-sponsor this amendment with my colleague from New
I fully support efforts to deny United States exports to Iran. For the last 5 years I have supported legislation that would deny dual use technology to Iran. Unlike North Korea, Iran is by no means a rogue regime hell bent on fomenting unrest in the region and determined to acquire weapons of mass destruction so that it can terrorize not only the region but the world. Unlike North Korea, Iran is by no means a rogue regime hell bent on fomenting unrest in the region and determined to acquire weapons of mass destruction so that it can terrorize not only the region but the world.

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I support the Chabot amendment to the en bloc, which would increase funding for the Development Fund for Africa, because there are important developmental and humanitarian assistance needs on that continent.

I am also pleased that the amendment of the gentleman from New Jersey [Mr. SMITH], the chairman, for including these important Africa-related amendments in the en bloc amendments.

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding me the time.

The Chairman, in the last several months the American people have learned a great deal about Guatemala. Ten Americans lost, disappeared, brutalized or raped. Their families have come forward to tell the story of their horrors in Guatemala.

The Drug Enforcement Agency has told us a story that nearly one-third of all the cocaine reaching the United States is now warehoused in Guatemala before being shipped to our own cities and towns. Yet, 11 Guatemalan military officers indicted in the United States are protected by that country’s laws where extradition is refused.

Against this, the backdrop of 150,000 people in Guatemala who have lost their lives in the last 30 years through genocidal campaign against their own people, led by civil defense patrols who roam the countryside harassing, exploiting and murdering poor civilians who are defenseless.

Mr. Chairman, in the weeks since we have learned more of these things in the tragic history of Guatemala, President Clinton has suspended United States military assistance to that country’s armed forces, demanding cooperation in the investigation of the deaths of Americans, insisting on cooperation in the extradition of military officers involved in cocaine trafficking.

I have included in the en bloc amendment an insistence that until there is cooperation on narcotics, on ending human rights abuses and on investigating the deaths and abuse of American citizens, that there be no further assistance. This is indeed legislatively the equivalent of what President Clinton has already done administratively. I urge its adoption in the bill.

I thank the gentleman from New York [Mr. GILMAN], the chairman of the committee, for its inclusion in en bloc amendments, and the gentleman from Indiana [Mr. HAMILTON] for his support, as well. It is simply a proper statement in this bill.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH], chairman of the Subcommittee on International Operations and Human Rights of the Committee on International Relations.

Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.

Mr. SMITH of New Jersey. Mr. Chairman, I yield my good friend the gentleman for yielding me the time.

Mr. Chairman, first I would like to thank the gentlewoman from Florida [Ms. ROS-LEHTINEN] and the gentleman from Georgia [Ms. MCKINNEY] for their leadership on this amendment with me, and for their leadership on the issue of trying to provide a modest amount of funds to the War Crimes Tribunal for the people who has suffered in Rwanda.

Mr. Chairman, the outbreak of warfare in Rwanda was accompanied by an outbreak of genocidal violence all too reminiscent of what happened in the former Yugoslavia. Under cover of long-standing tribal rivalries, an effort was launched by leaders of one tribe to bring about the systematic extermination of another.

It is important that the international community show that this kind of crime against humanity will be detected, prosecuted and punished. The Rwanda tribunal was created by Security Council Resolution 955 on November 8, 1994. Many Members no doubt remember that date for other reasons, but for Rwandans it was an important sign of hope that the world had not forgotten their sufferings and there would be a prosecution for committing these heinous crimes.

Mr. HASTINGS of Florida. I yield such time as he may consume to the gentlewoman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise in support of the en bloc amendment designated as number 80 which is a combination of amendments submitted by Congressman BILBRAY and myself, to restore funding required by the International Boundary and Water Commission (IBWC) to operate a critical sewage treatment facility soon to be completed in San Diego.

As many of you know, we are building a critically-needed $240 million...
sewage treatment plant in San Diego, CA. This plant is under construction and will soon be completed. It is imperative that we provide the funds necessary to operate this treatment plant—and that we fulfill our commitment to the hundreds of American citizens who suffer from the raw sewage that flows downhill from Mexico through our community and contaminates the Tijuana River and our beaches. This sewage is more than a nuisance; it is a health hazard.

While we are engaged in a minor technical correction in the context of the State Department’s overall budget, this amendment is critical for the IBWC to operate the soon-to-be-completed sewage treatment facility. Our failure to operate this facility would present a serious health threat to San Diego and threaten our Nation’s ability to fulfill an international treaty obligation.

The failure of the federal government to operate this facility, after it is built, would be an act of irresponsibility—and would mark a tragic new day in our Nation’s history, I urge my colleagues to support the bipartisan, Fulmer-Bilbray amendment.

Mr. HASTINGS of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding me the time, and I thank my colleagues for putting a generic form of my amendment into this area.

Mr. Chairman, this is very historic, in that it is the first time this body will speak out and say that our government should recognize female genital mutilation as a major health risk to women and a major human rights violation, and we also should do everything we can to make sure that countries do not allow this practice to continue. This was important.

I had the opportunity to talk to this to Egypt, since we give so much aid to Egypt and since this practice is so rampant there, and especially since their government has recently tried to medicalize it rather than condemn it. This is a more generic form, but I approve it, and I think very much all of my colleagues who worked very hard to take this very, very important step of saying violations against women are also human rights violations and not just cultural violations. There has never been any thought of this reason for this. There has never been any reason except cultural, and we are making a great progressive step today.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. KING], a member of our committee.

Mr. KING. Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN] for yielding me the time.

Mr. Chairman, I rise in support of the en bloc amendment. Iran is an outlaw state, the major destabilizing force in the Middle East, and is desperately attempting to obtain nuclear capability. I am proud I have been able to join my colleague, the gentleman from Connecticut [Mr. GEJDENS], in sponsoring this amendment, amendment 49, which will establish on the record as a sense of Congress that Iran is an outlaw state.

In addition to that, Mr. Chairman, this amendment will go one step further than the President’s boycott announcement of April 30, where the President announced a unilateral boycott against Iran. This was a very important step, but not enough. It is essential that all our allies join this embargo, and the sense of Congress resolution which is encompassed in amendment 49 will call upon the President to make the development of a multilateral economic embargo on Iran a major priority at the Halifax G-7 meeting.

I want to thank the gentleman from Connecticut [Mr. GEJDENS] for his support in working with me. I want to thank the gentleman from New York [Mr. GILMAN], the chairman, and the gentleman from Connecticut [Mr. HAMILTON], the ranking member, for their support, and I urge support of the en bloc amendment and indeed final passage of the entire bill.

Mr. GILMAN. Mr. Chairman, with regard to the amendment offered by Mr. King, I would like to congratulate the gentleman on his amendment and his leadership on our effort to combat Iran and its terrorist policies. This amendment makes a positive contribution to our policy toward Iran and puts a much-needed multilateral focus on the President’s Executive order of May 8 prohibiting U.S. trade and investment with that country.

This amendment clearly identifies how Iran’s policies pose a threat to our interests and to those of our allies in the region and urges the administration several policy initiatives that would help to isolate Iran. In particular, it directs the President to intensify his efforts to persuade Iran’s leading trade partners and creditors to join with the United States in ceasing all trade with Iran and ending any policy of rescheduling of debts owed to them.

Furthermore, the President is directed to convene a special summit of world leaders to address the issue of international terrorism. It would also call on the President to develop a comprehensive multilateral policy toward Iran with the goal of putting Iran on the agenda of the upcoming G-7 meeting in Canada and bringing consensus on the need to isolate this regime.

This administration has finally begun to transform its rhetoric into a more realistic approach to limiting the ability of this one country to finance and support terrorism around the world. The adoption of this amendment will ensure that the administration remains focused and committed in our fight against state-supported international terrorism.

Our allies still seem to believe that they can reap a short-term profit at our expense by continuing a policy of business as usual with Iran. They should be aware that there will be a long-term cost to our relationship and alliances if some kind of multinational consensus is not achieved on this issue.

Mr. HASTINGS of Florida. Mr. Chairman, I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. CHABOT], another member of the committee.

Mr. CHABOT. Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN], the distinguished chairman, and the gentlewoman from Florida [Ms. ROS-LEHTINEN], the chair of the Subcommittee on Africa, for their leadership in getting this amendment accomplished, and also the gentlewoman from California [Mr. ACKERMAN], the cosponsor on the other side of the aisle, for his assistance in this important amendment.

While the African continent is making great strides toward democracy, economic development, free markets and human rights, many African nations continue to face terrible hardships. This modest amendment will provide the much-needed help to Africa without costing American taxpayers any additional dollars.

Mr. GILMAN. Mr. Chairman, I want to thank the gentleman from Ohio [Mr. CHABOT] for his involvement and for his action to our own side.

Mr. SAWYER. Mr. Chairman, I would like to thank the chairman of the International Relations Committee and his staff for their assistance with my amendment which is included in the amendments en bloc before us.

Mr. Chairman, during the cold war our arms control efforts were directed at what was clearly the greatest threat to international security at that time—nuclear weapons. When we did undertake efforts in the realm of conventional weaponry—they were directed at large-scale strategic weapons such as planes, missiles, and tanks which could alter regional balances of power.

Well, times have changed, but unfortunately our thinking on arms control is still mired in the Cold War experience.

Today, the greatest threat to international security and stability are the growing number of wars of ethnic hatred and the increasing cases of government oppression. In these conflicts, it is light weaponry—AK47s, hand grenades, and land mines—that are the weapons of choice. The ample supply, falling prices, and ease of purchase of these weapons has helped to increase the ferocity and number of conflicts we are witnessing across the globe—from Liberia to Rwanda to Kashmir.

Of course, I do not mean to downplay the importance of arms control efforts directed at strategic weapons. I only wish to point out that the vast trade in light weapons, which is a real source of instability today, receives, comparatively little attention.

Before we can begin any control efforts for small arms, we need an effective mechanism to monitor their trade. What types and how many of these deadly weapons are being sent where and by whom? We need answers to these questions.

My amendment would reinstate a reporting requirement which existed from fiscal years 1978 through 1980. During those years the State Department and the Defense Security Assistance Agency produced an annual report
listing all U.S. military transfers and sales on 
a country-by-country basis.

The information for this report is maintained in 
a readily accessible data base. Producing the 
report would require much more than the 
hitting of a print command key and binding the 
pages together. In other words, this is not an 
onerous reporting requirement.

Congress has a right and, indeed, an 
obligation to review the information contained in 
that data base. However, in 1993, I was de-
nied a request for such information by the 
DSAA.

Once we begin to produce this report, we can 
use it as leverage to encourage other 
arms proliferating to provide greater 
transparency for their own activities. With a 
comprehensive understanding of the small 
arms trade, we can begin to work towards a 
regime to control this scourge.

But without good information, we can't for-
mulate an effective policy. We will be left to 
watch the devastating effects of small arms 
proliferation and to pay the price of the 
loss of life, the expenditure of costly relief activities and in diminished 
international security.

The better approach is to take preventive 
action—to avert crises before they begin. This 
amendment is the first step in that process.

Mr. Chairman, I would like to make special 
mention of Mr. Berman and Mr. Rose who are 
coauthors of this amendment. I also would like 
to thank the chairman and ranking members of 
the International Relations Committee and the 
International Operations Subcommittee.

Mr. Chairman, when a government hosts an 
international conference, it also accepts cer-
tain obligations. The host government must 
abide by the terms which govern such gather-
ings and uphold agreements it makes.

Unfortunately, Mr. Chairman, the Chinese 
Government has demonstrated that it does not 
intend to be a good host for the Conference on 
Women being held in Beijing this summer. The 
principle of openness, which is crucial to the 
success of such meetings, may be in jeopardy.

Mr. Chairman, this is not right, and it is not what 
the international community expected when it 
agreed to hold the conference in Beijing.

China's reneging on its obligations does not 
stop with the exclusion of groups it disagrees 
with. Originally, the Chinese had agreed to 
allow a gathering of nongovernmental groups 
in a downtown stadium near the official con-
ference site.

However, as the time for the conference 
drew nearer, the Chinese Government began to 
face increasing pressure of the citizens 
coming into contact with the thousands of for-
eigners participating in the nongovernmental 
gathering. Mysteriously, the stadium where the 
ngo's were to meet was declared structurally 
unsafe.

The Chinese Government now wants to 
hold the NGO gathering an hour from Beijing 
in a remote location near the Great Wall.

Mr. Chairman, China's leaders need to be 
sent a message that they cannot impose their 
irrelevancy standards on the rest of humanity, 
and that they cannot turn this gathering into a 
platform for advancing their narrow agenda.

My amendment would urge the administra-
tion to include a representative of a U.S.-
based group representing Tibetan women in 
the official U.S. delegation. This would ensure 
that Tibetan women have a voice at this con-
ference. More important, it would send a mes-
gage to the Chinese that we do not appreciate 
their attempt to muzzles groups with which they 
disagree.

Mr. Chairman, the Chinese Government has 
challenged the international community by ex-
cluding these groups. If we allow them to suc-
cede in this, we are legitimizing their actions, 
and we should expect more of the same in the 
future.

I urge adoption of this amendment.

Mr. GILMAN. Mr. Chairman, I yield 
back the balance of my time.

Mr. HYDE. Mr. Chairman, I offer an 
amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: Strike 
section 2707 (relating to recommendation of 
the President for reform of war powers reso-
lation) and insert the following new section:

SEC. 2707. REPEAL OF WAR POWERS RESO-
LUATION.

(a) REPEAL.—(1) In general.—The War Powers Resolu-
tion (Pub.L.93-448, 50 U.S.C. 1541 et seq.) is 
repealed.

(2) CONFORMING REPEAL.—Section 1031 of the 
Department of State Authorization Act, Fiscal 
Years 1994 and 1995 (50 U.S.C. 1546a) is 
repealed.

(b) CONSULTATION WITH CONGRESS.—

(1) PRIOR CONSULTATION.—The President 
shall in every possible instance consult with 
Congress before introducing United States 
Armed Forces into hostilities or into situa-
tions where imminent involvement in host-
ilities is clearly indicated by the cir-
stances.

(2) CONSULTATION AFTER INTRODUCTION 
OF ARMED FORCES.—The President shall, after 
every such introduction of regular armed 
forces into hostilities or into situations in which 
United States Armed Forces are no longer engaged in hostilities or 
have been removed from such situations, 
consult with Congress and report to it in writing 
the introduction of the United States Armed 
Forces that it has committed them unless Congress 
responds within 48 hours in writing.

(3) ADDITIONAL INFORMATION.—The Presi-
dent shall provide such other information as 
Congress may request in the fulfillment of its 
constitutional responsibilities with re-
spect to committing the Nation to war and to 
the use of United States Armed Forces abroad.

(c) REPORTING TO CONGRESS.—

(1) INITIAL REPORT.—

(A) in general.—Subject to subparagraph (B), the 
President shall, in the absence of a declar-
ation of war, submit a report to Con-
gress in any case in which United States 
Armed Forces are introduced into hostilities or into 
situations where imminent involvement in host-
ilities is clearly indicated by the cir-
stances.

(B) TIME AND CONTENT OF REPORT .—A report 
to Congress shall be submitted with-
in 48 hours of the introduction of United 
States Armed Forces described in that para-
graph. Each such report shall be in writing 
and shall set forth—

(A) the circumstances necessitating the in-
trusion of United States Armed Forces;

(B) the constitutional and legislative au-
thority under which such introduction took 
place; and

(C) the estimated scope and duration of the 
hostilities or involvement.

ADDITIONAL INFORMATION.—The Presi-
dent shall provide such other information as 
Congress may request in the fulfillment of its 
constitutional responsibilities with re-
spect to committing the Nation to war and to 
the use of United States Armed Forces abroad.

(4) PERIODIC REPORTS.—Whenever United 
States Armed Forces are introduced into hos-
tilities or into any situation described in 
paragraph (1), the President shall, consistent 
with the constitutional responsibilities of the 
President and so long as such Armed 
Forces continue to be engaged in such hos-
tilities, consult with Congress and file a 
report to Congress periodically on the status of such hostilities or situation as well as on the scope and dura-
tion of such hostilities or situation.

Mr. HYDE. Mr. Chairman, I am offer-
ing an amendment that repeals the War Powers Act and sets up a structure for consultation and reporting by the President.

This amendment that I am offering does three things: In addition to repealing the War Powers Resolution, it requires ongoing consultation between Congress and the President, the Presi-
dent to consult with Congress, before the 
introduction of troops, ongoing consultation while they are there and 
the withdrawal of troops and the third thing it does, it requires timely 
and comprehensive reports to Congress, within 48 hours of the engagement, and 
and in detail. These also are ongoing.

Mr. Chairman, the War Powers Resolu-
tion was passed in 1973. In casting about for the best way to describe it, I 
came up with the inelegant phrase 
"wet noodle," but that is about what the War Powers Act has been. It has 
never been used. Never have I 
ever acknowledged that it is there or that it is constitutional. The vice, the 
flaw, the fault with the War Powers 
resolution is that the President must 
draw down troops within 60 days after he 
has committed them unless Congress 
acts specifically to endorse the deploy-
ment.

Congress can halt a deployment after 
60 days by doing nothing, by dithering, by debating. If Congress is unsymp-
thetic or opposed to the deployment of troops, Congress can pass a bill cut-
ting off the funding. The ultimate 
weapon, the ultimate power of the 
purse under the Constitution, remains 
with Congress. Therefore, that is all the authority we need to halt, to 
bring to a screeching halt, any commitment of 
troops. But to have on the books a 
law that says by doing nothing, by in-
action we can halt and reverse and 
turn around a military commitment of troops is really an absurdity. What it 
does is provide us with an indefinite, in a stat-
utory timetable. They can wait it out
There are a couple of things we ought to always bear in mind. First of all, the Constitution says that President is Commander in Chief. That is true whether Ronald Reagan, George Bush, or Bill Clinton is President. We are talking about constitutional powers that devolve on the President, whoever that may be.

The second unshakable, immutable, important point is we always have the purse strings clutched in our hand. We can pass a bill, and we have passed several, but it does not mean we have funding for certain military operations. That is the effective way to work our will should we disagree with the President.

Congress alone can declare war but the President who is charged with the responsibility of defending this country needs flexibility, he needs to act quickly, and he should not, and the law should not provide our enemies, whether it is Saddam Hussein or Raoul Cedras or anybody else, with the hope, with the expectation that in 60 days they will all have to come home.

That is a disincentive to settle a dispute.

So, I think that is a mistake and I think it has been on the books too long and it ought to be taken off.

No President has ever considered the war powers resolutions as constitutional. I have letters from President Ford, President Jimmy Carter, President George Bush. Henry Kissinger said it should be repealed; it is misleading and ineffective. Howard Baker when he was the majority leader in the Senate said it is an attempt to write in the margins of the Constitution. It is confusing and gives comfort to our opponents.

Congress has used its power of the purse to limit and even halt military operations, many, many times, and I have a list here from the congressional reference service. During the Vietnam war in December of 1970 we prohibited the use of funds to finance the introduction of ground combat troops into Cambodia or to provide advisers to or for Cambodian military forces. In 1973 we cut off funds for combat activities in Indochina after August 15, 1973. We did. June 30, 1973, no funds herein or heretofore appropriated may be obligated or expended to finance directly or indirectly combat activities by U.S. military forces in or over, above the shores of North Vietnam, South Vietnam, Laos, or Cambodia.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Hyde] has expired, to negotiate.

(By unanimous consent, Mr. Hyde was allowed to proceed for 5 additional minutes.)

Mr. HYDE. Mr. Chairman, we set a personnel ceiling of 4,000 Americans in Vietnam to with hold after the enactment in 1973 and 3,000 within 90 days in Somalia we did the same. In Rwanda we did the same. And interesting enough, the congressional reference service says, and I quote, "With respect to your question regarding the number of instances when the Congress has utilized the War Powers Resolution, since its enactment in 1973, to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred."

So it is a useless anachronism and we ought not to have it on the books. No Supreme Court test is even possible. Several attempts have been made to test it, and they are not justifiable. It did not stop what we did in Somalia, it did not stop what we did in Haiti. We had a vote on Desert Storm but nobody conceded that was pursuant to the War Powers Resolutions.

It provides a false hope to our adversaries; it is confusing.

My amendment does not just wipe the books clean of the War Powers Resolution, it requires adequate, timely, proper consultation with the Congress, and notice of what the President is going to do, and reporting, comprehensive reporting. There is a Presidential waiver, but that is for the Entebbe sort of situation and we still hold the ultimate weapons in our possession.

We cannot get, as I say, a constitutional test on it, but it emboldens our adversaries while hamstringing the President when he most urgently needs the authority and the flexibility to act. Permit me to just read from George Bush's letter of April 17, this year. "Deal Henry, you are 100 percent correct in opposing the War Powers Resolution as an unconstitutional infringement on the authority of the President. I opposed it as a member of the Senate. I hope that you are successful in your effort to change the War Powers Resolution and restore proper balance between the Executive and Legislative Branches. George Bush."

Gerald Ford: "Deal Henry, I share your viewpoint that the War Powers Resolution is an impractical, unconstitutional infringement on the authority of the President, I opposed it as a member of the House. As President I refused to recognize it as a constitutional limitation on the power of the commander in chief."

Jimmy Carter to Congressman HENRY HYDE: "I fully support your effort to repeal the War Powers Resolution. Best wishes in this good work," et cetera.

So I just say to my colleagues, they are not yielding anything, they are retaining the power of the purse, which is the ultimate weapons. But my amendment requires notice, consultation, and reports, and with that in one hand and the power of the purse in the other, we are yielding no autonomy on the issue of committing troops, but are clearing off the books of unconstitutional infringement on the President's power, and are giving the President flexibility that he was denied over a President who was sitting here every weekend when something happens. And we are not giving hope and comfort to our adversaries that if they just wait it out, 60 days, will elapse, we will be dithering, we will be debating, and nothing will happen and the military engagement will end.

So I respectfully request the support of the Members in adopting my amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I must say I rise to discuss the amendment by the distinguished chairman of the Committee on the Judiciary because I know he has given this very serious thought. But I think I come down on the other side and say maybe this is too hasty at this moment, and to move forward right at this time without more serious debate is very troubling.

The gentleman from Illinois and I were both here when this amendment went through, and I would be the first to concede it has not worked as well as many of us had hoped it would work when it was passed in 1973.

But let me talk about what I thought the driving factors were of that war powers amendment. If we go back and look at the history, the Constitution says in article 1, section 2, the Congress' power is the one that has the power to declare war. It is the one that gives the money and raises the army. We are the ones that must do that. And the President is the commander-in-chief.

If you also look at President Washington, he speaks about four entanglements and many other such things, I think it is very clear that our forefathers and foremothers never really foresaw a day when we would be deploying hundreds of thousands of troops overseas. One of the incredible, unique things about this country is it had unloaded upon it, whether it wanted it or not, a world leadership role where even though we were only 3 percent of the world's population, we have been carrying a very heavy burden of maintaining freedom and that is going to be in this century, and the War Powers Act was a modification that came in this century.

Part of that was we have been one of the very few governments on the planet that would deploy hundreds and hundreds of thousands of our most precious treasures, our young people, overseas for someone else's freedom. This War Powers Act would not have occurred if we had only been acting within our own borders to protect our borders as most countries do and is much more traditional.

But when you start deploying them overseas, and we had seen in both the Korean and the Vietnam war many hundreds of thousands deployed overseas without a declaration of war, without a consultation of Congress, and we were suddenly left there under article 1, section 3 having to raise the money, and raise the number of troops through drafts and many other things, and this body said no, no, no, there should be, when we are doing these massive deployments overseas, a little more consultation at the beginning.
The only area I can think of where this has worked very well since then has been the gulf war where we had a very historic debate on this House floor, and I must say I thought it was very valuable for the whole Nation. All over the world, people were listening to this debate, and when this debate ended and when one side won, everybody shut up and supported those troops that were over there until it was time to bring them home.

I think that is important, because otherwise, if you allow a President to decide when going to commit troops, whether it would be today in Bosnia, say the President of the United States today decided OK, we are going to go into Bosnia, that is probably option 3. Option 1 would be you help them withdraw. Option 2 would be we do nothing. Option 3 we are going to go gangbusters, we are going to take a side and we are going to be in there. In fact, there are some Members out there now saying that is what we should do. Do you think the President of the United States to be able to make that decision, send off a half a million men, which is about what it would take, men and women, and go over there and just come tell us about it after they did it, and our only choice would be that we cut out the money? I think the War Powers Act has had an effect, and I think with the demise of the cold war I do not see any reason that we cannot work out a way to maybe make this better, to maybe make it more efficient, but I am not sure we need to do it in a hasty right where we just withdraw as Members of Congress and say we are going to let all of that fall on the shoulders of the President of the United States, and of course if he messes up or she messes up, then we all have the prerogative to jump up and down and scream at him. I would think that the last few days of Bosnia would be the greatest reason for why we should not do this right now, because you know what the President does you have all sorts of other voices jumping up and down saying no not that, oh why did he do this, oh, you cannot connect the dots on his policy, oh, he is not being consistent. He should do more; he should do less.

ThepartIamgoingtofocusonisthe timeofthe gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(BY UNANIMOUS CONSENT, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. Mr. Chairman, it seems to me that what we would be saying is we want to be able to criticize, but do not give us any responsibility. I would think the American people would think that if the President decided we were going to take a side in the Bosnian war, he would do more than just come tell us, communicate, and send sound to brief us on it. I think they would want their representatives to be involved in that debate at the beginning, so that we stay behind those troops when they are overseas in that difficult point.

But I keep saying the War Powers Act came because of the new missions the United States had heaped upon it as a world leader after World War I and World War II. It was a very, very, very important addition, and I hope very much that maybe we take the concerns of the gentleman from Illinois [Mr. H YDE] into consideration and we all work very hard to figure out is there a better way to do this. But I think to back off and say we are giving it up would be the wrong way to go. Mr. PORTMAN. Mr. Chairman, I move to strike requisite number of words.

Mr. Chairman, I rise today to express my strong support for repealing the War Powers Resolution with the consultations as set forth in the Hyde amendment. I understand the history of the resolution that is described by the gentlewoman from Colorado, and I appreciate that, but it is my belief that this 22-year relic of the Vietnam era is both unconstitutional and ineffective. I want to commend the gentleman from Illinois for raising this issue, for bringing forth the amendment today and for all of his efforts over the years on this.

I served in the Bush White House in the counsel’s office, so I saw firsthand just how this resolution can interfere with the President’s ability as the Commander-in-Chief to defend U.S. interests. I think the Constitution has its right, particularly in this dangerous world where rapid deployment is vital, vital to success. The President must maintain his authority as commander-in-chief to protect U.S. interests around the globe. Under the War Powers Resolution, however, as the gentleman from Illinois [Mr. H YDE] stated earlier, if Congress fails to explicitly endorse the deployment of troops, the troops must return home. I think this is flatly wrong, and Congress must hold the President’s constitutional rights inherent as commander-in-chief to defend and protect the Nation. There is a reason that all four former Presidents, Democrat and Republican, support repeal. The Constitution struck the right balance. It granted the President the right to act as commander-in-chief to protect U.S. interests. It also provided appropriate checks for leaving the authority for funding military operations with Congress. The War Powers Resolution tips that healthy balance, tips it too far, by allowing Congress to override the President’s constitutional authority by mere inaction. If Congress simply fails to act, 60 days after deployment of U.S. troops engaged in hostilities must be withheld. I think this is a taking. It is Congress taking authority away from the President to act as commander-in-chief.

As important, the practical application of the War Powers Resolution is essentially rendered ineffective. We have seen that over the years. It was noted earlier by both speakers. It has also increased the danger to U.S. personnel and interests. By requiring the withdrawal of troops within 60 days unless Congress acts, the resolution permits Congress to drag its feet until policy is established by inaction. More troubling I think is that the resolution unwisely undermines U.S. policy. It is difficult to determine our foreign policy if the War Powers Act acts as intended to resist negotiations and wait out the 60 days. Why should they not? In other words, the effect of the War Powers Act is really to embolden our enemies and give them the incentive if the War Powers Act acts as otherwise if we insist on keeping the War Powers Resolution. I would urge this Congress to make changes to it to force Congress to face the issue.

Let us vote up or down on the issue. Let us openly confront the question of deployment.

Under the war powers resolution, we have got it both ways. We have got the best of both worlds. We can tie the hands of the President and avoid a direct up-or-down vote on an often tough issue whether to deploy or not. If we keep the resolution, I think it would be better to establish expedited procedures during that 60-day period, forcing to act by joint resolution on an up or down vote, either authorizing action or requiring disengagement.

As President Nixon noted in his veto of the War Powers Act in 1973, “One cannot become a responsible partner unless one is prepared to take responsibilities.”

Let us act responsibly today, 22 years later, and end this congressional encroachment.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I appreciate the gentleman yielding, I appreciate his comments and certain parts of his argument I find very compelling.

Mr. PORTMAN. What part does the gentleman not find compelling?

Mr. BERMAN. The part I am going to get into right now. You spoke about working in the Bush White House and the War Powers Act tended to create some uncertainty, tended to immobilize the administration in some fashion, undercut the administration’s aims.

I would like to develop this more extensively because when I look at the War Powers Act, it is a law that no President recognizes, no court is willing to enforce, and as you pointed out, in almost every instance the Congress
is not willing to step up to the plate anyway because they do not want to take a firm position because they want to see how it is going before they jump on the bandwagon.

Mr. PORTMAN. Reclaiming my time, the gentleman has made an excellent case for repeal of an ineffective act. Presidents have ignored the War Powers Act on an official basis. However, our enemies overseas know it exists. It is on the books. Frankly, it is a consideration. Consideration as Presidents decide whether or not to go to Congress, as we saw with the Gulf War, to receive, and in that case approval, so it is something that is not working. It is unconstitutional.

The reason it is not working, I believe, goes to the Constitution. In other words, the constitutionality of it is the reason it is not working.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. PORTMAN] has expired.

(On request of Mr. BERMAN, and by unanimous consent, Mr. PORTMAN was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, if the gentleman will yield further, is the gentleman saying that without the existence of the War Powers Act, the President would not have asked Congress to take a position authorizing the use of force in the Gulf?

Mr. PORTMAN. The answer to that question, reclaiming my time, I would say that is a consideration that every President has to factor in is that it is a law on the books. It is a pressure applied to the executive branch. It is a factor when one is considering deployment, and necessarily so. I think it would also lead to a lot less ambiguity, as I said earlier, with regard to our foreign adversaries.

Mr. BERMAN. If the gentleman will continue to yield, I started out thinking that I would vote for the repeal of this act. But if the consequences of repealing the existence of the act did in fact argue for the President to come to Congress to ask for authorization for the use of force, you have given me the most serious, important, and useful purpose, more than I ever thought that I had.

Mr. PORTMAN. I would encourage the gentleman to take a look at the Hyde amendment carefully because it requires the kind of notification and the kind of consultation that, frankly, I do not think we have now. I think, under this new iteration, with repealing the War Powers Act, by being required to come to Congress for notification and for consultation, I think you would find that in fact Congress would do a partner with the executive branch in the future.

Mr. BERMAN. If you just would yield one more time, but that sort of begs the question. Consulting, we have all kinds of consultations, and all kinds of notifications, the fact is Desert Storm was a carefully planned, date-certain decision to use force. If it was not a war, then there is not any.

You are telling me, it sounds like, that in the Bush White House one of the reason they decided to come to Congress, to not consult, not notify but to seek authorization for the use of force, was the existence of the War Powers Act, which makes a case for the argument of an arrangement against the reality. I think, perhaps more than any I had thought of, making me change my mind.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. PORTMAN] has again expired.

(On request of Mr. HYDE and by unanimous consent, Mr. PORTMAN was allowed to proceed for 2 additional minutes.)

Mr. PORTMAN. I thank the gentleman.

I thank my colleague from Illinois may have some salient comments on this. Let me say the power of the purse, to my friend on the other side of the aisle, is far more powerful and is a much more effective kind of arrangement, I believe, to that President and other Presidents, than any other. Congress could always have acted to force us to withdraw troops from the Gulf had we used the power of the purse and pulled the plug on Appropriations. That is ultimately where I think our power derives. I think also, if you look at the amendment, you will see there is consultation and notification that would actually take place.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I would just tell my friend from California that at that time in history I was ranking member of the House Intelligence Committee and, therefore, I got invited into the consultations, and we spent a lot of time, many, many days at the White House, Dante Fascell, Senator Nunn, everybody who had any connection with the military, foreign affairs and intelligence sat around and this was fully, fully debated. There was no question that the President was going to do something without Congress's knowledge and acquiescence.

So I do not know what the gentleman doubts, because we require prior consultation, during consultation, after consultation, notification within 48 hours, and reports, detailed reports. If the gentleman will yield, I understand there was all kinds of notification, and I was in some of those meetings as well.

But what the gentleman in the well is saying is, in the end, the decision to come to Congress and ask for authorization was at least in part made because of the existence of the War Powers Act.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. PORTMAN] has again expired.

(On request of Mr. HYDE, and by unanimous consent, Mr. PORTMAN was allowed to proceed for 2 additional minutes.)

Mr. HYDE. If the gentleman will yield, I would just say to the gentleman from California [Mr. BERMAN], and I hope I do live to see the day that you are President, I would be very thrilled and applaud that good judgment by our American voters, but I would say this.

Mr. BERMAN. Would you endorse me for reelection?

Mr. HYDE. I did not catch that. What did you say?

Mr. BERMAN. I said would you just endorse me for reelection?

Mr. HYDE. I would not mind. I do not know who your opponent is.

Mr. PORTMAN. Reclaiming my time.

Mr. HYDE. You are getting me in trouble here. I would work very hard for the gentleman's vote.

Let me just say this to you: There is no question that a law on the books has to be taken into account by a President. He may say it is unconstitutional, but to just deliberately flout a law that is on the books and has not been declared unconstitutional would be very foolish. So I do not think you can read into the fact that they considered the existence of this law that it authorized them to do anything. Common sense and the President's own military experience and service in Congress required him to consult, and he did.

Mr. BERMAN. If the gentleman would yield, but in the end, the Constitution gives the warring power to the Congress. Obviously, statute cannot repeal or modify or limit the power. I would have thought that the President would feel compelled to come to the Congress and that the use, authorization for use of force was the substantive equivalent of a declaration of war, and if in fact that is not the case, that was not the constitutional power of that provision that motivated me to come to Congress but, in part, was one of the considerations, it makes me a little concerned about what was, when I got up, an inclination to vote for repeal of this law.

Mr. PORTMAN. Reclaiming my time for what little time remains, I would just say I would like to echo the comments of the gentleman from Illinois. I think it has to be a consideration when it is on the books. I think it is ineffective. I think it violates the constitutional rights of the commander-in-chief. I think the reason previous Presidents may have come to Congress, including the case the gentleman from California mentioned, perhaps that was a factor, but there are other considerations that were overriding.

Mr. GEJ DENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the situation in the world today, there is a lot of focus on this.
Republicans or Democrats to come back here if American troops are committed in a serious way to Bosnia, and say, “Wait a minute, we want to get at this some way.”

And what is the response going to be? “Well, there is no consultation. You are guaranteed to be consulted with. They will call you in and they will explain there are now troops on the way to Bosnia.” You will say, “We want to do something about it.” “Well, there is going to be another consultation as soon as the troops get there. When we get time to take the troops out, you will get another consultation.”

The war powers provisions are not perfect. This is not a world that can easily accommodate the two branches of government involved in the decision to commit American forces in war with a time frame that is often instantaneous.

But there is no question that the war powers provision, as is evident from the comments of the gentleman who just spoke, have forced Administration to recognize the need to involve the Congress.

Now, is there an advantage to giving the Congress an opportunity to view the President before making a commitment? Well, I would tell you that many of the Members of Congress who voted for the Gulf of Tonkin Resolution wish that they had not done so. Why? The most difficult act in American politics is not to be wrong. It is not to be even voting against your constituents’ interests. It is to be inconsistent, and it is impossible to explain that the circumstances have changed.

We all remember Mr. Romney when he ran for President changed his position on Vietnam. He said he was brainwashed. Well, that was probably a bad choice of terminology. But he was dead.

It is very hard for a Congress that has at the ground level jumped in the boat on a strategy to then review that strategy. It is almost impossible for an executive. An executive in his first term, looking at re-election, takes a course of action, and then he is going to come back and say to the American people, “I made a mistake. We lost 5,000, we lost 10,000, we lost 300 men.”

But it was a mistake being there. No, there is a reason why the War powers provisions of this act, and these have consulted with Congress under 40 occasions when the Presidents and the Congress were on the same side of the issue.

The war powers provisions, I think have worked. They have worked to force the dialogue, to force the President to take into account what Congress might do, what Congress’s actions could be if things do not turn out as rosy as the generals and the CIA tell them they are going to be.

To change the war powers provisions is for Congress to abdicate any serious role in the commitment of troops on the ground.

Again, whether in the next 4 years or in the next 5 years, whether a Republican or a Democratic President, think of yourself as a Member of Congress who voted for the Gulf of Tonkin Resolution wish that they had not done so. Why? The most difficult act in American politics is not to be wrong. It is not to be even voting against your constituents’ interests. It is to be inconsistent, and it is impossible to explain that the circumstances have changed.

Mr. GEJDENSON. Mr. Chairman, why does the gentleman assume paralysis on the part of Congress when it comes to appropriating money? Is the gentleman not aware that we have cut off funds time and time again for military operations? And the gentleman, as a Member of Congress, could join in the consensus that can be developed and cut the water off immediately.

Mr. GEJDENSON. The problem with simply dealing with the funding issue, we saw at the tail end of the Vietnam war, we have seen it in so many other instances, that the Administration, one has multiple resources.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

Mr. HYDE. Mr. Chairman, why does the gentleman underestimate the power of Congress? Mr. GEJDENSON was allowed to proceed for 1 additional minute.

Mr. GEJDENSON. Mr. Chairman, Administrations have multiple resources for smaller wars that they can operate with and direct funding, and additionally, what it leaves us with is only one option to review the process, and often an option that is very difficult to bring to the floor.

My HYDE. I just think the gentleman underestimates the power of Congress.

Mr. GEJDENSON. I have been here not as long as has the gentleman from Illinois, but there is no question the power of Congress is enhanced by a law that gives us a role and a positive action in the process rather than simply being consulted.

The consultation process again is a very weak situation to find yourself in. The President fulfills the law if he calls up the Congress and tells them what he is doing. I think it is much better, both for Congress’ responsibility and the President’s responsibility, to force Congress to either take an action or, through its lack of action, to give the President support for his policies, and also clearly to give Congress and the American people some time to view the developments in the field.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an extremely important debate. Although I was not going to talk on this issue, this is an issue that can affect the lives of many, many Americans, and I think that we all have to have our say. I rarely disagree with my friend, the gentleman from Illinois [Mr. HYDE]. He is one of the best members of this Committee, but he is next to him in the International Relations Committee for 10 years.

On this particular issue, which is of paramount importance, I listened closely to the comments from our Republican colleagues. The history shows as I see it, one has to strike the requisite number of words.

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On this particular issue, which is of paramount importance, I listened closely to the comments from our Republican colleagues. The history shows as I see it, one has to strike the requisite number of words.
However, the crux of the law, which is forcing the withdrawal of U.S. troops when Congress does not approve, has never been invoked. There are some 12 cases that have come before the courts, and the courts have not become involved. This is the history of the War Powers Act.

But let me suggest to the members that this is probably the most important time to debate this resolution, because we are on a brink of war today. I mean that last night we had some 1,500 troops ordered out of Germany and flown down into Italy to get ready to jump into Bosnia, into that civil war. So this is the time to debate this issue, because the deepening crisis in the Balkans may lead us at some point to invoke the war powers to withdraw these forces.

After all, the American people are not in favor of this intervention. In matters of months, or weeks, or even days we may be grateful that we have the War Powers Act on the books. I think, has been more sensitive to the Congress is because we have had the war powers resolution on the books. I think, if we had not had the war powers resolution on the books, the President may not have been that sensitive to Congress.

I do feel that it is very important for the Congress to speak out. In my opinion, repealing war powers is like abolishing the courts because there has not been a fire in the last couple of years. We are facing an intervention in Bosnia right now. Just because Congress has not used the War Powers Act—

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. Roth] has expired.

(By unanimous consent, Mr. Roth was allowed to proceed for 3 additional minutes.)

Mr. ROTH. For example, I think we are facing a very perilous time right now in Bosnia, and, as I mentioned before, there is a looming crisis. If we repeal the War Powers Act now in the face of a wider war in the Balkans, this Congress could, in my opinion, be guilty of dereliction of duty to the American people and the young Americans whose lives may be at risk.

I feel that we in Congress have an obligation to speak out, and I am sorry that we have not been speaking out more clearly and loudly. If the President is going to put 25,000 troops in Bosnia, why is this Congress not speaking out? Why are we not debating that issue on the floors? On Friday there was a pilot in Bosnia, one man, one American, and today it is Wednesday. We still have not found him. We do not know if he is alive or dead. Now we are getting ready to put 25,000 troops into Bosnia, and this Congress is not debating this issue.

I think we are being derelict in our duty, quite frankly, and I think that is why the war powers resolution is important, because it keeps Congress in the act. But if the President, as we have seen, is listening to people other than Congress, I think that is why the war powers resolution is so important.

How many of my colleagues here are aware just how close we are to fighting in Bosnia? I certainly hope we are aware of it. The Clinton Administration has promised to send some 25,000 ground troops into Bosnia. This is very serious; it is serious for our troops. Sure, the people here are not going to be fighting, but the kids off the dairy farms in Wisconsin, small cities of Wisconsin, are going to be fighting, and I do not want them going into Bosnia without my having a right to speak up on the floor and having this entire Congress debating that issue. That is why this is important.

We all too often have been derelict in our duty. We had 40 engagements since the War Powers Act was instituted, and only twice, only twice, have we invoked the war powers, and I think it is very important, especially at a time like this, that we not repeal the war powers resolution.

It has not harmed our foreign policy. We have had it for 22 years. Show me one instance where it has done any harm. It has not done any harm, so why repeal it?

With this administration seemingly bent on jumping into the quagmire, we simply cannot afford the risk.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Illinois.

Mr. HYDE. Can the gentleman envision Saddam Hussein taking comfort in the fact that after 60 days maybe the troops would be withdrawn while Congress dithered?

Mr. ROTH. Reclaiming my time, I say to the gentleman, Congress did not dither. I was here on the floor, and so were you, and so was everybody else when we voted to give George Bush, the President, the power to go into the Gulf War. So we were in that decision, and it didn’t stop, hinder, us in any way because we had the war powers resolution.

I do not think that the war powers resolution ties the hands of a President, and I say, You’re never going to be able to do that, but I think what it does is put Congress into the equation, into the debate. When we go into these issues of life and death overseas, I think it’s not only right but it’s proper, and it’s our duty to do that.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Illinois.

Mr. HYDE. I just want to say I was here in 1975, and I remember it was 2 o’clock in the morning, and we were you, and so was everybody else when we voted to give George Bush, the President, the power to go into the Gulf War. So we were in that decision, and it didn’t stop, hinder, us in any way because we had the war powers resolution.

Congress could never come to closure. The President finally sent the troops anyway, but that is what it was.

Mr. ROTH. Reclaiming my time, in the 22 years that we have had the War Powers Act on the books, it has not inhibited the President for a second in any particular time, and the Congress has got to be involved in these important issues.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. Roth] has expired.

(On request of Mr. Berman and by unanimous consent, Mr. Roth was allowed to proceed for 1 additional minute.)

Mr. Berman. Mr. Chairman, would the gentleman yield for a question?

Mr. ROTH. I yield to the gentleman from California.

Mr. Berman. Through the gentleman I would like to ask the gentleman from Illinois this: I think there is a good case that the 60-day provision creates a level of uncertainty and can create an expectation in the enemy that doesn’t serve...
U.S. national interests. But you don’t need to repeal the War Powers Act to do that. You need to deal with the 60-day requirement, and I just wonder how the gentleman feels about that particular concern, given that it is not enough to say the appropriations process. If you are talking about cutting off the appropriations for the military in the middle of a fiscal year, you are talking about getting the votes to pass it to override a veto. It’s very different than the majority of the Congress cutting off as cutting off the appropriations in the middle of the year. That can’t happen.”

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to thank my colleague from Illinois for graciously letting me go out of sequence here, although it does keep a continuity of pro-con, pro-con, and I will try and be brief here because I have pride of ownership, and it’s not personal.

H.R. 1111 was the only bill in either body all year building up to this debate. I am indebted to my friend, the gentleman from Illinois [Mr. Hyde], for carrying this. I am going to put Mr. Hyde’s amendment in which I think it all, when we go back into full House, and I will ask permission to do that at the end of the debate, and I am really curious to see how this debate is going to turn out because it has been a excellent debate, and I have got friends all over this.

As a matter of fact, the reason I am a bit antsy and about to get a hernia to get my chance is I have got the Secretary of Defense, William Perry, and Chairman of the Joint Chiefs, Shalikashvili, sitting there in the National Security Committee, and I do not want to send one single American young man or woman, not even fighter pilots, not “Deny Flight,” not top cover, not close air support. No American from this country, or Canada for that matter, should die for Europeans again in another civil war inside Bosnia-Herzegovina, and look what is seemingly contradictory. I am trying to give the President more power to act, and the reason I ask for that number 1111 is because this gives the Commander-in-Chief the ability to move quickly, effectively, unilaterally in our national interests before a prolonged debate here brings in Europe, Asia and Africa, and it enables him to move decisively.

Now obviously I am doing this for future Presidents. Nobody thinks about some of these military expressions like over hill or over dale, or off we go into the wild blue yonder, when you think of our Commander-in-Chief, let alone Semper Fidelis or Semper Paratus. However, I am doing this for history, for the Presidents to come. I would not go back through all the President’s letters. Suffice it to say this: “Somalia proved the point of Mr. Hyde and myself, Mr. Funderburk. Somalia proved that the current chain of command is more concerned about meeting requirements of the war powers resolution than ensuring that we deploy adequate combat power when necessary. If it weren’t for this darned War Powers Act, we would have thought twice about lending one M-1, one tank, or one Bradley. They had six of those at Waco. We didn’t have one to blow through those road blocks on the ground in those filthy alleys of Mogadishu. We would have had our AC-130A’s with its 105’s. Our American troops would have had the support they needed, and maybe not one or most of the 19 of best-trained sergeants and helicopter crews would have died in the alleys of Mogadishu.”

Please support the Dornan-Hyde amendment. It is time to repeal the War Powers Act, and I look forward to an overwhelming vote today, and I tell the gentleman in front of my colleagues, “Mr. Durbin of Illinois, I owe you one.”

Mr. DURBIN. Mr. Chairman, I move to strike requisite number of words.

Mr. Chairman, I respect my colleague, the gentleman from Illinois [Mr. Hyde], and I respectfully disagree with his amendment.

One of the saddest responsibilities of any Member of Congress is to stand at a funeral. The funeral of a fallen soldier. Many of us have had to do it. After the crack of the rifles, after the honor guard has folded the flag from the casket into a neat tri-corner and handed it to the family, it is often our responsibility to walk over to the family of the fallen serviceman and to strain to find some words to say.

I do not know that I could walk up to the family of a soldier who has died in the invasion of a foreign land, and say I am very sorry, but Congress voted last week, we did not have any voice in the decision as to whether your son or daughter go to war. You elected me as your Representative, but I had no voice in a premeditated declaration of war which ultimately took the life of your son or daughter. You gave me your voice in Congress to represent you, and I gave it away. I could not say that.

Our Constitution could not make it clearer. Article I, section 8, clause 11 of the Constitution says in no uncertain terms that America of 1973 passed its power to avoid any repetition of the national tragedy of Vietnam. So today, 22 years later, we come to repeal the law, to walk away from it, to finally acknowledge our constitutional responsibility, to say to this President and every President to come, it is your responsibility. It is your war. Come see us, consult us, talk to us. If we get upset with it after it is done, we will not try to adapt it through an appropriations process.

Like so many other actions we have taken over the last several months, this is a further erosion of the power of everyone sitting in this gallery and everyone listening to my voice who elects a man or a woman to come and stand in this well before this microphone and speak for them. It takes away that power. It takes away the authority of your family to be represented in that national debate.

As I reflect on what I have accomplished in the years that I have served in the House of Representatives, one of my proudest moments was to cosponsor a resolution with former Congressman Charles Bennett before the Persian Gulf war. That resolution brought every Member of the House of Representatives to the floor in an all-night session to express their most heartfelt views as to whether or not we should engage in war. It was the finest hour of deliberation in all the years that I have served. We stood tall for the constitutional principle that it was our responsibility to declare that war and to decide whether anyone’s life would be risked. And we passed that resolution, saying it was the congressional responsibility, by a bipartisan vote of 302 to 131. We then went on to vote on the question.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. Durbin] has expired.

(By unanimous consent, Mr. Durbin was allowed to proceed for 3 additional minutes.)
Mr. DURBIN. Mr. Chairman, as was alluded to by the gentlewoman from Colorado, after that debate, after the bipartisan decision that it was Congress' responsibility to decide whether we would go to war, we voted on the question. It was put on a pin drop in this Chamber. People were waiting to see what would happen. It prevailed. President Bush's position prevailed. And even those, and I was one, who were critical of the idea of engaging in that war then said the debate is over. We stand behind the men and women whose lives are on the line. And we went forward, united as a Nation, to a swift and decisive victory.

Now, I know when the Constitution was written wars were conducted in a much different fashion. It took months, sometimes years, to muster an army and to bring about a war. There was plenty of time for deliberation. We live in a different time. The Commander in Chief of the United States, the President, has that express authority in the Constitution. He must respond to emergencies immediately. He cannot wait for Congress to debate it. The President of the United States as Commander in Chief must take defensive action immediately. He cannot wait for a committee hearing.

But in a Persian Gulf war situation, with a premeditated deliberation, we had a chance as a nation to decide as a nation what we would do. This decision today, if we adopt the Hyde amendment, completely walks away from this congressional opportunity and responsibility.

To argue that we could take the funds away once the war has started, sure, that could happen, over months, maybe even over years, as we debate back and forth the right language, whether an appropriation will be changed, whether we can override a veto. Sure, Congress has a voice in it, but only a voice, and a muted one, because of the amendment.

I implore my colleagues not to seize this amendment as the opportune moment today in today's circumstances, but to reflect on the history that led up to this war powers resolution, the history of Vietnam, the history that taught us as a country and as a Nation we must stand together as a people and debate whether or not we engage in premeditated war.

Mr. Chairman, I urge my colleagues to oppose this Hyde amendment.

Mr. FUNDERBURK. Mr. Chairman, I move to strike the requisite number of words.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. FUNDERBURK. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believes this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and we would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

Mr. FUNDERBURK. Mr. Chairman, I am proud to stand with Chairman Hyde and Congressman DORMAN as an original sponsor of this amendment. Mr. Chairman, there is no more vocal critic of this administration's foreign policy and its misuse of the military than this Member. My district borders Fort Bragg. The soldiers of the 18th Airborne Corps have borne the brunt of the Clinton administration's misadventures in Somalia and Haiti. As we speak the Clinton administration is even contemplating action in Bosnia. But, the issue here is not the competence of the issue is whether we will be faithful to the Constitution and restore the delicate balance of power between the President and the Congress.

There will be some who say that the timing of this amendment is wrong. They argue that with war in Bosnia looming we should maintain the status quo. That argument is wrong on two accounts. First, adhering to the original intent of the Framers is never wrong. Second, the repeal of the War Powers Act increases the President's responsibility for explaining to the American people the reasons for expanding our role in Bosnia. Repeal the War Powers Act now and Mr. Clinton can't say his Bosnian policy was hamstrung by the Congress.

Mr. Chairman, despite events in Bosnia, this isn't a partisan fight. Every President since 1973, Republican and Democrat, has urged the repeal of the War Powers Act. Plain and simple, this amendment, increased the President's responsibility for explaining to the American people the reasons for expanding our role in Bosnia. Repeal the War Powers Act now and Mr. Clinton can't say his Bosnian policy was hamstrung by the Congress.

Mr. HYDE. Mr. Chairman, I move to the gentlewoman from Michigan.

Mr. HYDE. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. FUNDERBURK] has expired.

By unanimous consent, Mr. FUNDERBURK was allowed to proceed for 2 additional minutes.)

Mr. FUNDERBURK. Mr. Chairman, it requires the President to withdraw troops in any situation in which hostilities are possible within 60 days of the deployment. It gives the Congress a legislative veto over the constitutional prerogatives of the Executive. This is a direct attempt to exercise the Commander-in-Chief authority vested by the Framers in the President.

Section 5 of the act contains the most egregious violations of the Constitution.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. HYDE. Mr. Chairman, I just want to say I listened to the gentlewoman from Michigan just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.

Mr. HYDE. Mr. Chairman, I just want to say I listened awestruck by what the gentleman from Illinois just got through saying. It almost made me think he really believed this act, this war powers resolution, which the Congressional Reference Service 2 days ago said, with respect to your question regarding the number of instances when the Congress has utilized the war powers resolution since its enactment in 1973 to compel the withdrawal of U.S. military forces from foreign deployments, we can cite no single specific instance when this has occurred. It has never been used. The gentleman seems to imply that Congress would be in a state of paralysis if we got into a combat situation. I would tell the gentleman, but he knows this, we have a Committee on Appropriations, we have a Committee on International Relations, and they would be vigorously holding hearings and disbursing legislation, and we control the purse. The existence or nonexistence of the War Powers Act is utterly irrelevant. I thank the gentleman.
might encourage an enemy to fight harder or wait us out in order to gain a political victory.

We have been lucky so far. But we can't continue to gamble with American security. What happens during a crisis to a President who considers the War Powers Act unconstitutional? The President must either give up his right to uphold and defend the Constitution or force a fight with the Congress at a moment of maximum danger to America. Can we afford to have such a moment's decision left up to the unelected justices of the Supreme Court? Let's head that disaster off right now. Mr. Chairman, it is long past time to repeal this dangerous legacy of the Vietnam era—it is time to dispose of the War Powers Act.

Support the Hyde-Dornan-Funderburk amendment.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereon be equally divided and controlled by the gentleman from Illinois [Mr. HYDE] and the gentleman from Indiana [Mr. HAMILTON].

§ 1700

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Reserving the right to object, Mr. Chairman, we are prepared at some point to enter into a limitation of time and agree to a unanimous consent request. We do have a bit of a problem here, because there is an important briefing going on now in the Committee on National Security on Bosnia. I am informed that several of those Members would like to speak.

May I ask if the gentleman would defer his request for maybe 15 or 20 minutes, and we will try to reach an agreement?

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I will be pleased to defer for another 15 minutes. Mr. HAMILTON. Mr. Chairman, I thank the gentleman for his cooperation.

Mr. GILMAN. Mr. Speaker, I withdraw my unanimous consent request.

The unanimous-consent request is withdrawn.

Mr. DeFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is interesting, if you followed the debate, the discussion of the repeal of the War Powers Act, what we have here actually is a partial repeal of the War Powers Act without due deliberation.

The committees of jurisdiction, the Committee on International Relations, has held no hearings and has marked up no legislation; the Committee on National Security, which is vitally concerned, has held no hearings and has marked up no legislation. Yet before we suddenly spring full blown a proposal to partially repeal the War Powers Act to substitute a shadow of the constitutional powers delegated to the Congress by the Constitution.

The War Powers Act was not better served if that were an absolute repeal. It would be cleaner, and it would not give anyone the impression that the role of Congress was "the President shall in every possible instance, that is a pretty big loophole, "consult with," that does that mean, Congress, who are they? All 435? I am a member of Congress. Would I be consulted with? Would I have an opportunity to represent the people of my district? No. A few people could be selected; one person could be selected. What does it constitute? This is a shadow of the authority that was granted to the Congress by the Constitution.

I admit that the War Powers Act is, in fact, effective and at the end of my 15 minutes, I want to partially repeal it and instead impose a very weak, prior consultation loophole-ridden provision certainly gives solace to those who believe that the commander in chief, the president, is preeminent. Unfortunately, none of the Framers of the Constitution felt that was a very good idea.

If you would refer to James Madison's notes on the Federal Convention, he quotes Mr. Shays thought it stood very well. The Executive should be able to repel and not to commence war. "Make" better than "declare," the latter narrowing the power to much.

Mr. G. Gerry never expected to hear in the Republic a motion to empower the executive alone to declare war.

Mr. Mason was against giving the power of war to the Executive because not safely to be trusted with it; nor to the Senate, because not so constructed as to be entitled to it. He saw for clogging rather than facilitating the business of the people. "Let us restrain the President, let us bring the troops home," the President could veto that resolution and it would require a supermajority of the Congress to exert our constitutional role.

Under this act, if we adopt this amendment, this is not a repeal of the War Powers. If we adopt this amendment to the War Powers Act, future Congresses will require a two-thirds majority in order to restrain the President's war-making authority, certainly nothing that the Framers of the Constitution would have envisioned, nor endorsed.

There is a fix to War Powers. It is possible. Three modifications: A return to the concept of prior restraint, as was in the original Senate bill, defining in advance those uses of the armed forces in hostile situations and on any of the permissible uses lasting longer than 60 days. The CHAIRMAN. The time of the gentleman from Oregon [Mr. DeFAZIO] has expired.

By unanimous consent, Mr. DeFAZIO was allowed to proceed for 1 additional minute.

Mr. DeFAZIO. A prohibition on any other use of the Armed Forces in hostile situations and on any of the permissible uses lasting longer than 60 days.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. DeFAZIO] has expired.

The CHAIRMAN. Time is now 1015 minutes.

Mr. DeFAZIO. A prohibition on any other use of the Armed Forces in hostile situations and on any of the permissible uses lasting longer than 60 days, unless such use is authorized by Congress, and including restrictions to enforce the prohibition; and providing for judicial review.

This is key. I am one who has gone to try and defend the constitutional prerogatives of the Congress several times in the last decade, but this act will not act. We need to give standing so we need to provide for judicial review by compelling standing to bring suit upon Members of Congress in the event of presidential noncompliance and limiting the court's discretionary powers to dismiss such cases.

That would fix War Powers. That would reassert the war-making powers
of the United States Congress. But if we adopt this amendment to War Powers, not repeal, we will superimpose and put in place a mere shadow of the power of Congress. And, yes, some Members of Congress might be consulted if it is convenient for the President and then we will have a war. I do not believe that that is what the American people want.

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the preceding speaker in the course of his remarks acknowledged that the War Powers Resolution that we have before us that has been in effect for the last 22 years is toothless and weak. It is the weak version that was adopted that contains no restraint whatever on the Commander in Chief exercising the war power legitimately given to the Congress under the Constitution. In fact, it is a 60-day grace period during which this resolution unconstitutionally purports to take away that power for a time on the president. I rise in wholehearted support of the amendment of the gentleman from Illinois [Mr. HYDE] to repeal the War Powers Resolution. It is now, and has been every day since it was passed, unconstitutional.

As has been pointed out several times in the course of this debate, President Clinton, President Reagan, President Carter, President Ford and President Nixon all have said that this War Powers Resolution in effect for the last 22 years is injurious to the national security of the United States. It is harmful to the United States. This resolution weakens both the President and the Congress. It is that bad. In time of crisis, it actually increases the risk of war. Most importantly for purposes of this debate, it offends two centuries of our constitutional history.

First let us take a look at how it weakens the Congress. It is very important to recognize that that is exactly what this is all about. It is a 60-day abdication of Congress's legitimate war-making power. Article I, Section 8, clauses 1 and 11 of the Constitution give to Congress the power to provide for the common defense and to declare war. There is no requirement that the Congress wait 60 days in order to exercise its constitutional authorities in these respects.

But the War Powers Resolution with its 60-day grace period purports to give the President carte blanche to wage war for a full 2 months without any congressional authorization, just as President Clinton did in Haiti. The War Powers Resolution has provided political cover for this Congress to sit back and do nothing for months, to abdicate its responsibility so that later it can take political pot shots at the President under the covering banner that our troops are already in the field.

It has bred flabbiness in the real war-making power of this Congress. It has caused this body to retreat utterly and shamelessly as it did in Haiti when the then-Speaker of the House went so far as to prevent this House of Representatives from even debating the use of force in Haiti.

It wastes the Congress as well as the President. Here is how it is weakening the President. The vesting clause, Article II, section 1 of the Constitution, unambiguously grants to the President, not to the Congress, the totality of the executive power. Article II, section 2 of the Constitution provides that the President shall be the Commander in Chief of the Army and Navy. For centuries American Presidents have relied on these sweeping grants of authority to use our Armed Forces in a host of contexts without prior congressional action such as responding to attacks or threats on American forces, citizens or property, or when secrecy or surprise are essential.

No one thinks that we ought to have weeks and weeks of debate before the Commander in Chief could act in those circumstances or where the necessity for an immediate military response leaves no opportunity for congressional action. Let me say again that the War Powers Resolution in effect over these last 22 years purports to shrink these historic inherent Presidential powers to just one circumstance: a direct attack on the United States.

Thankfully the War Powers Resolution was not on the books for a single one of the major wars in which our Nation has been involved over 200 years. It is a distortion of our Constitution. It ignores the entire course of our constitutional history. If it were correct, then Presidents Adams, Jefferson, Lincoln, Grant, Wilson, FDR, Truman and Eisenhower were all lawbreakers.

No American President of either party, including President Clinton, has ever recognized we have essentially one President, not to the Congress, the totality of the executive power. Article II, section 1 of the Constitution, unambiguously grants to the President to break off military action, to refuse to withdraw U.S. troops from combat. It has not ever happened.

The War Powers Resolution claims to force an end to hostilities in 60 days unless Congress has affirmatively acted. This unwise and inflexible rule has emboldened our enemies. They have every reason to doubt our resolve.

The CHAIRMAN. The time of the gentleman from California [Mr. Cox] has expired.

(Mr. Cox of California was allowed to continue for 2 additional minutes.)

Mr. COX of California. It has tempted our enemies to think that America's staying power in any conflict is limited to those 60 days. It is tragic that this resolution, 22 years ago, ostensibly for the purpose of limiting the use of force, minimizing it, has vastly magnified the risks of war, and it will continue to do so every day that it is on the books.

The War Powers Resolution illegitimately pretends to allow Congress by simple concurrent resolution to compel the President to break off military action. That is a flannel legislative veto. As the chairman, the gentleman from Illinois [Mr. Hyde], has pointed out so eloquently, through the exercise of its legitimate constitutional powers this Congress has ample means to achieve the same result.

Mr. Chairman, we can redress a grave constitutional injury today. We can improve the stature and the standing of Congress. We can protect our legitimate war-making prerogative by repealing the War Powers Resolution. We can strengthen the Commander in Chief simultaneously and restore his legitimate constitutional authority. And we can better defend the national security against tyrants and other external enemies by letting the world know our staying power in any conflict extends beyond a mere 60 days.

Mr. Chairman, our Constitution is right. The War Powers Resolution is wrong. Let us repeal it today for the sake of our national security and for the peace of the world.

Mr. HAMILTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say first of all that I think the gentleman from Illinois [Mr. HYDE] has given to the Congress under the Constitution, unambiguously grants to the President to bring the troops home or to prolong their stay. This War Powers Resolution does not limit, but extends beyond a mere 60 days. It is a distortion of our Constitution. It is a perversion of our constitutional history. If it were correct, then Presidents Adams, Jefferson, Lincoln, Grant, Wilson, FDR, Truman and Eisenhower were all lawbreakers.

No American President of either party, including President Clinton, has ever recognized the President to stretch the meaning of it beyond reason. The constitutional process could stand a lot of improvement. I concede all that. I acknowledge that.

On the constitutional level, although it has not been finally determined, the concurrent resolution mechanism has likely been rendered moot by the Chadha decision on legislative vetoes. The 60-day clock by which Congress measures to a single Member has pointed to a single instance in which the War Powers Resolution was in fact invoked to withdraw U.S. troops from combat. It has not ever happened.

The War Powers Resolution claims to force an end to hostilities in 60 days unless Congress has affirmatively acted. This unwise and inflexible rule has emboldened our enemies. They have every reason to doubt our resolve.

The War Powers Resolution has provided political cover for this Congress to sit back and do nothing for months, to abdicate its responsibility so that later it can take political pot shots at the President under the covering banner that our troops are already in the field.

It has bred flabbiness in the real war-making power of this Congress. It has weakened both the President and the Congress. It is that bad. In time of crisis, it actually increases the risk of war. Most importantly for purposes of this debate, it offends two centuries of our constitutional history.

First let us take a look at how it weakens the Congress. It is very important to recognize that that is exactly what this is all about. It is a 60-day abdication of Congress's legitimate war-making power. Article I, Section 8, clauses 1 and 11 of the Constitution give to Congress the power to provide for the common defense and to declare war. There is no requirement that the Congress wait 60 days in order to exercise its constitutional authorities in these respects.

But the War Powers Resolution with its 60-day grace period purports to give the President carte blanche to wage war for a full 2 months without any congressional authorization, just as President Clinton did in Haiti. The War Powers Resolution has provided political cover for this Congress to sit back and do nothing for months, to abdicate its responsibility so that later it can take political pot shots at the President under the covering banner that our troops are already in the field.

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It has bred flabbiness in the real war-making power of this Congress. It has weakened both the President and the Congress. It is that bad. In time of crisis, it actually increases the risk of war. Most importantly for purposes of this debate, it offends two centuries of our constitutional history.
Having said all of that, on the constitutionality of the core principle behind the War Powers Resolution, it is at that point that I think that the gentleman from Illinois [Mr. HYDE] and I disagree. I believe that the Constitution requires that Congress share with the President the decision to send troops abroad for combat. We do not always do it, we often do not like to do it, but I do not think that we should cede the power away. That is the way I read the gentleman’s amendment.

Mr. Chairman, it is very important to recognize the advantages of the War Powers Resolution. Despite all of its deficiencies, there are some real advantages to it. The decision to commit American forces to combat is the gravest decision that a government makes. Presidents are not infallible. They do make mistakes. They are surrounded by aides, almost invariably aides who favor the executive power. When you take a judgment about committing troops abroad, I believe that the President needs the balanced judgment from the legislative branch. The core principle behind the War Powers Resolution is that sending troops requires the collective judgment of the President and the Congress. I do not think that principle should be abandoned. The War Powers Act provides a framework for shared decision making. It gives the President a strong incentive to consider the opinion of the Congress, and I think most of us who served in the Congress before the War Powers Act and after the War Powers Act understand that presidents now are much, much more careful about consulting with the Congress with the War Powers Resolution than without it. It provides a precedent process to get congressional advice to consult with the Congress, and it does, I think, give the Congress some leverage on this key decision. It puts a brake on committing troops into combat.

Mr. Chairman, the argument is made that the War Powers Resolution weakens the President’s hand. I believe I would argue just the opposite. When the Congress goes on record in support of the President’s judgment to send combat troops abroad, that collective judgment strengthens the President’s hand. I think it strengthens the role of the United States in the conflict, because it shows that the Congress and the American people support the President. Absent the clear indication of support what a congressional authorization provides, the President and his policies are vulnerable to every blink of public reaction when U.S. forces face hostility.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. HAMILTON] has expired.

(By unanimous consent, Mr. HAMILTON was allowed to proceed for 1 additional minute.)

Mr. HAMILTON. Mr. Chairman, the Congress can stand against a President. The Congress can stand beside a President. What Congress must not do is to stand aside. Congress should not cede its constitutional responsibilities. We are a co-equal branch of government.

Of course, consultation is necessary and important, but it is not enough when it comes to the War Powers Resolution. This is an extraordinarily important issue. The gentleman from Illinois, [Mr. HYDE] has made a thoughtful point. I know him well enough to know, and I have visited with him about it, that this amendment is the beginning, and not the end of a serious dialogue on the war powers. It is my hope that his amendment, if it is adopted, is not the final proposal, but I do think our vote today sends a signal.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. HAMILTON] has expired.

(At the request of Mr. HYDE and by unanimous consent, Mr. HAMILTON was allowed to proceed for 3 additional minutes.)

Mr. HAMILTON. Mr. Chairman, if we are prepared to cede congressional power on this important decision, then the vote is yes. However, if Members believe, as I do, that Congress has a role to play when we send these troops into action, that we ought to be in on that decision, even though we reluctantly take that decision, or try to avoid it, then I think Members should vote against this amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank my friend for a thoughtful, well reasoned, and illuminating statement, which is typical of the gentleman. I yield to the gentleman from Illinois.

Mr. HAMILTON. Mr. Chairman, if we can make it go ahead any time it was

I suggest again to the gentleman that my amendment requires us to know, to be in at the take-off as well as the landing, to be not only informed but to be given reports, periodic reports. Then we have the power to stop it or go ahead, and be a full partner. We would be the dominating partner, because the President cannot wage war without our funding it.

Lastly, the lesson of Vietnam, to anybody who is not deaf, dumb, and blind, is that you cannot carry on a war without the support of the people. That means the support of Congress. We are, under the Constitution, under the power to appropriate and raise the money and spend it, we are full partners. We are the senior partner with the executive.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. HAMILTON] has expired.

(At the request of Mr. HAMILTON and by unanimous consent, Mr. HAMILTON was allowed to proceed for 1 additional minute.)

Mr. HAMILTON. Mr. Chairman, the gentleman from Illinois, of course, always states well and eloquently his position. I think the threshold with the gentleman’s position is that there comes a critical point, a very critical point when you have to decide to commit these troops or not. The power of the purse really is not involved at that point. We want the power of a critical point, at the threshold of this decision, to be part of that decision.

It is not enough just to be consulted. We have to be consulted, but it is not...
enough. We are a co-equal branch of government. This is the most important decision a government makes, and we ought to be in on that threshold decision when it is made, not later when we take up the appropriations bill.

Mr. GILMAN. Mr. Chairman, we have now had 13 Members speak on this debate. I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 30 minutes, to be equally divided and controlled by the gentleman from Illinois [Mr. HYDE] and the gentleman from Indiana [Mr. HAMILTON].

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. HAMILTON. Reserving the right to object, Mr. Chairman, the problem I confront here is that we have a list of 8 speakers on our side remaining. That could easily jump by a couple. A cut-off at 6:15, 15 minutes on each side, would just be extremely limiting.

Mr. Chairman, I wonder if the gentleman would agree to 6:30.

Mr. GILMAN. Mr. Chairman, we only have three speakers on our side, would the gentleman agree to 6:15 as a cut-off time?

Mr. HAMILTON. Mr. Chairman, I would agree only to 6:30.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 1 hour, to be equally divided and controlled by the gentleman from Illinois [Mr. HYDE] and the gentleman from Indiana [Mr. HAMILTON].

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] is recognized for 30 minutes.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I thank the author of the amendment for yielding me the time as he knows that I am opposed to his amendment.

Mr. Chairman, I rise in opposition to this amendment for a number of reasons. As the previous speaker indicated, I do believe very strongly that we need a shared responsibility between the branches of Government.

I can remember well, probably the biggest vote that I have ever cast, certainly the biggest vote that I have ever cast was to give President Bush the authority to go into the Gulf war. I view the War Powers Act as one of the major issues back then as to why the President came to this body and came to the American people and persuaded them convincingly that that was the right vote. I am not so certain that he would have done that had there not been a War Powers Act.

I have talked to Members of Congress on this floor today who have indicated that had he not come to the House floor, they probably would have voted to impeach him, and yet they still voted for the resolution as it passed that night in January on a fairly convincing vote.

Mr. Chairman, I remember well an earlier vote that same night, the Bennett resolution, a resolution that passed in this floor 302-131. It expressed the sense of Congress that the Constitution vested the power to declare war on Congress and that the President must gain congressional approval before any offensive military action could be taken against Iraq. That was a check and a balance. That is what this Government is about, a check and a balance.

As I look at the votes that were cast on overriding the President's veto, President Nixon back in 1973, I look at a number of my colleagues past and present. I passed one today, Larry Coughlin, who voted to override the President and I look out some of the names, Mr. Edwards and Dickinson of Alabama, later became the ranking members on the Committee on Armed Services here in the House and served in a distinguished way and on that Appropriations Committee, I look at Mr. Rousselot from California who voted to override, at the gentleman from Illinois [Mr. CRANE], still in the House, and Mr. Erlenborn and Mr. Anderson. I look at TRENT LOTT, now the majority whip in the Senate, who voted to override. I look at my own former Members from Michigan, Bill Broomfield, who were ranking Members of this committee. I look at Mr. Frenzel.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Illinois. I wish the gentleman had been in the Congress in 1973.

Mr. HYDE. Mr. Chairman, I would just point out to the gentleman that there was a overhanging that debate and that vote. The President had just gone through the Saturday night massacre. There was somebody more vulnerable on this planet than Richard Nixon, and I dare suggest, without knowing, a lot of those people wished to show a lack of support for the President because of the problems he was having. I could be wrong but I would just like to offer that. I thank the gentleman.

Mr. Chairman. Again, I respect the gentleman from Illinois tremendously, but this is an issue that's just been discussed, and I think, the biggest ones that we make, sending, whether it is our children or our friends and neighbors' sons and daughters off to war. I believe that it has to be more than a consultation process, it has to be one where we can take some action. Again, I look at the Gulf war. I do not believe that President Bush may have come to this body seeking approval without that hanging over his head. He did so, and he did so admirably. He made the point and we had strong bipartisan support. Thank goodness it was the right decision for all of us to live by.

I would just suggest that perhaps we need reform of the War Powers Act, having seen it play now for 20 some years. But I do not know that revocation will not be an issue that we will welcome hearings before the Committee on National Security and others to look at ways that we can improve the bill rather than repeal it. I urge my colleagues to vote no.

Mr. HAMILTON. The gentleman from Indiana [Mr. HAMILTON] is recognized for 30 minutes. Does he choose to yield time?

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlemen for yielding me the time.

Mr. Chairman, I have great respect for the gentleman from Illinois and believe that what we have almost is a good amendment. In a debate like this about one of the most significant powers that the Constitution grants to the Congress, I think it is well to look back to the thoughts of one of the Founders and perhaps the Father of the Constitution. Madison observed as follows about this power, and I quote:

Those who are to conduct a war cannot in the nature of things be proper or safe judges whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle of free government.

In other words, the Executive who would be charged with the prosecution of war should not be considered the proper authority for determining whether to commence one. We clearly have constitutional problems with the current War Powers Resolution. I think in order to understand those, we really need to parse out the kinds of situations that we face that implicate the war power provisions of the Constitution.

First clearly we have those actions that truly involve the commencing of war in a constitutional sense. I would suggest that the gentleman would agree that in those cases, the power of Congress is paramount. It is not a matter of consultation or reporting or a shared power. It is our responsibility, and no one else's, to make the decision.

Then there are all other cases, deployments of one sort or another, emergency responses, humanitarian efforts, all of the variations on the theme in which I believe we have to concede a good deal of constitutional authority to the President of the United States both as Commander in Chief and as the individual with authority under our system to conduct the foreign policy of the country.
The War Powers Resolution impinges on the constitutional authority on the one hand of the Congress, by ceding authority to the President in some instances where it is our paramount responsibility to act. And it impinges on the untrammeled authority of the President as Commander in Chief in some instances, in those other wide-ranging examples that fall short of the commencement of war in a constitutional sense.

It makes a selective statute constitutionally with respect to both the executive and the legislative branches and the responsibilities we each have under the Constitution.

This amendment is perhaps unfortunate in that it does not go far enough and simply repeal the War Powers Act into toto. Or better yet, we should attempt a constitutionally coherent effort to explain and to state the respective roles of the executive and the legislative branches with respect to military intervention.

Instead, this partial repeal, I fear, will leave a remainder of the War Powers Resolution that carries an unfortunate implication. And that implication is that the presidential authority in war and defense is only by a consultative and reporting requirement. I do not believe that is what the gentleman intends. It is certainly not what the Constitution permits. But relative to the current state of debate as reflected in the PRP Resolution, that I think is the only inference to draw from making this change.

I think we do a great disservice to the constitutional responsibility of the Congress under Article I if we appear to tilt too far in expressing deference to the executive.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think it is a fact of modern history that declarations of war are gone. I think they are anachronistic. I do not think they will happen. Clearly the Constitution assigns the declarations of war function to Congress and only to Congress. But declaring war has consequences in a technologically advanced world that nobody wants to face.

Had we declared war against Vietnam, the fear was China and Russia would have to declare war against us. So you get into a cascading snowball situation. Instead what you do is you call it a police action, as we did in Korea, or you call it something else, but you do not formally take that giant leap of declaring war.

So we are back to the President as Commander in Chief having the authority to move troops around but we always have the inescapable function of Congress, and that, too, is constitutional to provide the appropriations. Without the appropriations, they can not get a drink of water.

Mr. Chairman, I just suggest that requiring consultation does not exhaust Congress’s authority. We have the untrammeled authority to inappropriate, inappropriate funds. That is the key, and that makes us the king of the hill. I suggest that by repealing the foolish, nonsensical, unjust, unwise War Powers Resolution and requiring the President to keep us informed comprehensively, we enhance the use, ultimate use of our appropriation authority.

Mr. SKAGGS. Mr. Chairman, referring to the way the gentleman characterizes the ultimate impact of what he is proposing. I think it really would be a default to the executive on the powers that we must have to deal with.

I think the gentleman makes a good argument for amending the Constitution, perhaps, to reflect current times. I would disagree with that step, but that is the argument he is really making. I think we need a new constitutional approach to this issue than is encompassed in his amendment, perhaps one that would be the product of a full committee hearing and deliberation process in both the committees on International Relations and Committee on National Security.

In any case, under these circumstances with this debate on this bill, I would reluctantly urge a ‘no’ vote on the gentleman’s amendment.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I have been in the Committee on National Security this afternoon listening to testimony by the Secretary of Defense and by the Chairman of the Joint Chiefs, and so I missed the earlier part of this debate.

I wonder if the gentleman from Illinois would answer some inquiries, some questions that I have regarding his amendment.

The first is, would you explain as briefly as possible just what you repeat. Second, would you please explain the purpose behind that. I would like to add, if I may, is it not correct that Presidents in recent years, and my recollection is that during my term in Congress, which is the same as my friend from Illinois, that the Presidents have complied with the notifications portions of the War Powers Act without acknowledging its force and effect?

Mr. HYDE. If the gentleman will recess, I would like to add, if I may, is it not correct that Presidents in recent years, and my recollection is that during my term in Congress, which is the same as my friend from Illinois, that the Presidents have complied with the notifications portions of the War Powers Act without acknowledging its force and effect?

Mr. HYDE. If he was sending troops into hostilities or into a place where hostilities were imminent, that is the meaning of the War Powers Resolution.

Mr. SKELTON. So, in other words, the War Powers Act had it been in effect in 1940-41 would have affected what President Franklin Roosevelt did at the time, is that correct?

Mr. HYDE. I do not know what knowledge Congress had of what was going on. If they knew and were looking the other way, as I suspect was the truth, nothing would have happened.

Mr. SKELTON. I thank the gentleman.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, every American schoolchild learns to respect and revere the Constitution of our country and those who wrote it. It is a near perfect document, an expression of extraordinary wisdom. But it was not without flaws.

Among those flaws has been a 200-year conflict in authority between the commander-in-chief and the powers incumbent upon him and the war-making...
powers of this Congress. The problem was masked for many years. But time, changes in technology and diplomacy made a collision inevitable, the speed of war, the powers of weapons, the change of diplomacy. That collision came first in Vietnam.

The result was not simply the loss of life of thousands of Americans after a constituency for that war in this Congress and among our people had evaporated. There was another price, the near loss of legitimacy of this Government in its actions.

It has been suggested by the gentleman from Illinois that this Congress was not without recourse, at any moment we could have abandoned the providing of appropriations, withdrawn funding, and by doing so expressed the wishes of our constituencies and ourselves. And indeed in the final analysis, after more than 10 years of combat that is exactly what happened. But the War Powers Act was enacted because Members of Congress themselves found that that choice was inadequate. Members were not going to choose to take away appropriations from our own sons and daughters who were fighting and dying while they were in combat. They would not do it, and neither would we.

It was not a sufficient power. We needed the right to express ourselves before the Nation engaged in combat. The War Powers Act itself may not have been a perfect expression of that. Indeed, from Grenada to Lebanon, for different reasons and different circumstances, we have seen the flaws in the act itself. But it has nevertheless in our own time been a valuable method of expression for this Congress, creating at a minimum a period of consultation, a consultation, a sharing of power between the Congress and the Presidency that did not exist when FDR invaded Nicaragua, or when Lyndon Johnson sent forces to the Dominican Republic.

In our own time that power has been shared and has been different. Would the same power have existed if Woodrow Wilson acted. Would we have remained for a generation in Nicaragua when Roosevelt acted? It has been different and it has been better because of the War Powers Act.

Maybe George Bush never accepted its constitutionality. Maybe he did not agree and maybe today he would like to see us repeal it. But when he was faced with a judgment in the Persian Gulf, he was quick to bring Members of this Congress to the White House, and quick despite his objections to seek a congressional vote, because he understood not a problem, but an opportunity in the War Powers Act. He wanted Saddam Hussein to know that this was no Vietnam, you will not divide the American people in combat, that this Congress and the Presidency will act together, and so he would not seek to avoid a vote, he wanted it, because he knew of what it telegraphed to Iraq. That vote more than anything else brought the United States allies and showed solidarity.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. TORRICELLI. Mr. Chairman, I ask unanimous consent for 2 additional minutes.

The CHAIRMAN. The time is controlled by the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I regret I do not have the time.

Mr. TORRICELLI. Mr. Chairman, I ask unanimous consent the gentleman from Indiana have 2 more minutes on his time.

The CHAIRMAN. The Committee is operating under an existing unanimous-consent agreement which equally divides the time on the Hyde amendment.

Mr. HYDE. What was the gentleman's request?

Mr. TORRICELLI. I asked unanimous consent for an additional 2 minutes.

Mr. HYDE. We should have an equal division then.

The CHAIRMAN. The gentleman has asked unanimous consent that the amount of time be extended by 2 minutes.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield 2 additional minutes?

Mr. HYDE. Of course I yield 2 minutes to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, there are many reasons why this system has survived for so long when so many other constitutional systems around the world have faltered, but there may be one which is more important, the idea of refusing to centralize power in the American constitutional system. Admittedly, this has been a conservative idea, central to conservative doctrine in the American political system, that no one individual and no one institution would monopolize power.

Ironically, a great Member of this House, a leader in the conservative movement, the gentleman from Illinois [Mr. HYDE], today would repeal this idea, and leading us back to a different time when one man, one institution in this Government could so control constitutional power.

I rise today in defense of that conservative idea, because cutting it off appropriations is not an answer, and in an age with the technology today that exists, when the gentleman from Illinois is correct that war may no longer be formally declared, to give that power to one man is more dangerous than when Lyndon Johnson had it, more dangerous than when Franklin Delano Roosevelt had it. This constitutional system serves best by insisting that the Congress share in that right, and that the lessons of Vietnam and the opportunities of the Persian Gulf remain with us.

When there is a better way to distribute power, better than the Persian Gulf war lessons, better than the resolution we would repeal today, let us do it. It is not before this House today.

I thank the gentleman for yielding me the time.

Mr. HYDE. Would the Chair tell me how much time I have remaining?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has 17 minutes remaining, and the gentleman from Indiana [Mr. HAMILTON] has 20 minutes remaining.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding the time.

Mr. Chairman, I came to the floor this afternoon planning to support the Hyde amendment, and have been giving thought to the possibility that we may have decided to change my mind, one of those rare times where the debate on the floor actually affects somebody's decision.

I agree with so much of what the gentleman says. First of all, the argument that this law could be at the center of congressional participation in the decisions about whether or not to go to war. When you get right down to a law that has been considered constitutional, no court has ever been willing to enforce, and in most instances Congress has not even been willing to implement just does not make a lot of sense to me. That is a law that has been considered constitutional, and at the part that Mr. Hyde wishes to change and repeal, since once the President submits a report pursuant to the War Powers Act, within 60 days after the hostilities or the imminent threat of hostilities for U.S. forces within 60 days either Congress has to extend, has to grant that authorization for additional time or the forces must come back.

In the Lowry case, in the reflagging of the Kuwaiti tankers, the district court in response to the lawsuit seeking to compel a determination that the Presidential information on the reflagging of the Kuwaiti tankers constituted a report said we are not going to get into that, we are not going to declare it a report. If the report has not been made pursuant to the War Powers Act, the 60 days do not run. So the act becomes meaningless and it has not been made pursuant to the War Powers Act.

The more interesting question is whether the act serves a purpose. There has been some discussion on the floor. Initially it was stated on the floor that in fact President Bush declared the end to the authorization for the use of force in the Desert Storm because of the existence of the War Power Act, and that that played some role in this decision. Others have said that really played no role in the decision and of course, we do not know the full story of what went on in his mind. But what I do know is that the Committee on International Relations should conduct hearings on this
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subject. We should look at modifications. We should get rid of the 60-days requirement. I think we should change the threshold. There are a lot of times where our forces are in imminent threat of hostilities where we do not want to trigger any particular congressional action.

We should look at a meaningful consultative process that has an ongoing precedent the Executive Branch involved. If we pass the Hyde amendment today, it will be an attention to what that consultative process will be, and that were to go into law, we have no leverage to get the more meaningful consultative process from a President who would like to see the repeal of the 60-day requirement and of the requirement for the report which triggers any time period set.

So I would suggest a better course, and I do it very reluctantly, is to vote against the Hyde amendment today, for the Committee on International Relations have hearings, to draw up a bill which goes to the heart of what the gentleman from Illinois, Mr. HYDE, does but provides for a more meaningful consultative process with the executive branch, and hand the administration a package which allows them to get out of a requirement which they do not consider constitutional, which, as the gentleman from Illinois [Mr. HYDE] points out, does give us the comfort to our adversaries by giving them hope that the Congress will not act, even though no one argues that the President will listen to what the Congress said on this subject anyway or is likely to do anything with the time set.

So I would like to get a separation of two different kinds of questions. In Desert Storm I think the President was constitutionally compelled to come before Congress. I considered it would have been an impeachable offense for him to avoid that kind of attack with time for preparation, with a date certain set, without coming to Congress. I am not sure Mr. HYDE agrees with me. I would like to go through a process out, in some cases to give aid and comfort to our adversaries by giving them hope that the Congress will not act, even though no one argues that the President will listen to what the Congress said on this subject anyway or is likely to do anything with the time set.

But as our country grew, and technology made the insularity of the oceans limited, it became necessary, in our own national interest, to keep and maintain large armies in peace time as well as during conflict. However, in funding these large peace-time armies, Congress was giving up much of its constitutionally authorized role in determining whether or not make war.

The War Powers Resolution was passed in 1973 as one way to re-assert the Congress' constitutional authority to determine whether or not any President can make war in the name of the people of the United States.

With passage of the War Powers Resolution, Congress sought—rightfully so—to restore its legal authority to determine whether or not U.S. armed forces are involved in war.

Today we are faced with an amendment which would effectively repeal the War Powers Act, and replace it with a requirement for simple consultation by the President with Congress.

As a member of the National Security Committee, I am aware of many arguments for and against the War Powers Resolution. Clearly, the War Powers Act does need to be amended, both to take into consideration the many new missions we ask our troops to perform, and to make it work in times of crisis. Amending it is far different than repealing it.

Now is not the time for Congress to give up its role in determining whether or not troops are committed to combat. I urge my colleagues to defeat the repeal of the War Powers Act, and work together for the logical amendment the act requires.

Mr. HAMILTON. Mr. Chairman, does the gentleman have further speakers?

Mr. HYDE. Mr. Chairman, I have three more speakers left, and I understand, if I yield the gentleman 2 minutes, we will then be permitted to close.

Mr. HAMILTON. We are prepared to let you close, but let me make sure I understand how this debate plays itself out. My understanding is that you will want to call a quorum call?

Mr. HYDE. Correct.

Mr. HAMILTON. That would be toward the end here, after which there will be four speakers, two on each side? Is that correct?

Mr. HYDE. That is correct.

Mr. HAMILTON. Although we have the privilege of closing under the unanimous consent, it is my understanding the Speaker would like to speak, and we will be glad to yield him the privilege of speaking last.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

Does the gentleman require 2 additional minutes?

Mr. HAMILTON. We may before we are through. The gentleman may hold them in reserve.

Mr. HYDE. I will hold them in reserve. All right.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Chairman, the War Powers Act has become a resolution without meaning, honored in its breach rather than in its compliance. It has cost us credibility at home and abroad. It is time to reform it.

It is time to get back to basics, to a basic understanding of the separation of powers and the balance of powers in our carefully crafted system of government.

Coequal does not mean the same. While the executive branch has certain powers, Congress likewise has certain powers. From time to time, in certain areas, these may converge, but they do not coincide. There are differences and shall always and should always remain differences.

I have been honored over the years to work very closely on national security matters. As a matter of fact, at the time the war powers resolution was being debated and passed and enacted I was working in national security matters for the CIA. I know, as do other Members of this great learned body, how swiftly the affairs and matters of national security are, arguably, subject to the war powers resolution come up, how quickly they can change, how difficult it is to anticipate, except, of course, by our adversaries, how the War Powers Resolution would play itself out and construe the ability of our commander-in-chief to operate.

We cannot tie the hands of our commander-in-chief, because when we do that, when we tie his hands, we cost the lives of our soldiers, and it is improper and unconscionable to put their lives at risk.

That is why, Mr. Chairman, for over 25 years our Presidents, Republican and Democrat alike, have found way after way after way around the War Powers Resolution, because it does not work. It will not work, Mr. Chairman.

The amendment fashioned by the learned chairman of the Committee on the Judiciary brings this long out-of-balance resolution and separation of
powers back into balance for both parties and for both branches of Government, and importantly, also in the eyes of our allies and adversaries alike in the world.

Let us remove this cloud, this fog hanging over the ability of our Government to function. I want to thank Mr. TANNER for his leadership in bringing this to the floor for us to address.

Mr. GILMAN. Mr. Chairman, can the Chair tell us how much time is remaining?

The CHAIRMAN. Four hundred five seconds.

Mr. TANNER. Mr. Chairman, I thank my friend from Indiana for yielding. I do not think I will take all of 2 minutes. I did not intend to speak on this matter, but I served on a committee with Larry Hopkins from Kentucky several years ago and tried to perfect the War Powers Act. I served in the Navy during the Vietnam war, and I went into the Navy in 1968. By the time I got off of active duty or discharged in 1972, I saw our country divided as it had never been before, at least since the Civil War.

Now, as imperfect at the War Powers Act is, my friends, it does put the Congress in the mix to express the will of the people into the equation. I saw during those 4 years our country divided in a way perhaps it has not been since the Civil War.

My friends, it does put the Congress in the mix to express the will of the people. Any administration, be it the Kennedy administration or Nixon administration as it was in Vietnam, is going to get into matters that it cannot extricate itself. Never again let us go into war with bullets flying and people dying without the expressed will of the American people, at least with some resolution by the Congress, so that we do have that critical mass of popular support for whatever it is we may do. I really believe it is critical, even though it is imperfect, that we stay involved in the process.

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The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has 15 minutes remaining, the gentleman from Indiana [Mr. HAMILTON] has 11 minutes remaining.

Mr. HYDE. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, let me speak from a practical standpoint in favor of the Hyde amendment. In the last couple years we have had real problems with peacekeeping, for instance, and I have always felt that the President should get authorization from Congress before he deploys troops in peacekeeping mission. But I separate peacekeeping from war making. And I think there is a distinctive difference, and I think it is very difficult for us to insist on the convoluted war powers requirements for a President to make a decision on sending troops into battle.

Now, I remember vividly, and Vietnam war hangs over us with all the concerns and problems that we had, but I remember vividly going to meet with President Bush upstairs in the White House. And the thing we discussed it how long would the American public support a war in Saudi Arabia. As we discussed that, there were recommendations that probably the public would support it anywhere from 6 months to the next election. And this all grew out of the hostilities that were throughout the countries during the Vietnam war.
My prediction was that the public would support this deployment for about 6 months. And after 6 months, if you remember, we started to get requests, or at least in my office I did, we started to get requests from people in my district that were serving overseas in the hardship position that these folks ought to come home. It is never popular to put people in harm’s way. Nobody believed that the Congress would pass an authorization to send troops into harm’s way.

As a matter of fact, I remember after talking to the public at home, I came up and called General Scowcroft, who was the national security advisor at that time, and I said to him, I think the Congress, because the public supports the need for national security and the importance of the Middle East and the energy supply, they will support an authorization to go to war. An awful lot of people did not agree with that. But when the Congress met and debated this, it was one of the finest debates that this Congress has ever been involved in, we did the right thing. By an overwhelming margin in the House we authorized this great Nation to send our young people into harm’s way.

It is true, and that is the way it should be. We had public support. We called up the Reserve, and we did it the right way.

The danger in the War Powers Act in my estimation is by inaction. We can stop the President from making a decision. We should have to take action. It should be hard. No President is going to send troops into harm’s way without a national security reason. It is not an easy thing.

I supported President Reagan all through the Central American crisis. I supported President Bush in Saudi Arabia. I opposed him in Somalia because I felt Somalia was a mistake and we would not be able to solve it. It was an international mission using ground forces in Bosnia except to extract U.N. forces under NATO.

But let me say this: I believe that when the American people elect a President, that President should have the leeway and the right to send people into harm’s way with the advice and counsel of the Chiefs of Staff. I do not believe that in an emotional situation the Congress should be able to stop this in any way. I do not think there should be hearings. If the President does believe that the Congress of the United States is going to stop the President from making the right decision.

So I support very strongly what the gentleman from Illinois [Mr. Hyde] is trying to do in getting rid of this. Now, can we do something in the future? I do not know. But at this time in our history, I think it is up to this Congress to step up and say that it is the President’s prerogative, and if we want to take this one step further, that, we can stop the appropriation funds.

So I strongly support and urge the Members of this Congress to vote for the Henry Hyde amendment and to eliminate the War Powers Act.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. DELUMS].

Mr. DELUMS. Mr. Chairman, member of the committee, I was here many years ago when we debated the War Powers Resolution. It was back in my black haired days and many days have gone by. And I recall the debate vividly. Mr. Chairman, it was a significant debate. A freestanding resolution came to the floor as a product of a deliberative and substantive legislative process.

To the consternation of a number of my colleagues on this side of the aisle, I found myself, Mr. Chairman, in opposition to the War Powers Resolution and was one of the few Democrats who voted against the resolution. And I did so for several reasons. One, I felt that the War Powers Resolution diminished my claim as the Congress of the United States of America on the issue of Congress’ role in war making. Second, I felt that it was a mistake to allow the President to introduce American forces into a situation and seek retroaction from the Congress of the United States. I thought that our Founders thought brilliantly and thoughtfully and creatively about the issue of war making and war powers, because that was a grave decision that the body politic would engage in.

While I believe, Mr. Chairman, that the post-cold-war era has introduced a new period in American and world history and that the War Powers Resolution should be looked at, we may very well need a new instrument to guide us through this transitional period into the new world of the 21st century. But I would submit, though I believe in the need for a new instrument and while in the early 1970s I opposed the War Powers Resolution, I believed today on the floor of Congress asking my colleagues to oppose the amendment before us for two reasons: One, on process, and two, on substance.

With respect to process, Mr. Chairman, the War Powers Act is no small piece of legislation. The War Powers Act is not a minor instrument in our government. This is a high profile instrument. It is a contentious issue. There are thoughtful people on all sides of the equation, who should be an appropriate instrument that guides us in the context of the post-cold-war world. I believe that this issue is so important that the policy with respect to war making, the role of the Congress of the United States vis-a-vis the President, is so significant, that it should not come to the floor simply and solely as an amendment. Though I would agree that there is some debate here, this is the end product of the legislative process, not where it should begin. It should go in subcommittee and in full committee, where we hear and understand the subtleties and the nuances of any significant policy that affects our lives and millions of people in this country and throughout the world. The War Powers Resolution does just that.

So I would suggest that we oppose it, first, because of the process being followed. We should not come to the floor with policy considerations so exceptional and so profound and so extraordinary, and we simply debate them here on the floor of Congress. It needs to be substantive, deliberative, and thoughtful. Hearings were not held. Markups were not held. This is much too large.

Second, to the issue of substance. As I understand the resolution, it, A, repeals the War Powers Resolution, and, two, puts in place the following: A consultative process. The President consults with the Congress of the United States, with reporting requirements that are weaker than in the present War Powers Resolution.

There are some of us, Mr. Chairman, in the body politic who believe that the role of Congress goes far beyond simply one of being consulted. There are times when this gentleman believes that we need prior approval.

I would remind a number of my colleagues, some of whom were not here in the context of the debate on the Persian Gulf that the distinguished former speaker spoke to, this gentleman took the President of the United States to court trying to protect and defend the Congress’ constitutional prerogatives in war making.

So there are thoughtful and courageous people on both sides of the issue, some who think it is simply one of consultation, others who believe that we should emblazon upon that with prior approval. I am simply saying that this does not get us here.

In conclusion, I think that the gentleman from Illinois [Mr. Hyde] is attempting to do something important. This is not the forum, this is not the product. I urge my colleagues to oppose the amendment.

Mr. HAMILTON. Mr. Chairman, I yield myself the balance of my time on this side.

The CHAIRMAN. The gentleman is recognized for 6 minutes.

Mr. HAMILTON. Mr. Chairman, let me begin by simply saying that I think that the gentleman from Illinois [Mr. Hyde] has performed a genuine service in bringing before this body the question of a repeal of the War Powers Resolution. There is no doubt that the resolution has many defects to it. The gentleman from Illinois and others are quite right when they point out those defects.

There is no President that accepts the War Powers Resolution. You are right about that. The 60-day clock provision means that the Congress can control whether or not we have combat troops there by inaction. That does not make any sense. I acknowledge that.
We give a green light unchecked to the President, and we send that message that we have no role up front. Now, the point is often made that we have the power of the purse. But just think about that. There comes a critical point when the President makes his decision to commit troops, we all know it, there is a critical point. And that critical point is when the decision is made to send them in or send them out. That is when you want the Congress to have the information before your options open. It is very difficult to cut off funding after the fact because the troops are already in the field. I am not saying we do not ever do it. I am just saying it is extremely difficult to do it. I urge a vote in order to keep the constitutional powers of this institution. I urge Members to vote “no” on the Hyde amendment.

Mr. HYDE. Mr. Chairman, I yield myself 1 minute.

I want to respond very briefly. There is no carte blanche authority given to the President by this amendment of mine. This amendment strengthens. There is nothing requiring notification in the War Powers Act. This amendment says the President shall in every possible—not may—shall report to Congress before the troops go in; and then after the introduction, the President shall. So we will be informed. The same thing goes for the report.

We are not required to leave our common sense out in the Rotunda. The facts of life are Lyndon Johnson could not even go to his own convention because the people did not support what he was doing in Vietnam. And that lesson has not been lost on anybody with a room temperature IQ. So do not think the War Powers Act forces the President to consult. No President who was to attack our troops, there would be an instant reaction, and I certainly believe one, they would not stand there taking casualties waiting for the President to come to the Congress to see if we could report out a resolution to allow our troops to defend themselves.

Mr. Chairman, I yield 9 minutes to the Speaker of the House, the distinguished gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from Illinois for yielding a point of order.

I rise for what some Members might consider a very serious point of order. I yield to the Speaker.

Mr. Chairman, I yield 9 minutes to the Speaker of the House, the distinguished gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I thank the gentleman from Illinois for yielding a point of order.

I rise for what some Members might find an unusual moment, an appeal to the House to, at least on paper, increase the power of President Clinton. And here we are in the middle of the Russian exercise with troops in Haiti and with the aid of Congress. And I stand here today to say that for America, the right thing to do is repeal these provisions, for America.

The reason is simple. First of all, I listened carefully to my good friend, the gentleman from Indiana [Mr. Hamilton], who I think is a very serious and a very committed scholar of this. But he said something that all of us have heard before, and he explained, “We have no role up front.” I want to make two points about this, because he is right. We have no role up front.

We have no role up front because in an age of instantaneous reactions, as we were tragically reminded in Oklahoma City, there are times and moments when you need what the Constitution called “the Commander in Chief.” And once we have designed the military and we have paid for the military and we have established the framework and we have created the laws, within the legal framework of those laws in an emergency the Commander in Chief has to actually act as the Commander in Chief, all that, and that has been true of both parties. In fact, it was true of George Washington. It was true of Thomas Jefferson. People who say I am a Jeffersonian conservative, well, Jefferson sent the Marines to Tripoli and then talked to this Congress.

So the fact is, in the real world, if we are going to be honest with our constituents, a Commander in Chief exercising those powers with American troops scattered across the planet and, I think, over 100 different countries, if you count various advisory groups, are there. We did advise. We passed the appropriations. We said, we established the Congress. We maintained the Navy, to use the two terms, and we established the Army and maintained the Navy, and the fact is they are there.

And if tomorrow morning somebody were to attack our troops, there would be an instantaneous, immediate reaction. And I believe one, that they would not stand there taking casualties waiting for the President to come to the Congress to see if we could report out a resolution to allow our troops to defend themselves.

My good friend would say, the War Powers Act does not stop that. Exactly. What the War Powers Act says is if the President decides to notify us that the troops are in imminent danger, then we have 60 days. I have been through this drill. I was through this drill with President Reagan. I was through this drill with President Bush. I am now going through this drill with President Clinton. Let me tell you what happens.

We get a congressional committee. And then the military comes in and says, you could pass this. But if you pass this, you are now saying to every terrorist, why do you not kill some Americans to force them out? Do you want a set of events in which America is in danger so that the Congress can be pressured and suddenly everybody in senior leadership in both parties. Somebody says, Well, maybe we do not
want to make Americans targets; maybe we do not want to set up Americans to get killed. What happens?

Let me give you an example from the Clinton administration. A letter, written July 21, 1993. It said about Somalia, in a case where people were being killed, “intermittent activity, intermittent military engagements involving U.S. forces overseas, whether or not constituting hostilities, do not count.” So an ambush in Mogadishu, the loss of 18 American lives, that does not count. They are not in imminent danger.

Nobody jumped up, the Democratic leadership did not return to the floor, the then chairman of Committee on International Relations did not rush to the floor, did not say, “18 Americans have died. Clearly, are in imminent danger. This law does is it says to every administration said last year, it wants to strengthen the current Democratic president because he is the President of the United States. And the President of the United States on a bipartisan basis deserves to be strengthened in foreign affairs and strengthened in national security. He does not deserve to be undermined and cluttered and weakened.

When we get to disagreements, we will have the right place to have them. But this particular bill was wrong when it was passed. It has not worked in 20 years. And it is wrong now. And we should close up the law, get it back to the constitutional framework and allow the President of the United States to lead in foreign policy with us deciding on key issues by our power of the purse.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. The question was taken; and the CHAIRMAN declared the question carried.

RECORDED VOTE

Mr. HAMILTON. Mr. Chairman, I demand a recorded vote.

The vote was taken by electronic device, and there were—ayes 201, noes 217, not voting 17, as follows:

[Roll No. 359]
Mr. SCARBOROUGH changed his vote from "aye" to "no."

So the amendment was rejected. As reported above.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent that debate on the amendment about to be considered and all amendments thereto be limited to 60 minutes, to be equally divided and controlled by myself and the gentleman from Indiana [Mr. HAMILTON].

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ACKERMAN. Mr. Chairman, reserving the right to object, I would like to ask the distinguished chairman if he has discussed this at all with the minority.

Mr. GILMAN. Mr. Chairman, if the gentleman will yield, I do not believe it has been discussed with the minority.

Mr. ACKERMAN. In that case, I will be compelled to object, Mr. Chairman.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. ACKERMAN. Mr. Chairman, further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, how many speakers does the gentleman have on his side on this amendment?

Mr. ACKERMAN. We are not sure right now, but we would be delighted to discuss it with the gentleman. We think it is in the neighborhood of anywhere from 4 to 6.

Mr. GILMAN. If we could agree on some reasonable time, if the gentleman will yield further, we have until 9 o'clock to wind up this evening. We have one other major amendment to consider this evening.

Mr. ACKERMAN. I think that we would be very amenable to discussing it on a staff level at this point while this amendment is being debated.

Mr. GILMAN. We will be pleased to discuss it further with the gentleman's staff.

Mr. Chairman, I withdraw my unanimous consent request.

AMENDMENT OFFERED BY MR. ACKERMAN

Mr. ACKERMAN. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. ACKERMAN: On page 67, after line 9, insert the following new section:

SEC. 62. CONSOLIDATION REPORT.

(A) REPORT.—No agency of the United States Government may be abolished or its functions transferred or consolidated with another such agency pursuant to this division or any other provision of this Act relating to reorganization unless the Director of the Congressional Budget Office and the Director of the Office of Management and Budget independently calculate and submit to the Congress a joint report analyzing the costs and benefits of any such action.

(b) CONTENT OF REPORT.—The cost/benefit analysis required by subsection (a) shall include, but not be limited to—

(1) An assessment of direct and indirect costs for the first five years associated with the implementation of the provisions of this division or any other provision of this Act relating to reorganization;

(2) The effects on personnel, management systems, real property, decisionmaking processes, administrative costs, and costs associated with terminating, amending, renegotiating, or negotiating existing and new contracts.

(c) FURTHER CONGRESSIONAL ACTION REQUIRED.—Notwithstanding any other provision of this Act, if the Director of the Congressional Budget Office and the Director of the Office of Management and Budget either jointly or independently determine and report that the costs associated with the consolidation required by this division or any other provision of this Act relating to reorganization exceed the fiscal year 1995 operating costs of the affected agencies, such provisions shall not become effective unless—

(1) the President determines that such consolidation is in the national interest of the United States;

(2) a joint resolution is enacted specifying that such provisions shall become effective upon enactment of such resolution.

Sec. 62. Section 502 through 511 of title 5 established in the 104th Congress as the Office of Management and Budget required until March 1996.

Mr. ACKERMAN. Mr. Chairman, this amendment is modeled on principles that the majority has articulated in this chamber since January, and it is my hope that we will have strong bipartisan support for its adoption. Members on both sides of the aisle—whether they support consolidation within the State Department or not—should find this amendment very attractive. We should know that our actions will cost or save before we engage in a massive reorganization.

The amendment is designed to ensure that this body does not unknowingly write a blank check in the course of passing this bill, something that concerns all of us who are trying to save taxpayer dollars from frivolous Government spending.

For those who are not on the International Relations Committee, let it be known that there is presently no way of knowing if the bill, as reported, will save one penny as a result of reorganization.

Under this bill, we abolish three agencies and direct the former heads to report to work and assume new roles within the State Department. Yet there is no specific plan on how this will be accomplished.

There is no plan in place to reduce any staff. There is no plan in place to eliminate the cost of maintaining buildings, if indeed any are found not needed, and there is no plan in place to determine the costs and savings in buying out leases and service contracts. In fact, as the legislation is written, a consolidation plan is not required until March 1996.

How do we do this in the blind? Without this amendment we will be passing a blank check bill. At this point, there is simply no way to conduct a cost-benefit analysis because we won't even see a plan until March 1996.

To rectify this problem my amendment does the following:

First, it requires a joint report from the Director of the CBO, who is a Republican, requiring an analysis of the costs and benefits of the proposed plan for the first 5 years it is in effect. The report will cover effects of consolidation on personnel, management systems, real property, decision making processes, administrative costs and costs associated with terminating, amending or negotiating existing and new contracts.

What if the proposed cost of action doesn't save money, but actually costs more money? That might come as a surprise to some. But you may want to go forward anyway—and you can.

Second, if the report indicates that the costs of the proposed plan exceed the fiscal year 1995 operating costs of the agencies, the President may determine it is in the national interest and proceed—and don't forget, this bill applies to the next president. If the President does not make that determination, the Congress must enact a joint resolution specifying that the consolidation, if more costly, may proceed.

My goal here is simple: It is to guarantee that the Congress know and understand the costs of the proposals before moving forward. For this bill today, the support is coming because we are in fact consolidating the agencies that now exist as separate agencies, AID, ACDA and, of course, USAID. That is the reason we are having the taxpayer groups and so many other conservative groups call for us to not put a hold, to absolutely gut the provisions of the bill. This bill, as written in this section, will allow the consolidation of AID, ACDA and USAID functions within the State Department.

Of the organizations that are in an unusual fashion unusual for us to call for this bill today, the support is coming because we are in fact consolidating the agencies that now exist as separate agencies, AID, ACDA and, of course, USAID. That is the reason we are having the taxpayer groups and so many other conservative groups call for us to not put a hold, to absolutely gut the provisions of the bill. This bill, as written in this section, will allow the consolidation of AID, ACDA and USAID functions within the State Department.

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these agencies. One of the most important concerns I had early in the process was the fact that we may be burying ACDA, the arms control agency, and their recommendations, too deep in the bureaucracy of the State Department. So in fact we have deferred or set aside the placement so that the director of ACDA will be making recommendations not through some layer of bureaucracy but directly to the National Security Council, to the President. It cannot be delayed, cannot have his recommendations deferred or set aside by even the Secretary of State.

The other thing I wanted to mention is that the fact that while the concept started in the other body and was once enunciated in the House bill at its earliest stage of having a separate foundation run what are now the programs of the Agency for International Development, that concept was jettisoned. Indeed, what we have kept is an assurance that the organization proposed that the programs of the Agency for International Development in its new home, it is not being eliminated, it is being placed and consolidated into the State Department, that those programs will in fact control or set of tools to be implemented by the President of the United States.

After all, the development policies and the other programs run by the Agency for International Development ought to be under the direction of the President so that they can indeed serve our national interests, our foreign policy objectives.

So I would say to my colleagues, if they vote for the Ackerman amendment they are basically gutting the bill's savings provisions, the part that conserves our dollars and makes a better use of them, they are gutting the consensus and the agreements that we have shown in this bill.

Importantly, the Ackerman amendment gives the Director of the Office of Management and Budget an independent veto over this consolidation. A new statute would be required to override the veto. Now those are the kind of decisions I think properly are left to the Congress of the United States and not to CBO and not to OMB. I do not think we need additional studies. If there are savings in this approach, I think it is a rather extraordinary circumstance that they would have to demonstrate. It is very clear that the savings in the bill are in significant part because of this consolidation.

So I urge my colleagues to reject the Ackerman amendment and to leave what we have crafted in the way of a consolidation effort. I think it focuses the programs, the decisionmakings that do relate to our foreign policy where they need to be in the State Department but with careful placement of these three new subcomponents.

I ask my colleagues to vote against the Ackerman amendment.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Ackerman amendment.

Mr. Chairman, I support the Ackerman amendment for one very simple reason: AID arms control policies and arms control policing is much too important to be left in the hands of the State Department. I recognize the efforts made by the committee to try to ensure that ACDA will in fact still directly report to the President. But the fact is that so long as the Arms Control and Disarmament Agency remains in any way a part of the State Department, it will be under pressure, regardless of the bureaucratic boxes, it will be under pressure to follow the party line of the agency. And with all due respect to the State Department, and I have a lot of respect for it, I think the Congress needs to know that it has an absolutely independent and fiercely independent agency which will operate independently as they see it when they are evaluating whether other countries who share this globe with us are in fact in compliance with arms control agreements or not. And so long as the arms control agreements or not. And so long as the arms control agency is folded into the State Department, we will always have the tendency of the State Department to want to take into account other factors, and they will bring pressure on ACDA to take into account other factors and to political relationships will be done in any way a part of the State Department.

Political relationships are important. But when it comes to arms control, this Congress needs to be able to know that it has the unvarnished facts, and I think there are just too many pressures on the State Department to assure that we are going to get those unvarnished facts, and therefore I would oppose what the committee does.

I cannot think of any more important things that we are trying to do than the Congress needs to have than to know whether or not some other country in the world is either violating or getting close to violating arms control agreements which they have signed.

I do not want to have even the slightest stitch of policy be brought on an arms compliance evaluating agency to take into account the fact that we need to have good relations with another country, or we need to take into account the realities of political opposition in that country. It just seems to me that the primary obligation of this Congress is to have clear, straight information, and I think we risk the fact that we will not have it if ACDA is submerged into the State Department.

So I would strongly urge that the Ackerman amendment be supported. All it says is that this action cannot take place until there is a cost-benefit analysis. I think to the matter of arms disengagement of my good friend from Nebraska, with whom I very seldom disagree on foreign policy issues. It just seems to me in this case the Congress' overwhelming interest in having absolutely neutral, straight, hard-nosed information about whether other countries are giving us a snow job or not in terms of their compliance overrides all other considerations. We ought to vote for this amendment.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, have no doubt about it, this amendment would gut the reform effort that the Congress has taken to date. It would bring to the foreign policy establishment of this country. The American people voted for change. We have come forward with a bold plan of reform, and what we have now is an attempt to derail that reform, to study it to death.

In answer to some of the arguments that have been made, whether it is arms control or whether it is AID policy, or whether it is communications policy, these are not separate efforts. These are not things that operate and should operate independently of a global strategy. These are part and should be part and parcel of a global strategy, part of the same effort. This is what is behind our whole reform proposal to take arms control, AID decisions, and communications and put them into the State Department so that we can have what this country needs, and that is bold leadership on the part of the executive rather than what we have had in the last 10 years, which is quite often more than not, the people who hold executive power to reach a consensus among independent agencies.

The fact is that if we are going to be efficient in the post-cold war world we need to make sure that our organizational structure is more efficient, and is operating with decisive leadership, which is exactly what you cannot have when you have different agencies operating independently.

What we are trying to do is consolidate, reform, and restructure the foreign policy apparatus of the United States in order to bring down costs and to make the system more efficient. What this amendment would do is preclude that reform, and maintain an ineffective status quo.

We need to provide American ambassadors, for example, more flexibility in their decisions with lower budgets, because they will have lower budgets. If nothing more than an attempt by people who are bringing down the budgets of our foreign policy establishment, if we do not give them more flexibility, we are going to end up with a worse foreign policy apparatus. We need to change the way our foreign policy establishment has been doing business because this is a different world. And there is no way that you can force these types of reform decisions to be made than to force this type of restructuring by a reform process.

What we have is a proposal to study our reform measures to death. Instead it is time to act decisively, time to move forward, time to
The chairman of the Subcommittee on International Economic Policy, during the committee debate, said there are no savings from the consolidation in this bill. The word “abolish” is used several times in the bill to abolish AID, abolish USAID, abolish ACDA, and put them all into one box. Not all of the functions of those agencies are continued. So we are simply moving boxes around, as far as I can see.

What it does, the reorganization proposal, is to vastly expand the State Department. It doubles the number of employees in the State Department. It triples the budget of the State Department.

Now, all of us agree that government has to be downsized, and I want to say that the Administration has worked pretty hard at that. Staff has already been reduced by 2,300 in the foreign policy agencies. That has contributed $500 million in cost savings thus far. It has pledged to cut another $5 billion from the international affairs budget from 1997 through the year 2000.

I want to point out that the Congressional Budget Office has not done any study on the potential cost savings that would result from the consolidation mandated by this bill, and it is important to compare the processes here with the processes used in the Defense Department and the intelligence agencies, where you really had a bottom-up review. Compare this bill with the approach taken in the intelligence community today, also a bottom-up review, but here we have no rationale. We are not connecting the changes in reorganization with the problems in American foreign policy.

There is no effort to tie these reorganization proposals to any improvement in American foreign policy, and I simply do not have a good idea of what this reorganization does in terms of improving American foreign policy.

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The chairman of the Subcommittee on International Economic Policy, during the committee debate, said there are no savings from the consolidation in this bill. The word “abolish” is used several times in the bill to abolish AID, abolish USAID, abolish ACDA, and put them all into one box. Not all of the functions of those agencies are continued. So we are simply moving boxes around, as far as I can see.

What it does, the reorganization proposal, is to vastly expand the State Department. It doubles the number of employees in the State Department. It triples the budget of the State Department.

Now, all of us agree that government has to be downsized, and I want to say that the Administration has worked pretty hard at that. Staff has already been reduced by 2,300 in the foreign policy agencies. That has contributed $500 million in cost savings thus far. It has pledged to cut another $5 billion from the international affairs budget from 1997 through the year 2000.

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the Director of the Congressional Budget Office and the Director of the Office of Management and Budget, independently, calculate and submit to the Congress a joint report, nothing can be done.

In the words, you have got 100 Senators, 435 Congressmen, and two bureaucrats can stifle the entire Congress and the will of Congress. That is what this amendment says, if you take a look at the amendment from line 5 to line 9. This amendment really guts the main provision of this bill.

Now, our bill consolidates three out-of-date Cold War agencies. And how many times have you been home when people have said, "Hey, our government is too big, our government costs too much!" And basically what we are trying to do with this bill is take these three agencies and downsize them.

The American people have loudly and clearly told us again and again that our government has gotten too big and costs too much. What is at issue here is basically a fight between the people who want to change what is happening in our government and the people who are fighting for a status quo. That is really at issue here, and the agents opposed to change are fighting a rear guard action here to gut the bill. It is the old adage, if you cannot defeat the bill, gut the bill.

The President actually is given here a heck of a lot of authority. We are giving the President, under this bill, tremendous authority. He has all the advantages to structure this any way he wants, plus we are not giving him until tomorrow morning to do it. We are giving him 3 years to bring about this change. That certainly is enough. We are leaning over backwards to be fair.

No one can argue the President is being disadvantaged. He has got all the time and all the abilities and all the advantages in carrying this out.

The amendment merely says that we want change, and that change has to come about. This amendment is the old liberal welfare state philosophy of big government, of study, study, study, study. No matter how many studies you need? You do not need any more study. Study? How many studies do you need? The amendment says, if you take a look at what is going on. The majority party has put a bill on the floor which is a frontal assault on the President's authority to conduct foreign relations, micromanages to a level that the President himself has never before been able to go to, and massively slashes the amount of money spent on the foreign relations function.

But they have got a problem because some of their members said they never would vote for it, and the bill still is a $17 billion bill and they have got to get their members to vote for it. So they say, "Well, this does something else. This reforms the foreign affairs agencies by consolidating them." It goes to the direction, on the Executive branch as to how to consolidate it. There is no inherent savings in the consolidation.

The gentleman from New York has pointed out why the act of consolidation will cost money, but now they can say it is reform, it is slashing, and it is attacking the President, so maybe now they can pick up the votes.

The gentleman from Wisconsin [Mr. ROTH], my friend, says we are cutting each by one-third. You could leave the agencies separate and cut them by one-third. The act of consolidation does nothing to save money. What it does do is ensure commercial interests, like the arms control non-proliferation issues when you eliminate the Arms Control and Disarmament Agency. It does take independent agencies and make them subordinate to the geopolitical relationships between countries, moves that independence which allows an accurate voice of what is going on in a country to be broadcast to that country where there is a dictatorship, where there is an absence of free press, and has caused conserv- atives, who are very much supportive of bringing that word to those countries, to oppose this consolidation.

What it does is make development assistance goals and humanitarian goals subordinate to government-to-government relationships. There are major bad policy consequences from the consolidation.

There are no savings. But now you can say you slashed and you reformed and you have attacked the President, and maybe you can pick up your party's members who said they would never vote for an even $17 billion Foreign Assistance Act.

The amendment offered by the gentleman from New York [Mr. ACKERMAN] calls that bluff by saying, through a cost-benefit analysis, demonstrate the act of consolidation saves money. It puts you to the test. If this is the goal of consolidation, you will have no objection to the Ackerman amendment.

If you reform onto a bill, then you probably want to oppose the Ackerman amendment. I urge adoption of it.

Mr. LEACH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, well, let me just stress that I think we have probably exaggerated the debate.

The fact is the Department of State can well function with the consolidated basis. The foreign policy of the United States can well function on a more decentralized basis.

As perhaps the only Member of this body who has served in one of these agencies as a Foreign Service Officer, having spent 2 years in the Arms Control and Disarmament Agency, it is my sense that for long term continuity the country's foreign policy probably operates better on a decentralized basis. We have a long and proud history of the United States Information Agency, under great leadership, of great independence and respect. Likewise with the Arms Control and Disarmament Agency, and while AID is obviously a
controversial mission, we have had distinguished people serve at the Agency for International Development. I would only rise to stress whether one is for or against this bill, it should not relate to the outcome of this particular amendment.

My view is to be sympathetic to it, and I will support it, but I would also stress that one can consolidate and function effectively. It all is a matter of learning to make the best given point in time, and here we are involved in kind of a great political science debate in the sense of sometimes agencies of government, like business, are better off consolidated; sometimes, depending on leadership, they are better off with decentralized leadership. Sometimes there is a case for flux, where one has one circumstance to change it. Sometimes, in addition, there is a case for stability.

Now having said that and having noted that one can reach opposite conclusions, I think in the long term the best interest here is for stability and for decentralization and, therefore, I think on balance the Ackerman amendment makes the most sense at this particular time.

Mr. SKAGGS. Mr. Chairman, I move to strike the requisite number of words.

I urge my colleagues to support the Ackerman amendment. It quite clearly gives us the opportunity to take a more careful look at what I think is the not carefully thought through proposal for consolidation that is in the base bill.

Mr. Chairman, effective foreign policy should represent the pursuit of enlightened self-interest. One of the most pressing interests in American foreign policy today is to control the spread of weapons of mass destruction. This becomes more and more important as regional and ethnic conflicts continue to explode across the globe. Today, more than ever before, it is in our critical self-interest to maintain an agency that advocates, negotiates, implements, and verifies effective arms control, nonproliferation, and disarmament policies, strategies, and agreements. That agency is the Arms Control and Disarmament Agency.

Independent status means that ACDA brings to the policy table an expert and undiluted arms control viewpoint. Often, this viewpoint differs from the Arms Control and Disarmament Agency. That is why ACDA was created and that is why ACDA has continued to prove its worth to U.S. national security over the years.

H. R. 1561 makes ACDA's independent voice on arms control. It eliminates the ACDA's Director's access to the President, the National Security Advisor, and the Secretary of State. It expels ACDA from interagency policymaking process where significant arms control and nonproliferation decisions are made.

To understand the efficacy of ACDA's role in the foreign policy process one need only to look at recent newspaper headlines. I find it ironic that earlier this month, during the same week when the International Relations Committee proposed its abolition, ACDA's director was with the President at a summit in Moscow working on important nonproliferation issues, while ACDA's deputy director was in New York securing one of the greatest American post-Cold War foreign policy successes—permanent extension of the Nuclear Nonproliferation Treaty. Negotiation of the extension of NPT was reached against the odds. Without the relentless effort of ACDA's expert negotiators over the last 3 years we might not have the NPT today. The protection that NPT helps provide against nuclear proliferation benefits all Americans.

The supporters of H. R. 1561 claim that ACDA is a cold war relic. This claim shows how out of touch the authors of this legislation are with the reality of the world environment we face. Given the remaining dangers of Russian overamplification, and the new dangers of the post-cold-war world, ACDA is a relic today only if we are not careful and nonproliferation is a myth.

The authors of H. R. 1561 claim that it would save money by eliminating an independent ACDA. In fact, according to the Congressional Research Service, it will cost $10 million to eliminate ACDA.

ACDA's basic budget is $50 million. According to the U.S. Strategic Command, the existing strategic arms limitation treaties have saved about $300 billion. Since these treaties took about a decade to negotiate, you could argue that there's a payoff of 200 to 1 from ACDA. I suspect that the impact of this ill-conceived legislation will be the reverse—one bill and 200 new problems caused by the disruption, dislocation, and resulting reductions contained in this bill.

The creation of a mega-bureaucracy that absorbs ACDA comes at the worst time—as the U.S. Government is pursuing the biggest and broadest arms control and nonproliferation agenda in history. Now is not the time to be dismantling the one agency whose sole mandate is to formulate, negotiate, and verify arms control and nonproliferation policies and agreements.

This bill ought to be called the "American Leadership Reduction and Avoidance Act of 1995." By silencing ACDA's independent voice on arms control and nonproliferation issues this bill presents a serious threat to the future security of this country. The purpose of ACDA is to bring the arms control perspective to the table when foreign policy decisions are made. This perspective has helped protect America and the world from dangerous proliferation of nuclear, chemical, and biological weapons of mass destruction for a third of a century. Now is not the time to stop or shrink from responsibilities of leadership.
from New York [Mr. ACKERMAN] because it addresses one of the most egregious aspects in this bad bill. The problem with the proposal to gut the Agency for International Development, the United States Information Agency and the Arms Control and Disarmament Agency by putting them into the State Department is that it compromises the mission of every one of those agencies.

The mission of the United States Agency for International Development is to maximize the economic and the human potential of everyone around the world and, by doing so, create market opportunities for American industry.

The mission of the U.S. Information Agency is very simply truth, not truth that complies with State Department policy that is politically oriented, that is acceptable, acceptable because it is believable truth. That is what the USIA delivers around the world.

And the mission of the Arms Control and Disarmament Agency is to save us expenditures and arms procurement by enabling us to control the proliferation of nuclear, chemical and biological weapons.

Of all the times in history to think about gutting the mission of the Arms Control Disarmament Agency, when we know how able dictators, tyrants, crazy nuts around the world have access to lethal weapons, and we are going to gut the mission of the Arms Control and Disarmament Agency? Of all the times to gut the mission, to compromise the mission or the Agency for International Development.

Consider the fact that as we move into the next millennium, the 21st century, there will be five new human beings born every second of every day, and they are going to go hungry, without adequate housing, without decent medical care. The Agency for International Development can enable them to become not desperate, not hungry, but constructively productive and contributing to a world of peace and economic and social stability and, by doing so, create markets throughout the world for the American economy.

That is what the Agency for International Development does, and let me quote just a bit from the New York Times on USIA.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 15 additional seconds.)

Mr. MORAN. In his directive granting the United States Information Agency independence, independence which he would later, by the end of the Eisenhower Administration, empower, it to explain imaginatively the correlation between United States policies and the legitimate aspirations of other people of the world. Now is not the time to tear the United States Information Agency from that appointed task.

President Eisenhower knew what he was doing. He would vote against this bill, but he would certainly support the amendment is fat. If it makes sense to consolidate, let us consolidate, and, above all, let us look at the cost. A cost-benefit analysis is right for America.

Again I say to my colleagues, “If you supported the Contract, you should be for Everybody doing this on both sides of the aisle, so I urge my colleagues to support the Ackerman amendment.”

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I urge my colleagues to vote against the amendment offered by the gentleman from New York [Mr. ACKERMAN]. It seeks to gut our whole reorganization structure, and I merely quote from two former Secretaries of State.

James Baker said, Your proposal is breathtaking in its boldness and visionary in its sweep. It represents the fundamental reorganization that is necessary if we are to transform government institutions to meet foreign policy challenges of the twenty-first century.

Then Larry Eagleberger, former Secretary said, With regard to the consolidation, I am already on record in testimony before Senator Helms in enthusiastic support of what his committee and yours seek to accomplish. By abolishing the Arms Control and Disarmament Agency, the Agency for International Development, and the U.S. Information Agency, the bill will eliminate bureaucratic overlap, improve efficiency, save money, and enhance the ability of the Executive branch to advance American interests abroad.

I urge my colleagues to vote against the amendment offered by the gentleman from New York [Mr. ACKERMAN].

Mr. MOAKLEY. Mr. Chairman, there are many reasons to oppose this bill. It undermines the ability of the U.S. Government to conduct foreign policy. It abdicates U.S. leadership worldwide. It wastes our resources on moving boxes when the challenges of the post-cold-war world demand our attention, and it ties the President’s hands and eliminates many of the tools at his disposal. National Security Advisor Tony Lake rightly calls it the “unilateral disarmament” of American foreign policy.

Under the reorganization provisions of this bill, we stand to lose a foreign policy tool which is vital to our national security. The Arms Control and Disarmament Agency is charged with solving the nuclear, chemical, biological, missile technology and conventional arms proliferation problems of our day. ACDA is a small, lean agency with a budget of only $50 million. Yet the U.S. Strategic Command tells us that the strategic arms treaties ACDA administers save the nation’s taxpayers about $100 billion.

In its present form, ACDA’s Director has an independent voice and direct access to the President, the National Security Council and
the Secretary of States. But this bill buries the director under three levels of bureaucracy. To make his voice heard, he will first have to make his case to an Assistant Secretary, then to an Undersecretary, and then to the Secretary of State.

State Department decisions, by nature, are often grounded in diplomacy and sensitive to the political considerations of other nations. ACDA has no entrenched interest in diplomatic relations. Thirty years ago, it stood alone in support of a nuclear non-proliferation treaty that the State Department opposed out of deference to some of our allies. It stood alone in support of a nuclear non-proliferation treaty negotiated by Richard Nixon. When that effort failed, it took twenty years to reorder American foreign policy objectives by interfering with the foreign policy prerogatives of the President and substantially cutting assistance to friends of America in great need.

This shortsighted and rushed legislation will completely out of balance. H.R. 1561 seeks to reverse all the gains of the past three decades. It seeks to reorganize the development assistance for child survival, nutrition, population, and the environment, and the human rights and the political considerations of the other nations. It seeks to reorder American foreign policy objectives by interfering with the foreign policy prerogatives of the President and substantially cutting assistance to friends of America in great need.

The stated objective of the American Overseas Interests Act of 1995 is to eliminate the military aid for the Agency for International Development (AID). The U.S. Information Agency (USIA), and the Arms Control and Disarmament Agency (ACDA) in addition to slashing $1.8 billion in foreign aid, international broadcasting, and diplomatic functions funding from the administration's requested level. In fact 29 percent of the development assistance for child survival programs, African development aid, disaster assistance, and Latin American and Caribbean aid will be cut by this draconian legislation. This shortsighted and rushed legislation will reorder American foreign policy objectives by abolishing foreign and peace organizations, interfering with the political prerogatives of the President and substantially cutting assistance to friends of America in need.

The American Overseas Interests Act of 1995 that we are considering here today is completely out of balance. H.R. 1561 seeks to isolate the United States by restricting America's role in the world. It rodely cuts U.S. contributions to the United Nations and U.S. peacekeeping operations. It would be an abdication of American humanitarian leadership overseas to support this legislation.
Contrary to the representations of the supporters of this bill, foreign aid constitutes less than 1 percent of the U.S. budget. This small investment is leveraged further by a public-private partnership involving several hundred U.S.-based charitable organizations. Without the U.S. contributions of seed money, these cuts in funding would have a devastating impact.

Foreign aid is no giveaway. These dollars work as an effective means of developing and expanding U.S. export markets. In fact, the recipients of U.S. foreign aid constitute the fastest-growing market for U.S. exports. In the past two years, exports to developing countries have more than doubled from $71 to $180 billion. This valuable trade resulted in thousands of badly needed jobs for American workers.

Mr. Chairman, H.R. 1561 is not only a bad deal for the American economy. It also compromises the President's initiatives in foreign affairs. In a seven to one decision, the U.S. Supreme Court in United States v. Curtis Wright Export Corp., 299 U.S. 304 (1936) held that because of "fundamental differences" in national objectives to internal and external affairs, the President of the United States possesses additional prerogatives in the foreign affairs field that, in my opinion, this legislation compromises.

This bill imposes restrictions and limitations on the President’s special authorities that would hamper the ability of the United States to respond to rapidly changing international circumstances. Therefore, the constitutionality of the American Overseas Assistance Act is in question and should be carefully examined prior to consideration of this bill.

A dramatic example of the negative impact this legislation would have on the President’s prerogatives in foreign affairs is the fact that H.R. 1561 directly inhibits vital Presidential objectives such as—implementation and funding for the framework agreement with North Korea; debt reduction for poorer nations; democracy building and market reform in Russia; funding for worldwide family planning activities.

Contrary to the arguments that have been made by the supporters of H.R. 1561, President Clinton has proposed a budget that reasonably addresses the overseas interests of the United States. President Clinton’s fiscal year 1996 foreign aid budget has two key initiatives; reasonable consolidation and maintenance of our obligations to our friends and the world’s neediest people.

The administration has proceeded vigorously with its efforts to streamline AID, ACDA, and the Department of State. Under the administration’s efforts, foreign aid agencies are reducing staffing by 4,700 positions, cutting red tape, duplicative layers and duplication, eliminating low-priority posts and programs, reengineering their business processes, and establishing common administrative services. The administration has taken these steps to enhance the efficiency and effectiveness of these agencies.

By contrast, the approach of H.R. 1561 is to simply eliminate AID, ACDA and USIA. This extreme action would result in an unwieldy, costly, and ineffective compromise of U.S. foreign policy objectives and would constitute an abdication of American humanitarian leadership overseas.

The ironic truth about H.R. 1561 is that it would actually weaken our influence overseas and therefore compromise our national defense, prestige, and effectiveness. As a result of the bill’s redirection of $1.8 billion away from programs that help uplift the world’s poor, American interests will be compromised.

Mr. Chairman, there is no doubt that with the end of the Cold War, the United States now reigns supreme as the world’s only superpower. Over the past 7 years, our foreign policy has undergone a massive undertaking to adjust to a post-cold-war world which has allowed us to maintain a better balance of our domestic and foreign interests. Because of our efforts, the United States is faced with an unprecedented opportunity to redirect funds to relieve problems here at home and help improve the lives of our friends overseas.

Mr. Chairman, unfortunately, as a political maneuver, the current majority has attached to this bad bill provisions authorizing aid to Israel and her Mid-East peace partners. This insulting and cynical attempt to force those of us who support Israel to endorse the overwhelmingly shortsighted and offensive objectives of H.R. 1561 will not work.

Mr. Chairman, in closing, H.R. 1561 reflects my colleagues’ desire to sacrifice the interests and obligations of the American people in exchange for isolationism and inhumanity. I urge my colleagues to vote against this bill.

Mr. GILMAN. Mr. Chairman, I move that the committee do now rise.

Mr. Speaker, having assumed the chair, Mr. Chairman, I move that the committee do now rise.

The motion was agreed to. Accordingly the Committee rose; and the Speaker pro tempore (Mr. WALKER) having informed the House that the Speaker pro tempore (Mr. FOLEY) would be absent momentarily, the Speaker pro tempore (Mr. WALKER) declared the House to be in recess until 10 o’clock tomorrow

SCHEDULE FOR FURTHER CONSIDERATION OF H.R. 1561

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

Mr. MORAN. Mr. Speaker, I have asked unanimous consent to inquire of the Chairman, from Maryland [Mr. HOYER], the gentleman from California [Mr. BERNAN], the gentleman from New Jersey [Mr. ANDREWS]. However, with an hour and 45 minutes tomorrow, it is conceivable that, particularly if the chairman was to propose the Burton amendment that the chairman might have two amendments in succession which would preclude the ability of the Democrats to offer any of our amendments.

I would like some assurance from the chairman that the Democrats will be able to offer an amendment after the subsequent Republican amendment to this bill.

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

Mr. MORAN. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I have been informed that 1 hour and 45 minutes remain on full debate on this bill. We have a manager’s amendment which is on the books, a number of amendments, and then we have the Burton amendment. And whatever additional time that may be remaining, we will try to accommodate the gentleman.

Mr. GILMAN. Mr. Speaker, I would suggest to the Chairman that this is the reason for the inquiry because that may very well take up the full space of the 1 hour and 45 minutes which means that there would be two Republican amendments. There would not be the opportunity for any Democratic amendment to be offered, if that were the schedule. That is the concern of the minority side.

Mr. GILMAN. Mr. Speaker, if the gentleman will continue to yield, we will try to accommodate the gentleman and keep their remarks as brief as possible and the Berman amendment will be next following the Burton amendment.

Mr. GILMAN. Can the Chairman assure us that we will get a Democratic amendment, at least one Democratic amendment considered tomorrow.

Mr. GILMAN. It will depend on the amount of time that we will be able to save with the debate on those two measures.

Mr. MORAN. This side would much appreciate the Chairman cooperating.

Mr. GILMAN. We will try to do our best to allow some time for additional amendments.

ON AMENDMENTS TO H.R. 1561

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

Mrs. SCHROEDER. Mr. Speaker, does the gentleman think that no one else will be able to offer amendments? We have only got 1 hour and 45 minutes and, as you know, I have a very, I think, important amendment dealing with immigration,
which I do not even think should be in this bill. Does that mean that we are not going to have time to get to anybody else's amendment?

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mr. ENGEL. Mr. Speaker, I would like to inquire of the chairman, with the big events in Bosnia this past week, we are dealing with a very, very important foreign aid bill. I know that the gentleman from New York [Mr. HOYER] has an amendment which I am sure the American people would like to see debated.

I just find it incongruous that we are being denied, for whatever reason; I am not blaming anyone, but the way it is working out, it seems that Mr. HOYER will not be allowed to put forth his amendment which would call for an end to the arms embargo. I think this is a very, very important vote on a very important amendment at a very important time.

I am wondering if I could somehow or other ask unanimous consent or ask the chairman if we can somehow get some time to debate Mr. HOYER's amendment because I think the American people want to see us debate it and it is too important to just push it to the side.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mr. ENGEL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I will be pleased to respond to the gentleman. We all share the concern about the Bosnia situation. Tomorrow afternoon we will have a hearing on Bosnia in the Committee on International Relations. I discussed the Bosnia amendment with the gentleman from Maryland [Mr. HOYER]. We talked about trying to have sufficient time to properly debate that measure on a single standing bill rather than to take it up as part of this in a very short and limited period of time.

I assured Mr. HOYER that I would try to work with him in bringing that measure to the floor at an early date following the consideration of this measure.

ON BOSNIA

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

Mr. HOYER. Mr. Speaker, I thank the gentleman from New York, the chairman of the committee. As the Members of this House know, I, along with the gentleman from New York [Mr. GILMAN] and others, offered an amendment last year that dealt with lifting the arms embargo to allow the Bosnians to defend themselves. This situation has gone on now for almost 3 years. The largest number of refugees since the Second World War have been created as a result of this confrontation and over 100,000 deaths. Genocide is occurring.

I regret that it appears, based upon the schedule as it goes no and now, that I will be precluded from offering this amendment, which I believe is critically timely today and will be critically timely tomorrow.

I would hope that we could configure the schedule tomorrow so that I would have a half an hour to offer this amendment at the end of the other amendments so that this House can address this issue. It is critical. It is on the front page of every newspaper in Europe and the United States is in the councils of the armed forces of every NATO nation. And it seems to me it is timely now for this Congress to speak.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE AND RECONCILIATION FISCAL YEAR 1995—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DO. NO. 104-83)

The Speaker pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 1158, a bill providing for emergency supplemental appropriations and rescissions for fiscal year 1995.

This disagreement is about priorities, not deficit reduction. In fact, I want to increase the deficit reduction in this bill.

H.R. 1158 slashes needed investments for education, national service, and the environment, in order to avoid cutting worthwhile projects and necessary expenditures. There are billions of dollars in pork—unnecessary highway demonstration projects, courthouses, and other Federal buildings—that could have been cut instead of these critical investments. Indeed, the Senate bill made such cuts in order to maintain productive investments, but the House-Senate conference rejected those cuts.

For example, H.R. 1158 would deprive 15,000 young adults of the opportunity to serve their communities as AmeriCorps members.

It would deprive 2,000 schools in 47 States of funds to train teachers and devise comprehensive reforms to boost academic standards.

It would reduce or eliminate antiviolence and drug prevention programs serving nearly 20 million students.

It would prevent the creation and expansion of hundreds of community development banks and financial institutions that would spur job growth and leverage billions of dollars of capital in distressed communities across the country.

It would seriously hamper the ability of States to maintain clean drinking water, thus jeopardizing the health of residents.

In the end, the Congress chose courthouses over education, pork barrel highway projects over national service, Government travel over clean water.

At my instruction, the Administration has provided alternatives to the
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The SPEAKER pro tempore. The Speaker pro tempore. The objections of the President will be spread at large upon the journal, and the veto message and the bill will be printed as a House document.

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the message of the President, together with the accompanying bill, be referred to the Committee on Appropriations.

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

Mr. OBEY. Reserving the right to object, Mr. Speaker, I do not intend to object, but I would simply use this reservation to ask the distinguished gentleman from Louisiana what the intention of the committee would be with respect to the disposition of the President's veto message.

Do we intend to take this up for a vote or, if you do not, do you intend that there would be a new bill? If so, what do you think the timing would be and what would be your intention with respect to trying to work out a compromise accommodation?

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

Mr. OBEY. Yield to the gentleman from Louisiana?

Mr. LIVINGSTON. Mr. Speaker, I am making this unanimous consent request to refer the veto message of the President on H.R. 1158 to the Committee on Appropriations so that, basically, we can terminate debate on this bill and get it behind us.

Frankly, sending the bill to the committee, it will help us clear the air so we can see if there might be a way we can reach an agreement on a different approach that will satisfy the President. I am not proceeding further on H.R. 1158. I do not believe that the votes are present to override the veto. I am disappointed that we have reached this point because I believe it is a good bill. Frankly, I wish the President had signed it. I think he would have been better served had he done so. But he has decided to veto it.

Now, we need to spend our time productively on fiscal year 1996 appropriations bills, not by continuing to argue about the merits and faults of this bill. So I would hope that the gentleman would not object and that we can send this message to committee, and we can go ahead and confer with the representatives of the White House in hopes that we might come up with an alternative agreement.

Mr. OBEY. Continuing my reservation of objection, Mr. Speaker, I would simply say that I do not necessarily share the gentleman's judgment about the wisdom of the President's veto. I think under the circumstances it was correct. But I do hope that we will be able to get together and work out a rational compromise so that we can proceed to the regular appropriations process without too much delay intervening.

Mr. LIVINGSTON. Mr. Speaker, if the gentleman will continue to yield, the gentleman has summarized my own feelings in that the sooner we get to a final settlement on this matter, the better. Every day that goes by, the American taxpayer loses some $25 million in savings. That is one estimate that I have seen. The fact is that the bureaucracy continues to spend money. And if we are going to reap anything near the $92 billion in savings that this bill gave us, we need to reach a conclusion, reach an agreement with the White House as expeditiously as possible.

But we would expect that the leadership of both sides of the aisle in the House would work with both sides of the aisle on the other side of this Congress and work in turn with the Senate and the White House to develop a new bill, hopefully within the next few days.

Mr. OBEY. Mr. Speaker, I thank the gentleman. I would simply say that I hope that next time around, we can find reductions that do not in fact attack programs for seniors and children in order to provide tax increases for very high income people that we cannot afford under these circumstances.

Mr. LIVINGSTON. The gentleman's characterization of the bill is not my own. I would only say that when one attempts to downside Government, nobody is going to be completely satisfied, but of course the purpose in referring this message to committee and then developing another bill is to come up with a compromise which is satisfactory to a majority of the House, a majority of the Senate, and one that will gain the President's signature, and doing all that will take compromise.

Mr. OBEY. Mr. Speaker, I hope in any bill that can be produced, we can protect the Brewster amendment.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legible days within which to revise and extend their remarks on the veto message of the President to H.R. 1158, and that I might include tabular and extraneous material.

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

There was no objection.

CLEANER WATER

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute, to revise and extend her remarks, and to include extraneous matter.)

Mrs. SEASTRAND. Mr. Speaker, last week the Santa Maria Times, a local newspaper in my district on the central coast of California, let the Sun shine on some of the arguments big government groups and the Clinton administration had made against our clean
The federal revolving loan fund to help local and bridge repair, police, courts and prisons. Services and economic development, road increased demands for neglected children's services. These are the same counties and municipalities that are stretched thin meeting increased demands for neglected children's services. Economic development, road and bridge repair, police, courts and prisons. Nothing is gained by misleading that sources are infinite for any of these priorities, but they are publically understood.

Admirably, the House bill nearly doubles the EPA's pollution standard for water bodies. Yet whenever anyone proposes actually loosening any particular federal dictate, the Administration decries "regulatory overkill." Its touted blueprint for "reinventing government" prescribes a periodic weeding out of cumulative, obsolete, inconsistent and unnecessary regulations. Yet whenever one proposes actually loosening any particular federal dictate, the Administration decries "regulatory overkill." Its touted blueprint for "reinventing government" prescribes a periodic weeding out of cumulative, obsolete, inconsistent and unnecessary regulations.

At a propaganda event staged in Washington, D.C.'s Rock Creek Park, Bill Clinton caricatured the bill as written by "the lobbyists who represent the polluters." The bill's effect, the President said, would be to put "poisons" in the water our children drink.

It is hard—to make that impossible—to believe that the National Governors Association, which the President once headed, the National League of Cities, the U.S. Conference of Mayors, and the Association of Metropolitan Sewerage Agencies, all endorse this legislation. Let us finish with the hard rhetoric and continue with clean water for our local communities.

Mr. Speaker, I include for the Record the article of June 1, 1995, in the Santa Maria Times:

[From the Maria Times, June 1, 1995]

DIRTY FIGHT, CLEAN WATER

When curtailing small business and voters frustrated by government, the Clinton administration decries "regulatory overkill." Its touted blueprint for "reinventing government" prescribes a periodic weeding out of cumulative, obsolete, inconsistent and unnecessary regulations. Yet whenever one proposes actually loosening any particular federal dictate, the Administration decries "regulatory overkill." Its touted blueprint for "reinventing government" prescribes a periodic weeding out of cumulative, obsolete, inconsistent and unnecessary regulations.

Yet, wherever one proposes actually loosening any particular federal dictate, the Administration decries "regulatory overkill." Its touted blueprint for "reinventing government" prescribes a periodic weeding out of cumulative, obsolete, inconsistent and unnecessary regulations.
from adding qualifications. But the fact, as the dissent points out, is that the Constitution is silent on the matter. And the 10th amendment could not be more clear: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The plain language of the Constitution says that unless the Constitution prohibits states from adding qualifications about who can vote in an election, they have the right to do so. Whether a particular qualification, such as not having served more than three terms in the U.S. House, is a good idea or not is irrelevant.

If one accepts the majority opinion, then all other state qualifications are unconstitutional. These would include requirements that Congressman must live in the district that they represent, or that they not be a convicted murderer. Justice Thomas points out the absurdity of these requirements that allow Congressmen to serve more than three terms. The dissent could argue that the current congressional campaign finance system disfavors challenge candidates, and thus is unconstitutional. These would include requirements that Congressmen must live in the district that they represent, or that they not be a convicted murderer. Justice Thomas points out the absurdity of these requirements that allow Congressmen to serve more than three terms. The dissent could argue that the current congressional campaign finance system disfavors challenge candidates, and thus is unconstitutional.

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extentions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. FIELDS] is recognized for 5 minutes.

[Mr. FIELDS addressed the House. His remarks will appear hereafter in the Extentions of Remarks.]

IMMIGRATION LAW ADVERSELY IMPACTED IN FOREIGN AID BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Madam Speaker, I take the floor to talk about a very serious promise that I think has been broken. Early on, we heard a lot of people talking about how wonderful it was that we were going to have open rules, open rules when we discussed issues in this Congress, and everybody said, oh, that’s great, and finally we are going to be able to discuss everything fully and so forth.

Well, next week we are going to be bringing the Armed Services Committee bill to the floor, and I know it is now called the National Security Committee, and that bill comes to the floor.

I have served on that committee for 22 years, and we have always brought it to the floor under an open rule. I hear this time it is going to be closed. They are going to narrow it down and it is going to be closed.

Today we just ended the foreign affairs bill that has been on the floor. We used to call it foreign aid. Now it has got some other fancy title. It is basically foreign aid. But let me tell you, it is under a very narrow, narrow, narrow rule in which many of us are not going to be able to discuss some very critical issues in there.

The issue that I wanted to talk about, and if we do not get to discuss this with an amendment, I hope people are talking about this because this is an integral part of the Constitution. We are saying that if a person does not believe in the draft, you cannot emigrate to the United States unless you prove that that law, the laws of the land, are being discriminated in how they are applied against you. The discriminatory application against you because of your beliefs, and, therefore, you are not being treated equally.

Let’s take it into some neutral area that many people won’t get as impassioned about. Let’s talk about conscription. If a person lives in a country that has universal conscription and you are upset about conscription and do not believe in the draft, you cannot emigrate to the United States unless you prove that there is a draft in your country and you are living in a country where there is a draft, so, therefore, you have the right to come here.

You could come to the United States if you had been out leading the movement against the draft and because of that you are not going to be treated equally. Right now the immigration law says you cannot emigrate to the United States unless you prove that that law, the laws of the land, are being discriminated in how they are applied against you. The discriminatory application against you because of your beliefs, and, therefore, you are not being treated equally.

I am committed to term limits, and have directed the House Clerk to take my name off the congressional roll after six terms. I believe a majority of Americans now realize that our government is going to be better led by a citizen legislature than by career politicians. The court decision means that neither Congress nor the States can impose term limits by statute. Unless the decision is overturned, there must be a constitutional amendment to allow for term limits. While term limits supporters are often divided on the exact constitutional language for term limits, I expect them to agree on a form which will be able to gather the necessary two-thirds vote. Despite having a majority in the House in favor of term limits, the vote was 13 short of passing a constitutional amendment in March. Should the people continue to pressure the Congress a constitutional amendment would become law.

Another option is the use of Article 5 to call for a constitutional convention. While it is true that all 27 constitutional amendments have come through the Congress, mounting a drive for a constitutional convention placing pressure on Congress to pass a term limit amendment and would keep the movement on the front burner in each of the States.

I believe strongly that the citizens of each of our 50 States have the right to choose how to govern themselves. The people of any State should be able to enact and enforce qualifications for their representatives. Term limits address the broader issue of limiting the power of a career Leviathan government. As George Washington wrote during the general debate on the ratifying of the Constitution in 1788: "Nothing so strongly impels a man to regard the interests of his constituents as the certainty of returning to the general mass of the people from whence he was taken." Congress must become a perpetual body. It must be made up of citizen legislators, who, in the words of Thomas Jefferson, "might have in idea that they were at a certain period to return into the mass of people and become the governed instead of the governors." Term limits will accomplish this and States deserve to have their 10th amendment rights be recognized.
body of case law that has grown up in this area we are apt to do very serious damage if we let this bill go through without dealing with this issue and trying to educate Members with this issue.

The problem that I have is I am not on the committee so I do not know how I get recognized. There is a whole hour and 45 minutes left with any number of Members on the committee that have not even had their amendments recognized. And when the hour and 45 minutes go by, the hammer comes down, that is, vote on the bill, it is out of here.

I just am very, very shocked that we have so soon forgotten our pledge to have open rules, and I think in the area of foreign affairs we have had open rules every time I remember. I know the distinguished gentleman from Maryland [Mr. HOYER] has a very critical amendment that he would like to offer to that is on the front pages of every newspaper. I probably disagree with him on how I would vote, but I think he has the right to offer it, and I just find it very surprising that we are not going to permit that, and in an hour and 45 minutes tomorrow that is it, we are done.

Maybe on this globe we may have all sorts of global issues discussion, there may be all sorts of different things that were not dealt with; they fall off the table and we adjourn.

I just think the American people should be more than aware that there is a lot of talk about open rules, but I have not seen one in a long time.

I am going to ask the gentleman from Maryland, has he seen any open rules wandering around this Chamber anywhere?

Mr. HOYER. I have not seen any open rules, if the gentlewoman will yield, that really give open debate, and that is the issue. The gentlewoman mentions the 6 hours of debate or the hour and 45 minutes. The tragedy for the American public and for the House of Representatives is that of that hour and 45 minutes, 45 minutes to an hour may be taken up in simply voting, no and 45 minutes, 45 minutes to an hour is the issue. The gentlewoman mentions the 6 hours of debate or the hour is the issue. The gentlewoman mentions the 6 hours of debate or the hour.

Extensions of Remarks.

Mr. FOX of Pennsylvania. Madam Speaker, as was aptly described by Carl B. Feldbaum, president of the BioTech Industry Organization, “Life-saving new drugs do take too long to reach the people who need them.”

From my district in Montgomery County, PA, I have heard many a compelling story from constituents with cancer, Lou Gehrig’s Disease, epilepsy, or AIDS who speak of the difficulties in accessing the medicines they need because the agencies in our country is so prolonged and, in effect, they have to turn to other countries where the products are available.

I don’t get it wrong. The Food and Drug Administration serves a valuable purpose in maintaining high safety and efficacy standards. However, it is important to note that the FDA’s actions directly affect the lives of patients and the ability of physicians to provide state-of-the-art care for their patients. In addition, it regulates businesses that produce 25 percent of America’s gross national product, so the Agency’s actions also impact our country’s economic well-being. The pharmaceutical industry is an excellent example. The United States leads the world in the development of new drugs yet in many cases, drugs are available overseas first. The United States is far and away the world leader in biotechnology, but many biotechnology firms are moving clinical trials overseas because they are imposed on them by the FDA. These are very troubling trends that do not bode well for the economic future of the United States, or for the economic future of Pennsylvania.

In my 13th Congressional District of Pennsylvania alone, we have 10 facilities of 4 major pharmaceutical companies. Together, these facilities employ more than 11,000 people. I would not want to see any of these constituents lose their jobs because FDA regulation is compelling companies to conduct some of their work overseas.

Americans want safe medicines. They want a strong FDA that will keep unsafe products off the market. But, I believe they want to see more emphasis on the value of giving patients quicker access to safe and effective new medicines. That is why, today, I am introducing the Life Extending and Life Saving Drug Act. We need to take action as soon as possible. The benefit of this Nation’s patients, physicians, and our emerging industry. I look forward to working with my colleagues to act quickly on this critical piece of legislation.

THE TIMBER AMENDMENT IN THE RESCISSIONS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

Mr. TAYLOR of North Carolina. Madam Speaker, today the President of the United States vetoed the rescission bill that had been worked on for many weeks in this Congress by the House and the Senate and then in conference, and in that rescission package were many things that I think are important to the Nation, but one thing that was very important for forest health and timber salvage, the timber amendment.

I have several problems in the national forests. First of all there have been billions of board feet, there are somewhere between 20 and 30 billion board feet that are dead and dying in the forest that need to be taken out. The dead trees in the West are accumulating so fast that forest fires are not only burning along the ground as they once did, they are now burning to high degrees because of the buildup of dead and dying timber that has already accumulated in the area, in fact, temperatures of over 2000 degrees. They bake the land, charcoal runs over in the streams, it makes it almost impossible to come back and reforest in those areas. Many thousands of acres have been blown down through wind damage. These are also hard to reforest, to return to forest health.

Insects and disease in our national forests are not only consuming parts of our national forests but they are moving over into private lands. Most silviculturists recognize the only way to stop the insect-infested movements is to destroy the tree, take out the host tree, either burn it or use it if you can get it to early enough, remove it so that there is not the location for the insects to move on year after year.

We know all of this because we have over 100 years of silviculture that is at our disposal, both from our best universities that have taught forestry going back almost 100 years when the first school of forestry started in this country. We know it from numerous experimental stations that we have private, Federal, and State and at university centers. We know it because silviculture is a science that is taught and studied and is probably one of the best informed sciences that we have because we have been studying for over 100 years in this area now.

With all of this accumulated knowledge we allow special interest groups in Washington to take in hundreds of millions of dollars, scaring people with misinformation, bad science, and pandering to politicians. The President has bought their message, hook, line, and sinker, because according to a Wall Street Journal story about the polling of the environmental organizations in Washington, we find that over 99 percent voted for Mr. Clinton, and they are primarily far left. The report also showed that they are contrary in most of the things they report to the actual science that we know in these areas.
CONSTITUENTS INTERESTED IN A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, during the 10 days that we were home for the break, the many constituents that I met with had concerns on a lot of different subjects, budget matters, they are very concerned about us balancing the budget. I said many, many times over the last 10 days that the third largest expenditure of our national budget is interest on the debt. And in 2 years that interest on the debt will exceed all military spending, all of the expenditures for the Coast Guard, the Army, the Navy, the Marines, and the Air Force and so forth. We will pay more money, more interest money to the bond holders on the national debt than we will for all of the armed services. I think this is absolutely atrocious, and found that most constituents agree. They want us, they are screaming for us to balance this budget. They realize there will be some reductions in spending, some reductions in projections, and some elimination in consolidations of various programs, and yet what the folks of the First District of Georgia are saying is if you are going to balance the budget and you are going to do it across the board, that is fine. Do not do it on the backs of the veterans, do not do it on the backs of the elderly, do not do it on the backs of children, do it across the board.

When I explain to them the Kasich budget proposal, in most cases people said that is a balanced approach, that is the way to handle this tremendous problem, because as we look at spending over a trillion dollars more than we take in, as we look at the projection in the next 7 years, people understand that in many cases we are not talking about budget cuts but we are talking about reducing the projected increase.

And yet people want that budget balanced. They are also interested in this tax relief. It is a shame that the United States other body on the other side of the hall has not quite caught on that the American people are sick and tired of paying taxes.

The average middle-class family paid 2 percent tax burden in the 1950's as a percentage of Federal income tax. In the 1970's, that 2 percent went to 16 percent. In the 1990's, 20 percent.

The middle-class families of America today are paying 40 to 50 percent of their income in taxes, and they are sick and tired of it. They cannot afford it.

And most families, both spouses are working simply because of the economic necessity of paying taxes. It does not get them ahead, it just keeps them standing still and breaking even.

The middle class needs relief. The tax relief bill passed by the House actually benefitted 75 percent of the American people in the middle-class category.

We have got to help the middle class, and our package does that. But more importantly than that, giving the people the resources to help themselves, not confiscating it from them in the first place, allows them to buy more hamburgers, more CD players, more cars, more houses. When they do that, businesses expand. They create jobs. New workers create new revenue. History shows, and I went back to 1966, the Treasury Department numbers, and looked at it. Our revenues have increased every time taxes were low; the revenues to the national budget actually increased.

And what is so important about that is that our projection is that if the economy grows over 1 percent more than the current projection, then in the next 7 years we will have another $640 billion of revenue added to the current budget, and if that is the case, it will be a lot easier to balance the budget without further reductions and caps and so forth.

Although many people are saying, "Do not worry about those cuts," because one of the major objectives we want out of the 104th Congress is to reduce the size of government. People are tired of government micromanagement. They are tired of Washington bureaucrats telling them how to run the show. They are saying, "We can handle our problems just fine on a local basis. Let our local nonprofits or our for-profits handle it. Let our local city councils and county commissions handle it. Let State governments do it. Take things, particularly major decision-making, out of Washington."

Another thing I found that the folks in the First District of Georgia are very concerned about is welfare reform. Simply put, they just do not want people who are able to work paid for not working. The middle-class families are out there working 40 hours, 50, 60 hours a week, breaking their back. They are tired of doing it for the benefit of a huge Washington bureaucracy and able-bodied public assistance recipients. They are tired of it.

If somebody needs a helping hand, we want to help them. But if they are just going to take a free ride, then it is time to tell them to get off the train and help start fueling the engine with the rest of us.

Mr. Speaker, I found these things over and over again, not just during the current district work break but all along as I have been in public office, that people are saying this is what we want, this is what we want out of Washington, "We want less; we want more personal freedom."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

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Mr. Lucas (at the request of Mr. Army), for today, on account of official business.

Mrs. Waldholtz (at the request of Mr. Army), for today, on account of family illness.

Mr. Wicker (at the request of Mr. Army), for today after 5:45 p.m. and on Thursday, June 8, on account of attending Base Realignment and Closure Commission hearings concerning his district.

Mr. Montgomery (at the request of Mr. Gephardt), for today after 5 p.m. and the balance of the week, on account of official business.

Ms. Lofgren (at the request of Mr. Gephardt), for today and the balance of the week, on account of illness.

Mr. Klecza (at the request of Mr. Gephardt), for today after 8 p.m. and the balance of the week, on account of personal family business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Schroeder) to revise and extend their remarks and include extraneous material:)

Mr. Lipinski, for 5 minutes, today.

Mr. Owens, for 5 minutes, today.

Ms. Kaptur, for 5 minutes, today.

Mrs. Schroeder, for 5 minutes, today.

(The following Members (at the request of Mr. Chrysler) to revise and extend their remarks and include extraneous material:)

Mr. Smith of Michigan, for 5 minutes each day, today and June 8.

Mr. Fields of Texas, for 5 minutes, today.

Mr. Riggs, for 5 minutes each day, today and June 8.

Mr. Fox of Pennsylvania, for 5 minutes, today.

Mr. Emerson, for 5 minutes, June 8.

Mr. Taylor of North Carolina, for 5 minutes, today.

Mr. Tiahrt, for 5 minutes, June 13.

Mr. Kingston, for 5 minutes, today.

Mr. Hunter, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Schroeder) and to include extraneous material:)

Mr. Lipinski.

Mr. Wilson.

Mrs. Mink of Hawaii in two instances.

Mr. Gejdenson in two instances.

Mr. Berman.

Mr. Fattah in two instances.

Mr. Martinez.

Mr. Dixon.

Mr. Pallone.

Mr. Mineta.

Mr. Foglett.

Mr. Ward.

Mr. Miller of California.

Mr. Skelton in three instances.

Mr. Gordon.

Mr. Rahall.

Mr. Stark.

Mr. Hamilton in four instances.

Mr. Cardin.

Mr. Torres.

Mr. Moakley.

Mr. Visco.

Mrs. Maloney in two instances.

Mr. Pomeroy.

Mr. Underwood.

Mr. Dingell.

Mr. Bonior.

Mr. Olver.

Mr. Wyden.

Ms. Norton.

Ms. Slaughter.

Mr. Tejeda.

Mr. Gephardt.

Mr. Moakley.

Mr. McCarthy.

Mr. Lewis of California in two instances.

Mr. Crane.

Mr. Smith of New Jersey.

Mr. Shuster in two instances.

Mr. Dornan.

(The following Members (at the request of Mr. Taylor of North Carolina) and to include extraneous matter:)

Mr. Matsui.

Mr. Payne of New Jersey.

Mr. Andrews.

Mr. Saxton.

Mr. Bentsen.

Mr. Hobson.

Mr. Meehan.

Ms. Eddie Bernice Johnson of Texas.

Mr. Brown of Ohio.

Mr. Wyden.

Mr. Berman.

Mrs. Johnson of Connecticut.

Ms. Furse.

Mr. Miller of California.

Mr. Gordon.

Mr. Cardin.

BILL PRESENTED TO THE PRESIDENT

Mr. Thomas, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill of the House of the following title:

On June 6, 1995:

H.R. 1159. An act making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

971. A letter from the Secretary, Department of Agriculture, transmitting the annual report on foreign investment in U.S. agricultural land through December 31, 1994, pursuant to 7 U.S.C. 3504, to the Committee on Agriculture.

972. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b), to the Committee on Appropriations.

973. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notification that the Department intends to offer for lease four naval vessels to the Government of Mexico, pursuant to 10 U.S.C. 7307(b)(2), to the Committee on National Security.

974. A letter from the Director, Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense, transmitting a report on the progress of the Department of Defense toward the achievement of the goal to award 5 percent of DOD contracts to small disadvantaged businesses, historically black colleges and universities and minority institutions, pursuant to 10 U.S.C. 3232(b), to the Committee on National Security.

975. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Philippines, pursuant to 12 U.S.C. 636b(3)(l), to the Committee on Banking and Financial Services.

976. A letter from the Secretary of Agriculture, transmitting the annual report on the Youth Conservation Corps Program in the Department for fiscal year 1994, pursuant to 16 U.S.C. 1705, to the Committee on Economic and Educational Opportunities.

977. A letter from the Secretary of Education, transmitting a follow-up report on the recommendations of the National Advisory Council on Educational Research and Improvement's Presidential Advisory Committee, as amended; to the Committee on Economic and Educational Opportunities.

978. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1993, describing the activities and accomplishments of programs for persons with developmental disabilities, pursuant to 42 U.S.C. 6006(c); to the Committee on Commerce.

979. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to title VIII of the Foreign Relations Authorization Act...
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for fiscal year 1990-91, as amended, pursuant to Public Law 102-236, section 583(b)(2) (108 Stat. 489); to the Committee on International Relations.

980. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination P-94-61, pursuant to 22 U.S.C. 2432(a); to the Committee on International Relations.

981. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination that the United States is not an official beneficiary of the portion of the Fund for the Protection of Human Rights in Somalia, pursuant to 22 U.S.C. 2370(c); to the Committee on International Relations.

982. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination that the United States is not an official beneficiary of the portion of the Fund for the Protection of Human Rights in Somalia, pursuant to 22 U.S.C. 2370(c); to the Committee on International Relations.

983. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(b); to the Committee on International Relations.

984. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(b); to the Committee on International Relations.

985. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(b); to the Committee on International Relations.

986. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the removal of items from the U.S. munitions list, pursuant to 22 U.S.C. 2778(b); to the Committee on International Relations.

987. A letter from the Secretary, Department of Energy, transmitting the 18th annual report of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976; pursuant to 15 U.S.C. 2513 to the Committee on Science.

988. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the transfer of property to the Republic of Panama under the Panama Canal Treaty, 1977 and related agreements, pursuant to 22 U.S.C. 3794(b); jointly, to the Committees on International Relations and National Security.

989. A letter from the Secretary of Health and Human Services, transmitting a report on the initial estimate of the applicable percentage increase in inpatient hospital payment rates for fiscal year 1996; pursuant to Public Law 101-508, section 4002(g)(1)(B) (104 Stat. 1388-36); jointly, to the Committee on Committees on Ways and Means and Commerce.

1000. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the first in a series of annual reports required by the Board of Governors of the Federal Reserve System, pursuant to Public Law 104-142, section 8(a) (104 Stat. 976); jointly, to the Committees on Agriculture, Banking and Financial Services, and Commerce.

1001. A letter from the Chairman, Securities and Exchange Commission, transmitting the Commission's report on intermarket cooperation, pursuant to Public Law 101-432, section 8(a) (104 Stat. 976); jointly, to the Committees on Commerce, Banking and Financial Services, and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. S. 523. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity at Imperial Dam and to provide a cost-effective manner, and for other purposes (Rept. 104-132). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 260. A bill to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, and for other purposes (Rept. 104-133). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1070. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, California, as "Trinity Lake" (Rept. 104-134). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MINETA (for himself, Mr. LIVESTON, Mr. SAM J. JOHNSON, Mr. SKELTON, Mr. FAYES, Mr. HOYER, Mr. STUPAK, Mr. LIGHTFOOT, and Mrs. CUBIN):

H.R. 1753. A bill to require the Secretary of the Treasury to mint coins in commemoration of the subjection of the Republic of Panama to the United States.

By Mr. BROWN of Ohio (for himself and Mr. LATORETTE):

H.R. 1754. A bill to amend title XVIII of the Social Security Act to permit a supplier of durable medical equipment under part B of the Medicare Program to furnish an upgraded item of such equipment to a Medicare beneficiary, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE (for himself, Mr. MCHALE, Mr. SHAYS, Mr. DEAL of Georgia, Mrs. WALDHOLTZ, Mr. KLAG, Mr. BARTLETT of Georgia, Mr. MINGE, Mr. DICEY, Mr. MEEHAN, Mr. ZIMMER, Mr. STENHOLM, Mr. ROBERTS, Mr. HORN, Mr. BLUTE, Mr. LAUGHLIN, Mr. POSHARD, Mr. KLINDEL, Mr. KILDEE, Mr. BROWDER, Mr. LOBIONDO, Mr. PRYCE, Ms. DANNER, Mr. SALMON, Ms. LA TOURETTE, Mr. HANCOCK, Mr. FRANK of Massachusetts, Mr. BACHUS, Mr. BROWNBACK, Mr. UPTON, Mr. SOUDER, Mr. SANFORD, Mr. INGLIS of South Carolina, Mr. JACOBS, Mr. ENGLISH of Pennsylvania, Mr. FOX, Mr. HUTCHINSON, Mr. PARKER, Mrs. LINCOLN, Mrs. MORELLA, Mr. BALLENER, Ms. FURSE, Mr. LEACH, Mr. GOSL, Mr. TORKILDSEN, Mr. MINEAR, Mr. KARGIS, Mr. LAFAYETTE, Mr. KELLY, Mr. FOLEY, Mr. WHITE, Mrs. SCHROEDER, Mr. THORNBERRY, Mr. GILCHREST, Mr. SCHAFFER, Mr. BARRETT of Nebraska, Mr. WAMP, Mr. DORNAN, and Mr. BAKER of Louisiana):

H.R. 1755. A bill to amend title XVIII of the Social Security Act to permit a supplier of durable medical equipment under part B of the Medicare Program to furnish an upgraded item of such equipment to a Medicare beneficiary, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRYSLER (for himself, Mr. BROWNBACK, Mr. KASICH, Mr. LIVESTON, Mr. SOLOMON, Mr. CRANE, Mr. BOEHNER, Mr. PAxon, Mr. PARKER, Mr. METZ, Mr. CHENOWETH, Mr. NEUMANN, Mr. SCARBOROUGH, Mrs. MYRICK, Mr.
H.R. 1756. A bill to abolish the Department of Commerce; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, Banking and Financial Services, International Relations, National Security, Agriculture, Ways and Means, and Oversight, the Judiciary, Science, and Resources, the Committee on the Judiciary.

H.R. 1757. A bill to amend title 26, United States Code, to provide for the establishment of a modernized and simplified tax system; to the Committee on Ways and Means.

H.R. 1758. A bill to provide adequate funds for a mid-Atlantic coast offshore oil and gas lease sale; to the Committee on Natural Resources.

H.R. 1759. A bill to ensure that any person who served aboard the vessel H.T.M. Queen Mary and who was awarded the American Theater Campaign Ribbon for service in World War II is able to obtain a replacement for that ribbon if it has been lost, destroyed, or rendered unfit for use; to the Committee on National Security.

H.R. 1760. A bill to provide a military survivor annuity for widows of certain retirement-eligible reserve members of the uniformed services who died during the period between the establishment of the military survivor benefit plan and the creation of the reserve-component annuity under that plan; to the Committee on National Security.

H.R. 1761. A bill to eliminate the Medicare peer review system; to the Committee on Ways and Means, and in addition to the Committee on Armed Services.

H.R. 1762. A bill to amend the Internal Revenue Code of 1986 to deny Federal tax return information to States which impose an income tax on some form of income tax on individuals who are neither residents nor domiciliaries of the State; to the Committee on Ways and Means.

H.R. 1763. A bill to require the review of all Federal departments and agencies and their programs and for other purposes; to the Committee on Government Reform and Oversight.

H.R. 1764. A bill to amend title 26, United States Code, to provide for the protection of civil liberties, and for other purposes; to the Committee on the Judiciary.

H.R. 1765. A bill to amend the Immigration and Nationality Act to deny visas and admission to aliens who have been unlawfully present in the United States for more than 1 year until they have been outside the United States for 10 years and to repeal the provision allowing adjustment of status of unlawful aliens in the United States; to the Committee on the Judiciary.

H.R. 1766. A bill to provide for the establishment of a modernized and simplified tax system for Medicare and Medicaid, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1767. A bill to provide an extension of savings associations into banks, and for other purposes; to the Committee on Financial Services.

H.R. 1768. A bill to provide for a mid-Atlantic coast offshore oil and gas lease sale; to the Committee on Natural Resources.

H.R. 1769. A bill to require the Secretary of the Treasury to mint coins in commemoration of Abraham Lincoln and the Gettysburg National Military Park; to the Committee on the Judiciary.

H.R. 1770. A bill to amend the Office of Federal Procurement Policy Act to improve the acquisition workforce of civilian Federal agencies; to the Committee on Government Reform and Oversight.

H.R. 1771. A bill to amend the requirements of the Federal Food, Drug, and Cosmetic Act for the labeling of food for pesticides and for other purposes; to the Committee on Commerce.

H.R. 1772. A bill to authorize the Secretary of the Interior to acquire certain interests in the Waimea Marsh for the expansion in the Oahu National Wildlife Refuge Complex; to the Committee on Resources.

H.R. 1773. A bill to amend the United States Housing Act of 1937 to provide for more expeditious evictions from public housing, and for other purposes; to the Committee on Banking and Financial Services.

H.R. 1774. A bill to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; to the Committee on Resources.

H.R. 1775. A bill to amend the Internal Revenue Code of 1986 to provide for the restoration of the prior law formula for the inclusion of Social Security and railroad retirement benefits; to the Committee on Ways and Means.

H.R. 1776. A bill to provide adequate funds for a mid-Atlantic coast offshore oil and gas lease sale; to the Committee on Natural Resources.

H.R. 1777. A bill to amend title 5, United States Code, to provide that service performed by air traffic second-level supervisors and managers be made creditable for retirement purposes; to the Committee on Government Reform and Oversight.

H.R. 1778. A bill to prohibit the Department of the Interior from expending any funds for a mid-Atlantic coast offshore oil and gas lease sale; to the Committee on Resources.

H.R. 1779. A bill relating to the tariff treatment of certain plastic flat goods; to the Committee on Ways and Means.

H.R. 1780. A bill to amend the Internal Revenue Code of 1986 to impose a flat tax only on...
CONGRESSIONAL RECORD — HOUSE

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H.R. 820. Mrs. CLAYTON, Mr. TAYLOR of North Carolina, Mr. SKAGGS, Mr. DEAL of Georgia, Mr. HINCHEY, Mr. LATOURRETT, Mr. BROWDER, Mr. ENGLISH of Pennsylvania, and Mr. TODD.

H.R. 585. Mr. VENTO, Mr. NEHERCUT, Mr. WILSON, Mr. MENENDEZ, Mr. PASTOR, Mr. JOHNSON of South Dakota, Mr. TRAFICANT, Mr. WOODS, Mr. NEAL of Massachusetts, and Mr. CONDIT.

H.R. 960. Mr. PETRI, Mr. FUNDERBURK, Mr. HOKE, Mr. MARTINI, Mr. GOODLATTE, Mr. HOEKSTRA, Mr. CHATOBI, Mr. GILMAN, Mr. EVERETT, Mr. BUNNING of Kentucky, Mr. LATHAM, Mr. SANTELLE, Mr. SCALISE, Mr. MARR, Mr. SCHAEFER, Mr. WAMP, Mr. LOBIONDO, Mr. FRISA, Mr. HOBSON, and Mr. DIAZ-BALART.

H.R. 881. Mr. MENENDEZ.

H.R. 862. Mr. PASTOR and Mr. SOLONOM.

H.R. 927. Mr. SALMON and Mr. SANFORD.

H.R. 957. Mr. DEAURO.

H.R. 972. Mr. HOEKSTRA.

H.R. 994. Mr. CUNNINGHAM, Mr. FROST, Mr. INGLIS of South Carolina, and Mr. RS.

H.R. 995. Mr. SOUER.

H.R. 996. Mr. SOUER.

H.R. 997. Mr. CRAMER, Mr. HUTCHINSON, Mr. SOLONOM, Mr. SOUER, and Mr. YOUNG of Alaska.

H.R. 1003. Mr. HALL of Ohio, Mr. DUNN of Washington, Mr. LATHAM, Mr. SPRATT, and Mr. REYNOLDS.

H.R. 1010. Mr. WYDEN, Mr. REYNOLDS, and Mr. JOHNSON of Florida.

H.R. 1020. Mr. GALLEGLY, Mr. POMEROY, Mrs. LINCOLN, Mr. ACKERMAN, Mr. GOSS, Mr. MCHUGH, Mr. CHAMBLISS, Mr. BOUCHER, Mr. HASTINGS of Florida, Mr. MARTIN, and Mr. COLE.

H.R. 1032. Mr. BONO, Mr. PAYNE of New Jersey, Mr. BRYANT of Texas, Ms. DEAURO, and Mr. BEVIL.

H.R. 1036. Mr. DOLITTLE.

H.R. 1046. Mrs. MEEK of Florida, Mr. FRAZER, Mr. DELLUMS, and Mr. LIPINSKI.

H.R. 1051. Mr. JEFFERSON, Mr. SKEEN, Mr. FARR, Mr. SABO, and Mr. SMITH of Texas.

H.R. 1066. Mr. REYNOLDS.

H.R. 1073. Mr. MONTGOMERY, Mr. BORSKI, Mr. SEARS, Mr. STUPAK, and Mr. MARKY.

H.R. 1074. Mr. MONTGOMERY, Mr. NORTON, and Mr. STUPAK.

H.R. 1078. Ms. MALONEY, Ms. RIVERS, and Mr. DELLUMS.

H.R. 1090. Mr. TAYLOR of North Carolina, Mr. FRAZER, and Mr. KILDEE.

H.R. 1111. Mr. HOBS, Mr. WALSH, Ms. SMITH of Washington, Mr. MARTINI, and Mr. GILLUM.

H.R. 1161. Mr. MCCOLLUM.

H.R. 1162. Mr. TAMER and Mr. MARTINI.

H.R. 1175. Mr. SAXTON, Mr. MILLER of California, Mr. STUDDS, Mrs. MORELLA, Mr. MCARTY, Mr. GILLUM, Mr. WOODS, Mr. LOF services, Mr. REED, Mr. JOHNSTON of Florida, Mr. MCDERMOTT, Mr. GENE GREEN of Texas, Mr. TORKILDSEN, Mr. PICKETT, Mrs. HAWAI, Mr. GENE GREEN of Texas, Mr. FRANK of Massachusetts, Mr. MALFA; Mr. JONES, Mr. PALLONE, Mr. MARKY, Mr. KENNEDY of Rhode Island, Mr. HINCH, Mr. QUILL, Mr. KENNEDY of Massachusetts, Mr. METCALF, Mr. ROMERO-BARCELO, Mr. PELSO, Mr. FRAZER, Mr. LOBIONDO, Mr. GEJENSON, Mr. BATEN, Mr. KLUG, Mr. BILBAY, Mrs. FOWLER, Mr. HILLIARD, Ms. SMART, and Mr. CAIN.

H.R. 1210. Mr. GUTKNECHT and Mr. SOUER.

H.R. 1221. Mr. EVANS, Mr. SERRANO, Mr. HASTINGS of Florida, Mr. FROST, Mr. HOLDEN, and Mr. DIAZ-BALART.

H.R. 1242. Mr. TAYLOR of North Carolina, Mr. CREMEANS, and Mr. NUSLE.

MEMORIALS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:
H.R. 1256 Mr. Martini.
H.R. 1274 Mr. Meehan, Mr. LoBiondo, Mr. Evans, and Mr. Radanovich.
H.R. 1298 Mr. Hamilton.
H.R. 1291 Mr. Baker of Louisiana.
H.R. 1294 Mr. Ganske.
H.R. 1298 Mr. Dooley, Mr. Condit, and Mr. Pombo.
H.R. 1299 Mr. Matsui and Mr. Serrano.
H.R. 1362 Mr. Shadegg, Mr. Petri, Mr. Davis, Mr. Combest, Mr. Hutchinson, Mr. Ney, Mr. Mica, Mr. Stockman, Mr. Stenholm, and Mr. Roberts.
H.R. 1406 Mr. Borski and Mr. Coyle.
H.R. 1444 Ms. Woolsey, Mr. Torres, Mr. DeFazio, Ms. Slaughter, and Mr. Bellenson.
H.R. 1460 Mr. Engel.
H.R. 1493 Mr. Wolf, Mr. McCollum, Mr. Doolittle, Mr. Bateman, and Mr. Pickett.
H.R. 1504 Mr. Bentsen, Mr. Martinez, Mr. Baker of Louisiana, and Mr. McCollum.
H.R. 1504 Mr. Abercrombie, Mr. Condit, Mr. Pete Geren of Texas, and Mr. Filner.
H.R. 1514 Mr. Spratt, Mr. Stenholm, Mr. Bunning of Kentucky, Mr. Peterson of Minnesota, Mr. Hobson, Mr. Smith of New Jersey, Mr. Stearns, Mr. McCollum, Mr. Crapo, Mrs. Meyers of Kansas, Mr. Frelinghuysen, Mr. Bentsen, Mr. Fields of Texas, Mrs. Myrick, Mr. Pomroy, Mr. Chabot, and Mr. Lucas.
H.R. 1532 Mr. Burton of Indiana and Mr. Fox.
H.R. 1537 Ms. Kaptur.
H.R. 1542 Mr. Fawell.
H.R. 1560 Mr. Fattah, Mr. Lewis of Georgia, and Mr. Montgomery.
H.R. 1565 Mr. Pallone and Mr. Martinez.
H.R. 1591 Mr. Hastings of Florida and Mr. Bono.
H.R. 1594 Mr. Dornan, Mr. Baker of California, Mr. Bunning of Kentucky, and Mr. Hobson.
H.R. 1604 Mr. Shaw, Mr. Davis, Mr. Portman, Mr. LaTourette, Mr. Gunderson, and Mr. Solomon.
H.R. 1610 Mr. Boucher, Mr. Solomon, and Mrs. Morella.
H.R. 1618 Mr. Solomon, Mr. Miller of Florida, Mr. Allard, Mr. Gene Green of Texas, Mr. Bartlett of Maryland, Mr. Chabot, Mr. Inglis of South Carolina, Mr. Meehan, Mr. Ensign, and Mrs. Myrick.
H.R. 1627 Mr. Archer, Mr. Camp, Mr. Christensen, Mr. Coburn, Mr. Herger, Mr. Kaniorski, and Mr. Costello.
H.R. 1640 Mr. Hutchinson, Mr. Souder, Mr. McIntosh, Mr. Baker of Louisiana, Mr. Forbes, Mr. Shadegg, Mr. Bryant of Tennessee, and Mr. Norwood.
H.R. 1677 Mr. Tejeda, Mr. Bryant of Texas, Ms. DeLauro, Mr. Frost, and Mr. Ehrlich.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS
Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:
[Omitted from the Record of May 2, 1995]
H. Res. 123 Mr. Nethercutt.

PETITIONS, ETC.
Under clause 1 of rule XXII:
23. The SPEAKER presented a petition of the New York City Council, NY, relative to the Federal Bankruptcy Code, which was referred to the Committee on the Judiciary.

AMENDMENTS
Under clause 6 of rule XXIII, proposed amendments were submitted as follows:
H.R. 1530 Offered By: Mrs. Mink
Amendment No. 1: At the end of title III (page 153, after line 25), insert the following new section:

SEC. 396. PROVISION OF TRANSPORTATION FOR HUMANITARIAN PURPOSES IN PACIFIC RIM REGION.

(a) Authority to provide transportation—The Secretary of Defense, in such United States Code, is amended by adding at the end of the following new section:
§2643. Provision of transportation for humanitarian purposes in Pacific Rim region

"(a) Authority.—(1) Notwithstanding section 1344 of title 31, the Secretary of Defense may provide persons described in subsection (b) and equipment described in subsection (c) with transportation on a space-available basis—

"(A) to an airport or port in a country or other entity in the Pacific Rim region from an airport or port in the United States; and

"(B) to an airport or port in the United States from an airport or port in a country or other entity in the Pacific Rim region.

"(2) Transportation provided under subsection (a) shall be provided without charge.

"(b) Persons covered.—Persons eligible for transportation under this section are—

"(1) minor children residing in the Pacific Rim region who have been admitted for necessary medical treatment at a medical facility in the Pacific Rim region, but who are unable to afford the costs of transportation to the facility; and

"(2) in the case of any child described in paragraph (1), one adult attendant.

"(c) Equipment covered.—Equipment eligible for transportation under this section is limited to equipment intended for health or humanitarian use by a nonprofit organization at the ultimate destination of the equipment.

"(d) Conditions.—The Secretary may provide transportation under subsection (a) only if the Secretary determines that—

"(1) the provision of that transportation is not inconsistent with the foreign policy of the United States;

"(2) the transportation is for humanitarian purposes; and

"(3) adequate arrangements have been made with sending and receiving entities before the provision of such transportation at the location of departure and arrival.
"

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2643. Provision of transportation for humanitarian purposes in Pacific Rim region."
The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord, give us the humility to be more concerned about being on Your side than recruiting You to be on our side. Clear our minds so we can think Your thoughts. Help us to wait on You, to listen patiently for Your voice, to seek Your will through concentrated study and reflection. May discussion move us to deeper truth, and debate be the blending of varied aspects of Your revelation communicated through others. Free us of the assumption that we have an exclusive on the dispatches of Heaven, and that those who disagree with us must also be against You.

Above all, we commit this day to Your side and then the delight of being among Your people. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The President pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. STEVENS. I thank the Presiding Officer and President pro tempore. Mr. President, the leader’s time has been reserved this morning, and there will be a period for morning business until the hour of 9:45 a.m.

Following morning business, the Senate will resume consideration of S. 735, the antiterrorism bill, with Senator BIDEN to offer a habeas corpus amendment No. 1217. That amendment is limited to 30 minutes of debate. Therefore, Senators should be on notice that a rollcall vote is expected at approximately 10:15 this morning.

Following disposition of the Biden amendment, only six amendments remain in order to the antiterrorism bill. It is, therefore, the expressed hope of the majority leader to complete action on the bill early this afternoon and then begin consideration of S. 652, the telecommunications bill.

RESERVATION OF LEADER TIME

The President pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The President pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:45 a.m. Mr. STEVENS addressed the Chair. The President pro tempore. The distinguished Senator from Alaska. Mr. STEVENS. I thank the Chair. (The remarks of Mr. STEVENS pertaining to the introduction of S. 888 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. STEVENS. Mr. President, I do notify the Senate, as I said before, that there is a period for morning business at this time in which Senators may speak or introduce bills. I suggest the absence of a quorum. The PRESIDING OFFICER (Mr. DeWINE). The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

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

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

ODYSSEY OF THE MIND

Mr. HATCH. Mr. President, I rise today to congratulate the educators and parent leaders whose teams won the Utah State Odyssey of the Mind competition. The Odyssey of the Mind Association gives teams of students at each educational level an opportunity to develop creative problem-solving skills. These student teams compete in local areas, nationally and internationally. There is also an annual world championship competition. I am proud of these young people who are successful problem solvers, team workers, and creative thinkers.

I congratulate Mary Ellen Rasmussen, Robin Money, Rhonda Nilson, Karen Sanderson, Charlotte Summers, Diana and Roger DeFriez, Terry and Debbie Preece, Karen Bodily, Lynn Ottesen, Spencer Jones, and their students for their success in the Utah Odyssey of the Mind competition. I am proud of their efforts to represent their State and country in the 1995 world championship at the University of Tennessee-Knoxville. The dedication given to such programs by these parents and teachers is representative of their love for our children and their investment in the future of our country.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, there is no requirement that one has to be a rocket scientist to know that the U.S. Constitution forbids any President’s spending even a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Vol. 141 WASHINGTON, WEDNESDAY, JUNE 7, 1995 No. 92

Printed on recycled paper containing 100% post consumer waste
So when you hear a politician or an editor or a commentator declare that “Reagan ran up the Federal debt” or that “Bush ran it up,” bear in mind that the Founding Fathers, two centuries before the Reagan and Bush presidencies, were very clear that it is the constitutional duty of Congress—a duty Congress cannot escape—to control Federal spending—which they have not for the past 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,904,368,578,709.58 as of the close of business Tuesday, June 6. This outrageous debt, which will be passed on to our children and grandchildren, averages out to $36,177.07 on a per capita basis.

PROCLAMATION FOR VIRGIL “SKIP” BOWER OF KANSAS CITY

Mr. ASHCROFT. Mr. President, as the new Republican Congress attempts to put the government back into the hands of the people and bring back a sense of independence rather than dependence for so many citizens, it is important to recognize those individuals who have done their part at the community level of our society to promote responsibility in others. I am proud to recognize a Missourian from Kansas City, Mr. Virgil Bower, known to most as “Skip,” who has devoted his life to influencing others and serving as a community activist, volunteer, and role model in Missouri for over 60 years.

Mr. Bower began his volunteer service in 1934 as Scoutmaster to Boy Scout Troop 122, and continues to serve to this day. He has been in the banking business in North Kansas City since 1948, serving as a public relations representative. Throughout his career he has remained active in civic organizations. He has been publicly recognized as an outstanding citizen and community leader, having even been called a legend in the North Kansas City area.

Mr. Bower is a man of dignity and humility who has worked hard. Shortly after he graduated from high school, Mr. Bower got a job washing dishes in a cafeteria in downtown Kansas City. He saved enough money to attend college and graduated from William Jewell in 1933. He began his career as a school teacher and found gratification in influencing and motivating young people to strive for excellence. Later he became the principal of McElroy Dagg Elementary School, only to have his tenure cut short by the bombing of Pearl Harbor. Like so many young men, Mr. Bower answered the call of his country and served in World War II as an officer in the Navy.

Skip Bower has influenced many young people throughout the years, and many have followed in his footsteps, becoming community volunteers and serving in World War II, Korea, and Vietnam.

Recently, I received a letter from a man from Kansas City whose father died when he was very young. He was fortunate enough to join Boy Scout Troop 122 under Mr. Bower, who proved to be a source of guidance and influence. The young man grew up to be a successful citizen who attributes his sense of civic duty and leadership to Skip Bower.

Mr. Bower answered the call of Pearl Harbor. Like so many young people throughout the years, he served in World War II, Korea, and Vietnam.

Mr. BOWER answered the call of Pearl Harbor. Like so many young people throughout the years, he served in World War II, Korea, and Vietnam.

For over 60 years Mr. Bower has quietly and thoughtfully touched the lives of students, Scouts, and North Kansas City citizens who know him from his banking job, the Kiwanis Club, or various other community activities. His accomplishments have not gone unrecognized. He was recently selected by Newschannel 4 as one of Kansas City’s Symbols of Caring, an award reserved for 11 outstanding citizens who provide an example of hope and service for everyone. The Kansas City Northland Regional Chamber of Commerce selected Mr. Bower for the Community Service Award, named in his honor.

Now in retirement at the age of 87, Mr. Bower continues to work half days greeting customers at Boatman’s Bank in Kansas City. He takes pride in his work, and knows most of the customers who come through the door, as well as most people in North Kansas City. His wife of 50 years died over 10 years ago, but her portrait sits in his living room as a reminder of the life they shared. “Loyal, committed, and dedicated” are commonly used to describe Skip Bower. He deserves our praise and recognition for the outstanding contributions he has made to Kansas City and America. Mr. Bower will leave a legacy of morality, responsibility, service, and leadership.

TRIBUTE TO JERRY JORY

Mr. REID. Mr. President, in the mid-1960’s, when I first decided to seek political office, I ran for a seat on the board of directors for Southern Nevada Memorial Hospital. This was not considered a political plum, nor did the race engender much public attention. For me, however, it was incredibly significant, as most firsts are.

I mention this because during that campaign, I, who, without motive or want, came to me offering support and assistance in my campaign. He owned a pawn shop in downtown Las Vegas, heard I needed help, and offered it. Since then, I have been the lucky beneficiary of Jerry Jory’s support as a friend, as an advisor, and as an ally. And he has never asked for anything in return—because that’s the kind of guy he is.

On Friday, June 16, Jerry will be honored by the many friends he has made at a special tribute sponsored by the Las Vegas Police Protective Association. I can say, without hesitation, that there is no one more deserving of this attention than my friend, Jerry Jory.

Jerry is perhaps most well known for his service to his country as a member of the U.S. Navy and as a captain in the Naval Reserve. During the Korean war, he served on the U.S. Navy aircraft carrier, and as a cryptographer breaking Korean and Russian codes. As an active reservist in the Vietnam war, Jerry served in the Pentagon in the sensitive and highly classified position in charge of the staffing of troops and officers. Since then, he has helped to redefine our country in the reserves, and he is held in high esteem by his peers and his subordinates because of his thoughtful and even-tempered approach to whatever task is assigned.

Since my election to the Congress in 1962 and the Senate in 1966, Jerry has been my military adviser, and I have relied on his opinion and counsel. He has also served as the chairman of my Academy selection committee. As a result of his efforts, that committee has developed the strongest selection outreach program in the country and Nevada has sent stellar candidates to our military academies.

Jerry is the finest example of a patriot I know—a man who serves with an unassuming yet passionate and dignified love for his country.

Jerry Jory earned a degree in education and was prepared to enter the teaching profession. However, after returning from Korea, he received an offer to become partners in a pawn shop in Las Vegas. For 40 years, Jerry has operated the Hock Shop, and for those 40 years, he has been a compassionate, determined, and persistent leader in our business community. He has earned a reputation for his sincere concern for his fellow human beings, and there is no one who, needing his help, is ever refused.

In addition to all of his work for his community and his country, Jerry has also been a devoted family man. Together with his wife June, they have raised ten wonderful children—Teri, Tony, Jerry, Jason, Shannon, April, Kit, Sean, Kelly, and Gary. I personally don’t know how Jerry has found the time for all that he does; but he must be doing something right—everyone who knows him can tell by the smile on his face.

Jerry has faced many battles in his life, but today he may be facing his toughest. He has recently been diagnosed with cancer, and he will confront this illness with the same determination that he has shown his entire life. And I know there will be hundreds of friends and neighbors beside him to help.

I am proud to be Jerry’s friend, and I wish him the very best as he is honored by the community that is his home.

BILLIONAIRES’ TAX LOOPHOLE

Mr. KENNEDY. Mr. President, the Joint Committee on Taxation has now completed its long awaited study on the billionaires’ tax loophole, and their
I have several major concerns about the report.

First, the report now indicates that the revenue gain from closing the loophole may be only about half the amount estimated earlier—$1.9 billion, instead of $3.6 billion. The amount is still significant, but far less than was expected.

Second, the report suggests that it may be preferable simply to tinker with the existing law and improve IRS enforcement procedures, instead of enacting a new reform to close the loophole, as President Clinton has proposed.

But the IRS has attempted to enforce the current law, and it has been found to be fatally flawed. To tinker with the current law is less than pretentious to save the current loophole.

The IRS has been able to identify only a handful of cases in which any tax was collected under the defective current law. And the total tax collected is less than $1.9 billion.

At the same time, we have tax lawyers quoted as saying: “I talk to a new client interested in expatiating every week.”

Third, the report allows an unacceptable window of opportunity to avoid the tax. Under this proposal, wealthy tax-evaders can still qualify for the loophole by simply having begun, not completed, the process of renouncing their citizenship by the February 6 date.

When we debated this issue 2 months ago, there were suggestions that the effective date should be postponed to accommodate certain individuals in their tax avoidance schemes.

In my view, we should close the loophole tight, not gerrymander the effective date to let some well-connected billionaires squeeze through.

At a time when Republicans in Congress are cutting Medicare, education, and other essential programs in order to pay for tax cuts for the rich, they are also maneuvering to salvage this unjustified tax loophole for the super wealthy.

I say, this loophole should be closed now, and it should be closed tight—no ifs, and, or buts. I intend to do all I can to see that it is.

COMPREHENSIVE TERRORISM PREVENTION ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:45 having arrived, the Senate will now resume consideration of S. 735, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 735) to prevent and punish acts of terrorism, and for other purposes.

The Senate resumed consideration of the bill.

Pending: Hatch-Dole amendment No. 199, in the nature of a substitute.

Mr. SPECTER. Mr. President, the time has arrived for consideration of the pending bill on terrorism. The issues which are going to be taken up this morning involve habses corpus reform. In the absence of any other Senator on the floor who desires to speak or offer an amendment, I will address the subject in a general way.

Mr. President, the Specter-Hatch habses corpus reform bill, S. 623, is a very important piece of legislation. The provisions of that bill will be taken up now as part of the pending antiterrorism bill. This bill is an appropriate place to take up habses corpus reform, because the acts of terrorism in the atrocious bombing of the Federal building in Oklahoma City would carry with it the death penalty, and habses corpus reform is very important if the death penalty an effective deterrent.

In order to have an effective deterrent, the penalty has to be certain and the penalty has to be swift. We have 100 cases in the course of the appeals taken on cases from death row that they last sometimes as long as 20 years. Habses corpus proceedings arising from Federal convictions are handled slightly differently than those arising out of State convictions, because in State proceedings, after the highest State court affirms the death penalty on direct review, there may then be additional State-court review called collateral review on State habses corpus before review on Federal habses corpus.

Despite this slight difference this is the time to move ahead with legislation to reform habses corpus in all cases.

This is a subject that I have been working on for many years, since my predecessor as district attorney in Philadelphia and later as district attorney of Philadelphia. Since coming to the Senate in 1981, I have introduced many bills directed at improving the administration of criminal justice, like the armed career criminal, which was enacted in 1994, and other legislation which has dealt with expanding the prison system, improving the chances of realistic rehabilitation and, strengthening deterrent value of the criminal law. The subject of habses corpus reform falls into the latter category.

I have addressed habses corpus reform on many occasions over the years and succeeded in 1990 in having the Senate pass an amendment to the 1990 crime bill on habses corpus reform to try to reduce the long appellate time. Notwithstanding its passage by the Senate in 1990, the provision was not passed by the House of Representatives and was dropped from the conference report. I continued to introduce legislation on habses corpus reform in 1991, 1993, and again in 1995. This year, after very extended negotiations with the distinguished Senator from Utah, the chairman of the judiciary Committee, we came to an agreement on legislation which captioned the Specter-Hatch habses corpus reform bill, S. 623, the provisions of which are now pending as part of this antiterrorism bill.

I am pleased, Mr. President, that I think it important to note over whether the death penalty is, in fact, a deterrent against violent crime.

It is my view that it is a deterrent, and I base that judgment on my own experience in prosecuting criminal cases, prosecuting perpsectual murder cases, and running the district attorney’s office in Philadelphia which has had some 500 homicides a year at the time.
Based on this experience, I am personally convinced that many professional robbers and burglars are deterred from taking weapons in the course of their robberies and burglaries because of the fear that a killing will result, and that would nullify the first decree. The first decree.

One of the cases which I handled many years ago as an assistant district attorney on appeal has convinced me that it is, in fact, a deterrent, and it is an illustrative case where there are many, many others which have been cited in treatises and the appellate reports.

The case I refer to involved three young hoodlums named Williams, age 19, Cater, 18, and Rivers, age 17. The three of them decided to rob a grocery store in north Philadelphia. They talked it over, and the oldest of the group, Williams, had a revolver which he brandished in front of his two younger coconspirators.

When Cater, age 18, and Rivers, age 17, saw the gun, they said to Williams that they would not go along on the robbery if he took the gun because of their fear that a death might result and they might face capital punishment—the electric chair.

When Williams put the gun in the drawer, slammed it shut, and they all left the room to go to the grocery store in north Philadelphia for the robbery, to get some money.

Ultimately, Cater or Rivers, Williams had reached back into the drawer, pulled out the gun, took it with him, and in the course of the robbery in the north Philadelphia grocery store, the proprietor, Jack Smith, resisted. Williams pulled out his gun and shot and killed Mr. Viner, and all three were caught and charged with murder in the first degree. All were tried. All were given the death penalty.

We know the facts of the case from the confessions and from the clearly established facts as to what happened, as I have just recited it.

Ultimately, Williams was executed in 1962, the second to the last individual to be executed in Pennsylvania until within the past few months there was an execution after a 33-year lapse in carrying out the death penalty in the State of Pennsylvania.

When the matter came up on hearings before the pardon board, and I was district attorney, I agreed that the death penalty had not to be carried out as to both Cater and Rivers because of the difference in their approach to the offense, that although technically they were guilty of the acts of their coconspirator, there was a significant qualitative difference, because they had refused to go along when the gun was to be taken and it was counter to the agreement and conspiratorial plan and scheme which the three carried out.

It was not an easy distinction to make because many would say that Cater and Rivers were equally responsible with Williams and that they had participated in the murder plot and should be held to the death penalty as well. But their sentences were commuted.

I think that case is a good illustration of the deterrent effect of capital punishment. Here you had two young men, 18 and 17, with very marginal IQ's, but they knew enough not to go along on a robbery if a gun was present because they might face the death penalty if a killing occurred.

Mr. President, in the current context in which habeas corpus appeals now run for as long as a couple of decades, the deterrent effect of capital punishment has been virtually eliminated.

There are many, many cases which illustrate this point. Many cases of brutal murders in which the case has dragged on and on for as long as 17 years or more.

One of them is the case of a man named Willie Turner. On the morning of July 12, 1978, he walked into the Smith dwellers in Franklin, VA, carrying a sawed-off shotgun, wrapped in a towel. Without saying a word, Turner showed his shotgun to the proprietor, a man named Smith. Mr. Smith triggered the silent alarm, and a police officer, Alan Bain, arrived at the scene. During the course of the events, the defendant, Turner, pointed his shotgun at officer Bain's head and demanded that he give him his revolver from his holster and to put it on the floor. Turner then eventually shot the proprietor, Jack Smith, in the head. The shot was not fatal.

Then officer Bain began talking to Turner and he told him to turn the gun out of the store if he would agree not to shoot anyone else. The defendant Turner then said, "I'm going to kill this squealer," referring to the proprietor, Smith, who lay severely wounded. Turner reached over the counter with his revolver and fired two close-range shots into the left side of Mr. Smith's chest.

The shots caused Smith's body to jump. Medical testimony established that either of these two shots to the chest would have been fatal. Turner was tried for murder in the first degree, was convicted, and was sentenced to death. The appeals lasted 17 years, with the victim's family attending some 19 separate court proceedings.

It is not an easy matter, Mr. President, when we talk about capital punishment. It is my judgment, however, that society needs this ultimate weapon in order to try to deal with violent crime in America. That has been the judgment of some 38 States in the United States. That is a judgment of the Congress of the United States in enacting legislation on the death penalty.

Defendant Harris was arraigned for a double murder back in July of 1978. His case wound through the courts running for some 14 years until 1992. In the course of this case, Mr. Harris filed 10 State habeas corpus petitions under the laws of California, 6 Federal habeas corpus petitions, 4 Federal stays of execution, there were 5 petitions for certiorari to the Supreme Court of the United States, and the case went on virtually interminably. Finally, in a very unusual order, the Supreme Court of the United States directed the lower Federal courts not to issue any more stays of execution for Harris.

There was another aspect to these very long delays, Mr. President. It involves the question as to whether the protracted, lengthy period of time defending a defendant to have their death sentences carried out is itself, in fact, cruel and unusual punishment.

In a case before the Supreme Court of the United States as reported in the Washington Post on March 28 of this past year, Justice Stevens, Justice Breyer, called upon the lower courts to begin to examine whether executing a prisoner who has spent many years on death row violates the Constitution's prohibition on cruel and unusual punishment.

There was a case in 1989 where the British Government declined to extradite a defendant, Jens Soering, to Virginia on murder charges until the prosecutor agreed not to seek the death penalty because the British High Court of Human Rights had ruled that confinement in a Virginia prison for 6 to 8 years awaiting execution violated the European Convention on Human Rights.

So we have a situation where these long delays involve continuing travail and pain to the family of the victims awaiting closure and awaiting disposition of the case. We also have an adjudication under the European Convention on Human Rights that the practice in the State of Virginia where cases were delayed for 6 to 8 years constitutes cruel and unusual punishment—all of these factors come together. Delays now average over 9 years across the United States. It seems to me that the very unusual order of the Supreme Court of the United States, which has the authority to establish timetables and procedures for the Federal courts, ought to act to make the death penalty an effective deterrent. This legislation will move precisely in that direction.

Under the Specter-Hatch bill there will be a time limit of 6 months for the defendant to file his petition for a writ
of habeas corpus in the Federal courts in a capital case. At the present time, without any statute of limitations, some of those on death row wait until the death penalty is imminent before filing the petition. This will put into effect a 6-month statute in capital cases where the State has failed to provide adequate counsel in its post-conviction proceedings. So there is motivation under the pending legislation for adequate counsel to be appointed by the States. Not only will the appointment of counsel by the process itself, but it will ensure that the defendant will be accorded his or her rights.

After that period of time, a U.S. district court will have a period of 180 days to decide a habeas corpus petition in a capital case. That is really a sufficient period of time. That is a period of time I can personally attest to from my own experience as an assistant district attorney and district attorney handling habeas corpus cases in both the State and Federal courts. If that time is insufficient, a judge can extend the time by writing an opinion stating his or her reasons. Right now, there are cases that have been pending before some Federal district judges for years. We must act to impose some limit on the length of time such cases are allowed to linger.

This deadline is not unduly burdensome to a Federal judge, to take up a case and decide it in 6 months. Even in the States which have the highest incidence of capital punishment, with the most defendants on death row—Florida, California, Texas—Federal judges would not have a case sooner than once every 18 months or so. On appeal, the Federal court of appeals would have the obligation to decide the case within 120 days of briefing.

If a defendant sought to file any subsequent petition for habeas corpus, he would not be allowed to do so unless there was newly discovered evidence going back to the time when the defendant could have been available at an earlier time. This is a reasonably strict standard against filing repetitious petitions. And a second petition would be allowed only if the court of appeals agrees to permit the filing of the petition in the district court. Because the courts of appeals in act in panels of three judges, two judges will have to agree that a subsequent petition satisfies the rigorous standards of this bill before it is filed in the district court.

So I think we have set forth here a timetable which is realistic and reasonable, and a structure which will make the death penalty a meaningful deterrent, cutting back the time from some 20 years, in extreme cases, to a reasonable timeframe which can be done with fairness to all parties in the course of some 2 years.

This legislation is not crafted in a way which is totally acceptable to me but it has been hard-earned out over the course of a great many negotiations and discussions with the distinguished Senator from Utah, the chairman. While he is on the floor I would like to praise him for his work in this field and for his work on the committee generally. This has been a very, very difficult matter to come to closure. I think in the posture of the terrorism problem, that we are on the verge, now, of really moving forward and enacting this very legislation. I think it will pass the Senate. I believe it will pass the House. I think once presented to the President, it will be enacted into law and will very significantly improve the administration of criminal justice in the United States.

Mr. HATCH. Will my colleague yield?

Mr. SPECTER. I do.

Mr. HATCH. Mr. President, I thank my colleague for his kindness. I have to say we would not be as far along here on habeas corpus and having it in this bill if it was not for his leadership in this area. He is one of the few people in the whole Congress who really understands the subject matter and thoroughly, and I have to give him an awful lot of credit on it.

We have worked together with the Attorney General of the United States general counsel to have the language we have in this bill. I hope everybody on this floor will vote down these amendments that are being brought up here today because I think it is the only way we can make the change and get rid of these frivolous appeals, save taxpayers billions of dollars, and get the system to work more in a just and fair way, the way it should.

The amendment we have will protect civil liberties and constitutional rights while at the same time protecting the citizens and the victims and their families from the incessant appeals that really have been the norm in our society.

So I thank my colleague for his leadership on this and I just personally respect him and have the highest opinion of him and consider him a great friend.

We are prepared to go. We are supposed to have a vote at 10:15. I hope we can move ahead on the bill.

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

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

The legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, I apologize to my colleague for being late.
The grant or denial of an authorization by a court of appeals to file a second or successive motion shall not be appealable and shall not be the subject of a petition for rehearing en banc.

"A district court shall dismiss any claim presented in a second or successive motion that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section."

Mr. BIDEN. Mr. President, this is the first of a series of several amendments relating to habeas corpus. Habeas corpus is probably the most time honored phrase in our English jurisprudential criminal justice system, referred to as the Great Writ. But it is not very well understood by a vast majority of people including many lawyers.

I say at the outset here that one of the things we are going to hear today— we are going to hear a great deal about how the system is abused. We are going to be told that time and again. We will see charts. We have been seeing these charts for years that show that a man or woman, in almost every case it has been, has been sentenced to death, because of a series of frivolous appeals and successive habeas corpus petitions has remained in a prison cell and alive for—some of the examples of 10, 12, 14, 18 years after having committed the crime and having been convicted by a jury of their peers and having exhausted their appeals—after having committed a heinous crime. And we are left with the impression that the choice here is a stark choice between a continuation of a system where everybody convicted of a heinous crime and sentenced to death languishes in a prison for a decade or more, costing the system money and avoiding their ultimate fate that the choice is between that system and a system that essentially eliminates. The right of a Federal court to review the actions taken by a State court to determine whether or not someone had been granted a fair trial. That is what habeas corpus is all about. Habeas corpus is all about saying when so and so is convicted, they were denied of certain rights and opportunities and that they were not given a fair shake in the system.

Habeas corpus came about and really came in the forefront of the American political and legal system around 1917 when the State of Georgia put to death someone who committed a heinous crime. Everyone’s rights and freedoms should not have been put to death, and there was no ability of the Federal court to review the actions taken by the Georgia State court. The reason I give this background—and in light of the fact that a few minutes late and there are Senators who have commitments early in the morning on this, I am going to shorten this particular amendment. But what we are told is that—and you will hear time and again this morning—the system’s terrible. It abuses the system, and essentially State courts do a good job. Why have the Federal courts in this thing at all? I realize I am putting colloquial terms to this, but that is the essence of it.

The amendments that I am going to offer today and others will offer today are not designed to maintain the system as it is. We will show in future hearings the history of the habeas corpus law the way we would like to as opposed to the way it is in the Republican bill, you will still have a situation where someone would have to have their fate executed and carried out after a trial by their peers and a finding of guilt within a very short amount of time. You would not have these 12-, 14-, 16-, or 18-year delays in implementing a court’s decision.

As my former associate—I was his associate—a very fine trial lawyer in Wilmington, DE, always would say to the jury, “I hope we keep our eye on the ball here.” I want us to try to focus, if we can, this morning. My colleagues on the Republican side of the aisle have repeatedly said in this bill that we would have the death penalty just dumped on the system for the punishment of those who committed the Oklahoma City bombing. That is supposed why, you might wonder, in a terrorism bill there is habeas corpus.

Well, the constant argument put forward is, look how to do this because once we find the person who did this awful thing in Oklahoma and they are convicted and sentenced to death, the death penalty must be carried out swiftly. I might add, a bill that the President Office is considering for the Biden crime bill, is the only reason there is a death penalty. Had we not voted for that bill, had that not passed last year, this finding of a person who committed the bombing, that person under Federal law would not be eligible to be put to death. There is no question that because of the action you and I and others took last year there is a death penalty now.

So unlike the World Trade Tower, no death penalty would be there under Federal law had we not passed the Biden crime bill then. Now there is. But they say now, once we find this person, we are going to go put them to death, what we have to do—this will be a Federal prison because under Federal law they will be prosecuted, not under the Oklahoma law but Federal law. They are eligible for the death penalty, and they will be convicted—I assume, and it is our fervent hope they will be convicted, and I am not saying not sentenced to death. And the President and the Attorney General say they want the death penalty for whomever is convicted. My friends say, well, what we have to do now is have habeas corpus changed so no one will languish in prison. I do not think there is anybody in the Federal system right now—and I am looking to my staff for confirmation—who sits on death row filing habeas corpus petitions. There is one habeas corpus petition that has been filed in the Federal system.

So what I want to say to my friends—and I will put the rest of this in the Record—is this has nothing to do with terrorism. Not one of the horror stories Senator Hatch has given or has given us on the Senate floor relates to a terrorist who was prosecuted in the Federal court. They all relate to someone who is prosecuted in State court and has been sentenced to death. And now they say, what is the difference? There are useful and practical steps we can take to prevent future terrorist activities. We can reform habeas corpus petitions for State court prisoners. But in reforming habeas corpus petitions for State court prisoners, not one of them relates to terrorism because—I want to make it real clear—if we have a terrorist convicted under Federal law in a Federal court, then Federal habeas applies.

So my amendment is very simple. It says if you want to deal with terrorism, that is the purpose of putting habeas corpus in this bill and then limit it to Federal cases; limit it to Federal prisoners. That is the stated purpose. Do not go back and change the whole system. Do not go back and change the whole State system. Do not go back and change the whole State habeas system on this bill. Debate it on a bill which should be the crime bill that is coming up in the next couple of weeks we are told.

There was a lot of discussion yesterday about nongermane amendments. This amendment strikes the 95 percent of the habeas bill that is not germane and keeps the 5 percent that is germane. Ninety-five percent of what my friends contend this bill relates to State prisoners, State courts, and has nothing to do with terrorism, nothing to do with Oklahoma City, but 5 percent arguably does.

My amendment says let us pass the 5 percent that has to do with Federal prisoners held in Federal courts and change the habeas the way they want for those prisoners. That will deal with Oklahoma City the way they say they want it and it will not mess up the 95 percent. Those cases that deal with the State prisoners in State prisons in State courts and deny essentially Federal review of those State decisions.

So I will reserve the remainder of my time by saying that it is simple. My amendment simply says, all right, if this is about Oklahoma City, let us have it about Oklahoma City. The provisions in the bill relate to Federal prisoners and Federal habeas corpus.

Parliamentary inquiry: How much time remains? The PRESIDING OFFICER. The Senator from Delaware has 5 minutes 2 seconds.

Mr. BIDEN. I will reserve the remainder of my time.

I yield the floor.

Mr. HATCH. Mr. President, I arise in opposition to the amendment offered to limit habeas reform exclusively to Federal cases.

Some have argued that habeas reform as applied to the States is not germane to this debate. Those individuals, including my distinguished colleague from Delaware, contend that a
reform of the Federal overview of State convictions is meaningless in the context of the debate we are having. They are perhaps willing to admit that some revision of the collateral review of cases tried in Federal court may be in order, but they contend that reform of Federal court review of cases tried in State court is unnecessary.

This position is simply incorrect. I would like to read from a letter written by Robert H. Macy, district attorney of Oklahoma City, and a Democrat: [Material from letter]

In my home State of Utah, for example, convicted murderer William Andrews is on death row for a constitutionally imposed death sentence for over 18 years. The State had to put up millions of dollars in precious criminal justice resources to litigate his meritless claims. His guilt was never in question. In an innocent person seeking freedom from an illegal punishment. Rather, he simply wanted to frustrate the imposition of his heinous crimes warranted.

This abuse of habeas corpus litigation, particularly in those cases involving lawfully imposed death sentences, has taken a dreadful toll on victims’ families, seriously eroded the public’s confidence in our criminal justice system, and drained State criminal justice resources. This is simply not a just system.

I justice demands that lawfully imposed sentences be carried out. I justice demands that we now adopt meaningful habeas corpus reform. I justice demands that we not permit those who would perpetrate the current system to steer us from our course. We must do as the victims, families, and friends of those who have asked us to do: enact meaningful, comprehensive habeas reform now.

Mr. President, I know a number of our colleagues are ready to vote on this. Let me just make three or four points that I think are important with regard to the amendment of my friend and colleague.

I contend that the Biden amendment—and I think anybody who reads it would gut the habeas corpus title of this bill by applying habeas corpus reform solely to Federal capital convictions thus making reform inapplicable to the majority of capital cases including the Oklahoma State prosecution for murder of some of the people killed in Oklahoma. I am referring to those victims who were not Federal employees but were killed by the blast while outside of the building. If this amendment passes, there would be no habeas reform that would apply to them.

So I would like to make three additional points about why we should not vote for the Biden amendment before I move to table the amendment.

First, I have made this point that where people who were not Federal employees were outside the building, the terrorist will be prosecuted in State court for those people.

I ask unanimous consent that a letter from Robert H. Macy, a Democrat district attorney of Oklahoma City, be printed in the Record.

There being no objection, the letter is to express my support for the inclusion of the provisions of reform for Federal Habeas Corpus authored by Senator Specter and you in the Anti-terrorism Bill, S 735. Apparently some persons have raised questions about the appropriateness of the area surrounding the federal building. And I shall seek the death penalty. We must never forget that this bombing took several lives and injured dozens of persons in the neighborhood and businesses near the building. The State of Oklahoma has an overwhelming, compelling interest to seek and obtain the maximum penalty allowable by law for the senseless and cowardly killings.

In my home State of Utah, for example, convicted murderer William Andrews is on death row for a constitutionally imposed death sentence for over 18 years. The State had to put up millions of dollars in precious criminal justice resources to litigate his meritless claims. His guilt was never in question. In an innocent person seeking freedom from an illegal punishment. Rather, he simply wanted to frustrate the imposition of his heinous crimes warranted.

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Secondly, your reform provisions will also create significant time savings during appeals from federal convictions as well. Examples of this include:

(Continued)
today still sitting on death row almost 50 years later.

So, first, it does not take care of those Federal employees who were killed outside the building should the State of Oklahoma choose to prosecute those responsible—as Robert Macy has stated will occur.

Second, we do not want piecemeal reform. If a robber kills one of the Federal employees the night before the bombing in Oklahoma City or anywhere else, we should treat that killer any differently from the Oklahoma terrorists simply because he would be tried in a State court rather than a Federal court? We need to have it apply across the board, and the vast majority of murders are committed in the States and prosecuted by the State courts, and they would not be affected by the Biden amendment.

Third, let us say that the Federal Government prosecutors, for some reason or other, blow the prosecution. Assume we get a conviction against these terrorists in the Federal courts. The double jeopardy clause still allows the State to prosecute those terrorists or those murderers in State court under State law. But if they do prosecute, we do not want a Federal habeas corpus review of State cases, then we will have the same incessant, frivolous appeals ad hominem, day and night, from that point on because this amendment would not take care of that problem. If we are going to pass the habeas reform, let us pass real habeas reform. Let us do it straight up. Let us protect the constitutional rights, which our amendment does do in the bill. Let us protect civil liberties, but let us get some finality into the law so that the frivolous appeal game will be over.

Basically, those are the three things: People killed who are not Federal employees outside the building, those prosecutions should be brought in the State court. And the Biden amendment would not apply to the benefit of habeas reform to that case. We do not want piecemeal reform. If a robber kills a Federal employee the night before the bombing in Oklahoma City, just to give a hypothetical, and the State has to bring the murder action against that individual, then why should that person not be subject to the same rules as the murderers in the Oklahoma City bombing? And if the Federal prosecutor blows the prosecution, why should not the State prosecutor be able to bring action under the State laws and under those circumstances prosecute the killers and have the same rule apply under those circumstances as well.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I will be very brief in reply.

With regard to the point that if someone is not a Federal employee outside the building is killed, fortunately, we passed the Biden crime bill last year, and under title 18, section 2323A “Use of Weapons of Mass Destruction”—I would refer my colleague to that—anyone killed at all, whether sitting across the street drinking a cup of coffee, whether they are riding by in their automobile, whether they are a Federal employee or whether they are an alien, it does not matter; they are subject to the Federal death penalty. So the Senator is missing the point.

Second, we do want universal reform of habeas corpus. Let us do it on a bill that we are supposed to do it on. Let us do it on the crime bill.

And, No. 3, as to the idea that we are somehow going to have two different standards apply, the real issue is under what circumstances does a Federal court have a right to review a State court’s judgment. It has nothing to do with terrorism under this provision. It has nothing to do with Oklahoma City. We should deal with it. We should discuss it. We should debate it, not on this bill.

I am prepared, whenever the Senator wants, to move to the tabling of my amendment.

Mr. HATCH. I am prepared to yield. Let me just make a point that a State employee—a Democrat—is going to prosecute these terrorists, and this habeas reform, if the Biden amendment passes, will not apply to them. And that, in a nutshell, is the problem with this amendment. We ought to make our habeas reform apply to both Federal and State convictions. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. HATCH. I yield back the time.

Mr. BIDEN. Mr. President, I would take issue with the last statement of my friend. I will not debate it now. We take issue with the last statement of my friend. I will not debate it now. We will have plenty of time to do that.

I yield back my time.

Mr. HATCH. I yield back my time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I understand one of our colleagues thought this was an up-or-down vote as opposed to a tabling motion and would like to ask unanimous consent to change the vote which will not affect the outcome.

Mrs. BOXER. On this last rollcall vote No. 237, I voted “yea.” It was my intention to vote “nay.” Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. (The foregoing tally has been changed to reflect the above order.)

Mr. KENNEDY. Mr. President, I rise to speak generally on the subject of habeas corpus and in support of the amendments by Senators BIDEN and LEVIN that will be offered to the bill.

At the outset, I want to emphasize my support for passage of a strong antiterrorism bill that gives law enforcement agencies the tools they need to combat crime at home and abroad. I commend President Clinton and the Senators who brought in legislation expeditiously before the Senate. There is much in this legislation that deserves to be enacted into law as soon as possible.

It is unfortunate, therefore, that the proponents of the bill have injected into it an unrelated and highly controversial subject; namely, drastic changes to longstanding law relating to habeas corpus.

The manager of the bill says that habeas corpus is relevant because the suspects charged in the Oklahoma City...
At any time prior to the execution there must be a forum in which non-frivolous claims of innocence can be heard. As Supreme Court Justice Potter Stewart once wrote, "swift justice demands more than just swiftness." Finally the time has come to require Federal courts to defer to State courts on issues of Federal constitutional law. In part the bill states that a Federal court cannot grant a writ of habeas corpus based on Federal constitutional claims unless the State courts have reviewed the claim "unreasonably." No one thinks that under current law the Federal courts just ignore State court decisions, even on questions of Federal constitutional law. The Federal courts respect the State courts and give their decisions a great deal of attention. The specialists I have talked to tell me that the Federal courts, even now, grant relief on constitutional claims only when it is pretty clear that a prisoner's constitutional rights were violated.

This being true, a bill that tells the Federal courts that they should not grant relief unless they are satisfied that a prisoner's clearly established constitutional rights were violated may not change things very much.

I do not see the need for this kind of language in the bill, but to the extent it allows the Federal courts to do what they are doing now, it may do no great harm. But once the bill is adopted, it will be interpreted correctly.

A contrary interpretation would stand our Federal system on its head. Why should a Federal court defer to the judgment of a State court on a matter of Federal constitutional law? The notion that a Federal court would be rendered incapable of correcting a constitutional error because it was not an unreasonable constitutional error is quite unacceptable, especially in capital cases.

Ever since the days of the great Chief Justice John Marshall, the Federal courts have historically served as the great defenders of constitutional protections. They must remain so.

Whatever the merits of this sweeping habeas corpus reform, such drastic changes should not be adopted on this bill. Nothing in this legislation would require Federal courts to defer to State habeas corpus proceedings. The perpetrators of the Oklahoma City tragedy will have triumphed if their actions promote us to short-circuit the Constitution.

This bill goes far beyond terrorism and far beyond Federal prisoners. It severely limits the ability of any State prisoner—not just terrorists, but any State prisoner—to seek Federal habeas corpus review. This bill means a searching and impartial review of constitutional error because it was not unreasonable application of Federal law.

The notion that a Federal court would defer to the judgment of a State court on a matter of Federal constitutional law is needed to avoid excessive litigation, repetitive reviews, and the delays that sometimes characterize the present system. In a series of decisions over the past 10 years, the Supreme Court itself has imposed certain restrictions on the ability of death row inmates to obtain review through habeas corpus, and the issue treated controversy to our congressional debates on crime bills in recent years.

In the past, Senator Biden, among others, has proposed legislation to limit the number and length of death row appeals. He did the same to make sure that post-conviction review in the Court of Federal courts is meaningful. But he adhered to the sensible conclusion of former Justice Lewis Powell, who in a landmark report commissioned of Chief Justice Rehnquist said the following:

Capital cases should be subject to one fair and complete course of collateral review through the State and Federal system. Where the death penalty is involved, fairness means a searching and impartial review of the propriety of the sentence.

But the bill before us today does not strike a fair balance. It actually precludes the meaningful review that Justice Powell said was necessary, and it increases the likelihood that innocent people will be executed in this country.

A principal problem is that this bill does nothing to ensure that death penalty defendants receive adequate legal representation at their original trial. As many as 20 percent of all death sentences are overturned after Federal habeas corpus review, very often because a defendant has been inadequately represented at trial. This bill also eliminates the current requirement that poor defendants receive appointed counsel in Federal habeas corpus proceedings. I reject that view. The appointment of attorneys for death row inmates is not a question of sympathy, it is a question of fundamental fairness.

In addition, the bill limits the circumstances under which a death row inmate may raise a claim of innocence based on newly discovered evidence. The proposal to limit inmates to one bite at the apple is sound in principle, but surely our interest in swift exceptions must give way in the face of new evidence that an innocent person is about to be put to death.

At any time prior to the execution there must be a forum in which non-frivolous claims of innocence can be heard. As Supreme Court Justice Potter Stewart once wrote, "swift justice demands more than just swiftness." Finally the time has come to require Federal courts to defer to State courts on issues of Federal constitutional law. In part the bill states that a Federal court cannot grant a writ of habeas corpus based on Federal constitutional claims unless the State courts have reviewed the claim "unreasonably." No one thinks that under current law the Federal courts just ignore State court decisions, even on questions of Federal constitutional law. The Federal courts respect the State courts and give their decisions a great deal of attention. The specialists I have talked to tell me that the Federal courts, even now, grant relief on constitutional claims only when it is pretty clear that a prisoner's constitutional rights were violated.

This being true, a bill that tells the Federal courts that they should not grant relief unless they are satisfied that a prisoner's clearly established constitutional rights were violated may not change things very much.

I do not see the need for this kind of language in the bill, but to the extent it allows the Federal courts to do what they are doing now, it may do no great harm. But once the bill is adopted, it will be interpreted correctly.

A contrary interpretation would stand our Federal system on its head. Why should a Federal court defer to the judgment of a State court on a matter of Federal constitutional law? The notion that a Federal court would be rendered incapable of correcting a constitutional error because it was not an unreasonable constitutional error is quite unacceptable, especially in capital cases.

Ever since the days of the great Chief Justice John Marshall, the Federal courts have historically served as the great defenders of constitutional protections. They must remain so.

Whatever the merits of this sweeping habeas corpus reform, such drastic changes should not be adopted on this bill. Nothing in this legislation would require Federal courts to defer to State habeas corpus proceedings. The perpetrators of the Oklahoma City tragedy will have triumphed if their actions promote us to short-circuit the Constitution.

This bill goes far beyond terrorism and far beyond Federal prisoners. It severely limits the ability of any State prisoner—not just terrorists, but any State prisoner—to seek Federal habeas corpus review of constitutional rights. This is an extremely controversial, very complicated proposal. It is wrong to try to sneak it into an antiterrorism bill that we all want to pass as quickly as we reasonably can.

The debate on comprehensive habeas corpus reform should take place when we take up the omnibus crime bill. The attempt to jam it into the pending bill is an attempt to manipulate public concern about terrorism, and the Congress should reject it.

I urge the Senate to act responsibly on this critical issue. We should adopt the Biden and Levin amendments on the subject, and if necessary resume the debate on habeas corpus when the crime bill comes before the Senate.

(Mr. KYL assumed the chair.)

Mr. DOLE. Mr. President, I wanted to indicate we now have to dispose of the Biden amendment No. 1217. My understanding is that the Senator from Delaware is prepared to offer a second.

Mr. BIDEN. Mr. President, my intention would be to offer the second amendment on counsel standards requiring counsel for Federal habeas corpus cases. I think the number is 1226.

Then I will have one more. The most important, from my perspective, of the amendments I have is the one relating to the deference standard that is in the Republican bill.

Senator GRAHAM of Florida has indicated to me that he will not offer his amendment. Senator LEVIN, I believe, will be ready to offer his amendment shortly.

I would respectfully request that the Presiding Officer, Mr. KYL, offer his amendment sometime between that. It is my intention to offer my amendment last. I will offer the first three, but the last amendment on habeas I would like very much to be my amendment on deference.

We will by that time have eliminated all Democratic amendments. I understand there is one—unless Mr. KYL is withdrawing his—there is one amendment on the other side.

Mr. DOLE. We have one, and we have 30 minutes equally divided on this amendment.

Mr. BIDEN. I am happy to do that. We have apparently not reached a time agreement. I am prepared to enter into the time agreement on this amendment of 30 minutes equally divided.

Mr. DOLE. Mr. President, I make that request.

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

AMENDMENT NO. 1226 TO AMENDMENT NO. 1199
(Purpose: To amend the bill with respect to requiring counsel for federal habeas proceedings)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN], proposes an amendment numbered 1226 to amendment No. 1199.

Mr. BIDEN. Mr. President, I ask unanimous consent further reading be dispensed with.

June 7, 1995

CONGRESSIONAL RECORD — SENATE S 7809
The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete from page 106, line 20 through all of page 125 and insert the following:

 ``(h) The ineffectiveness or incompetence of counsel was determined at the time of counsel’s actual representation of the petitioner, or that determination was made retroactively to cases on collateral review, if counsel was a member of a class of counsel appointed by the Supreme Court pursuant to subsection (b) and the determination is not inconsistent with a determination by the Supreme Court that there was no ineffectiveness or incompetence by counsel in such proceedings.
``

SEC. 605. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by inserting the following new undesignated paragraphs:

``A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

``(1) the date on which the judgment of conviction becomes final;

``(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

``(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and was retroactively applicable to cases on collateral review; or

``(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court and may be made retroactively applicable to cases on collateral review; or

``(i) discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the movant guilty of the underlying offense.

``(j) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

``(3) before a first or successive application permitted by this section is filed in the district court in light of the facts presented in the appropriate court of appeals for an order authorizing the district court to consider the application.

``(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court and may be made retroactively applicable to cases on collateral review; or

``(i) discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the movant guilty of the offense; or

``(j) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

``(2) before a second or successive application permitted by this section is filed in the district court in light of the facts presented in the appropriate court of appeals for an order authorizing the district court to consider the application.

``(3) a State prisoner files a habeas corpus application under section 2254 within the time required by section 2261(c) if the prisoner was prevented from making a motion for a new trial, post-conviction, or other collateral relief by laws or rules of court that would have precluded the filing of a motion for such relief if the prisoner had been represented by counsel of competent professional ability and would have been advised of the consequences of proceeding without counsel.

``(4) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has intelligently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under sentence of death waives the right to pursue habeas corpus review under section 2254 or 2255 if—

``(A) the State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review;

``(B) if one of the conditions in subsection (c) has occurred, the court of last resort shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under subsection (a).

``(c) A State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

``(1) the date on which the judgment of conviction becomes final; and

``(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action.

In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court and may be made retroactively applicable to cases on collateral review; or

``(i) discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the movant guilty of the offense; or

``(j) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

``(2) before a second or successive application permitted by this section is filed in the district court in light of the facts presented in the appropriate court of appeals for an order authorizing the district court to consider the application.

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``(4) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has intelligently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under sentence of death waives the right to pursue habeas corpus review under section 2254 or 2255 if—

``(A) the State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review;
§ 2264. Scope of Federal review; district court adjudications

(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided in the courts of the State, unless the failure to raise such claim or claims is based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

(b) Following review subject to subsections (a), (d), and (e) of section 2254, the State and Federal post-conviction proceedings, in which case the limitation period shall run from the date on which the application is filed.

§ 2265. Application to State unitary review procedures

(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could otherwise be raised and decided in the courts of the State, unless the failure to raise such claim or claims is based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

(b) To qualify under this section, a unitary review procedure must include an offer of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of counsel. Concerning appointment of counsel or waiver of appointment of counsel for that purpose and the nature of the representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. A judgment of conviction or acquittal entered in a case, that, taken as a whole, is not so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it warrants are as follows:

(i) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

(ii) Whether the case is so unusual or so complex, in view of the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

(iii) Whether the failure to allow a delay in a case, that, taken as a whole, is not so complex as to be described in subclause (i), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the interests of the public and the applicant in a speedy disposition of the application.

(iv) Whether the time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

(1) An initial application for a writ of habeas corpus;

(2) Any second or successive application for a writ of habeas corpus, and

(C) Any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

(A) A failure of a court to meet or comply with a time limitation under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.
"(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

"(5) The Administrative Office of the United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section."

(b) Technical Amendment.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases 2261."

(c) Effective Date.—Chapter 154 of title 28, United States Code, as added by section (a) shall apply to cases pending on or after the date of enactment of this Act.

Mr. BIDEN. Mr. President, in 1988, we passed a bill which I had authored with several others called the Death Penalty for Drug Kingpins Act.

It was the first constitutional Federal death penalty to go on the books after 1972 when the Supreme Court invalidated the death penalty.

I hope this is better news than yesteryear to the dismay of many of my liberal friends who could not understand why I was writing such a bill. It was a bill strongly promoted by President Bush, and it passed by a lopsided vote of 65 to 29, with only six Republicans voting against the bill.

When we passed that bill, we recognized that if the Federal Government was going to put a person to death, we better get it right. We better have the right guidelines and we better have had a fair trial, and the defendant better have had his or her day in court.

As part of the law, we said that the capital defendant—the defendant accused of a crime which carried with it the death penalty—in that case the person should have a lawyer. Kind of axiomatic. They should have a lawyer if they are going to go to trial, a trial in which, if that person is found guilty, they will be put to death.

That is also what the sixth amendment of the Constitution of the United States says. It explicitly says that "In all criminal proceedings the accused shall have the assistance of counsel for his defense."

Remember Clarence Earl Gideon? The case was Gideon versus Wainwright. The Supreme Court held that Mr. Gideon, accused of a crime, could not receive a fair trial absent the right to counsel when you are, in fact, being tried. That is what we are talking about today.

A one-minute delay in the trial, before you are convicted.

I do not know what my colleagues were thinking of when they wrote this. But what this seems to be saying is this: We do not care what the Constitution says. We do not care what the Supreme Court says. We think it is OK to deny a person who faces the death penalty and there are over 60 on the books—we think it is OK to deny that person the assistance of counsel at his trial.

I submit this proposition is as unthinkable as it is unconstitutional. And we should have nothing to do with it.

The Republican bill also repeals the right we created in 1968 to a lawyer for Federal habeas corpus appeal. This bill says that there should be no right to a lawyer, that it should instead be a discretion for every individual case. What is more, the Republican proposal is taking away this right at the very same time it is changing the rules of the game on habeas corpus, and placing new and sweeping restrictions on the right of habeas corpus itself.

We want to change habeas corpus but they are making sweeping changes in the rules of the game. And in addition saying, and by the way, while we are at it we are going to go back and deny you your right to counsel when you are filling such a petition. And one more thing, we are going to deny you the automatic right to a lawyer at your trial, before you are convicted.

It reminds me of the time that is often used, and I will paraphrase, "hanging first, trial later." What are we into here?

I agree we should cut down the delay and abuse of the Federal habeas corpus. And I have made a number of similar proposals over the years to impose very strict time limits on when such petitions could be filed and also to limit the number that could be filed, essentially giving one bite out of the apple to drastically reduce the ability to have successive petitions unless there is some egregious action that is learned about after the petition is filed, the first petition.

I have always believed if we are going to speed up the process, which I wish to do, if we are going to narrow the avenues of habeas corpus, which I wish to do, we should at least make sure that the petitioner has a lawyer. That is what we did in 1968 and there has been no serious question raised about our wisdom in passing that law since then.

Two years ago I entered into painstaking and extensive negotiations with the Nation's district attorneys and the attorneys general of the United States over habeas corpus reform. We negotiated for months. We logged hundreds of hours, argued over scores of serious issues, and I have made a number of similar proposals over the years to impose very strict time limits on when such petitions could be filed and also to limit the number that could be filed, essentially giving one bite out of the apple to drastically reduce the ability to have successive petitions unless there is some egregious action that is learned about after the petition is filed, the first petition.

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I kept saying we better do this or they are going to take it all away. But I hope everybody is listening who helped kill that compromise.

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that the judge does not appoint counsel, the
indigent death row inmate will be left to
find his own way through some of the
most complicated legal doctrines
imaginable. This just does not make
sense, in my view, as a practical mat-
ter or as a matter of principle.

We should here to hurry up executions lose sight of our com-
mitment to constitutional values. We
should not endorse proposals that in-
crease the chance that, where execu-
tion is imminent, an innocent person
is executed. I believe, that is, sacrifice certainty in the name of
speed, or fairness in the name of venge-
ance.

Most importantly, Mr. President, I
really believe that everyone should un-
derstand we are not talking about
changing any of the ways in which we
deal with habeas corpus in this amend-
ment. We are not talking about wheth-
er the Biden approach of only one peti-
tion or their approach of only one peti-
tion on the best one. We are not talking
about whether we are going to cut the
delay by a year or a month or a day.

What we are talking about is a fun-
damental principle, one that, as it re-
lates to the trial, has been established
before God and man, and in constitu-
ent law, for a century or so. It is not the
right of the prosecutor to oppose such
an appointment. We are not talking
about a constitutional value.

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cost to the States. The reform contained in the antiterrorism bill is thus greatly needed. The Supreme Court has never required counsel in collateral proceedings. We do not make it discretionary to appoint counsel at trial; counsel must be appointed at trial. I have to say that any argument that we do not is ridiculous. But this is a very, very important point.

I hope our colleagues will vote against the Biden amendment.

Mr. SPECTER. Mr. President, I certainly agree with the distinguished Senator from Delaware that we have to be meticulous on right to counsel. We cite Gideon versus Wainwright, and I think it will be pertinent, and I will speak to that later. But the distinguished Senator from Utah spoke to, and I think will be the only remaining part of disagreement in the Biden amendment that was sent up.

Mr. BIDEN. Mr. President, let me very briefly state where we are right now. You can see the staffs scurrying around here. We have reached a meeting of the minds on two-thirds of the amendments that I have offered here. The staff is trying to get precise language that would accommodate the mutual agreement we have made here thus far. But, there is going to be one part of my amendment that is still going to be pertinent, and I will speak to that later. But the distinguished Senator from Pennsylvania and I would like to enter into a brief colloquy on what I think will be the only remaining part of disagreement in the Biden amendment that was sent up.

Very briefly, Mr. President, there were two sections of the Biden amendment, one relating to counsel for an indigent in the filing of a habeas corpus petition. The second provision is what the Senator from Utah spoke to, and that is the ability under present law for the counsel of an indigent person to go to a judge, without notifying the prosecutor he is going to the judge, and in effect—we could say, judge, I need you to authorize my ability to go hire a psychiatrist for the following reasons, or hire an investigator...
for the following reasons. The distinguished Senator from Utah is worried about that provision and suggests that that portion of the law is presently being abused. I do not believe it is abused.

I want to make a very brief statement now as to why I think that and why I am going to pursue in my follow-on amendment here the elimination of the provision in the Republican bill that would delete the possibility of an indigent defense counsel going to a judge on his own. The reason for that is as follows:

Right now, if I am a prosecutor and I get a lead as to how I can make my case better to prove the defendant did the deed, I can hire—I can use—an investigator to go investigate that. If I believe there is a need to make a case that the defendant is, in fact, perfectly sane and not insane, I can hire a psychiatrist.

I cannot use investigative tools without ever having to go to the defendant’s counsel and say, “By the way, here is what I am going to do. I am going to hire this psychiatrist to prove that your defendant, your client, is sane.”

Or, “I am going to hire two investigators to go down to Second and Vine and prove that the stoplight does not exist there,” or whatever.

So no one quarrel with that. If I am a lawyer who is hired by private funds to defend an accused person, I am not required to telegraph to the prosecutor that I have hired a private detective to investigate a lead in a particular city.

The reason is, I do not have to tell the prosecutor that it exists. Here are the reasons that I want to tell the prosecutor that:

My worry is that if we change the law as proposed in the core legislation, that what will be required for an indigent defense counsel is to walk into court, walk into the chambers of a judge and say, by the way, judge, we better call in the prosecutor and sit the prosecutor down and say, now I want to say, judge. I need your authority to allow me to go hire an investigator. Here are the reasons that I want to hire the investigator. The prosecutor is sitting there taking notes about my case.

Now, that is why I think we should not delete this portion of the law.

Mr. SPECTER. Would the distinguished Senator from Delaware yield?

Mr. BIDEN. I am delighted to yield.

Mr. SPECTER. As I understand, the next amendment—Mr. BIDEN. The reason I have counseled my friend from Michigan not to go yet is that the key staff people who know this issue very well, who will also want to be available to Senator Hatch as well as to me, are the very people negotiating this other item which is very close.

But apparently, we are now ready to go.

We will be able to move right away to Senator Hatch. We may be able to dispose of this right now. Apparently, we have reached our agreement.

Mr. DOLE. Does the Senator from Wisconsin have an amendment?

Mr. BIDEN. Mr. President, I think the Senator from Wisconsin wishes to speak on the issue.

Mr. FEINGOLD. That is right.

Mr. BIDEN. Maybe we can let him do that while we nail this down.

Mr. DOLE. Mr. President, if I understand, after the disposition of the pending amendment—if we work it out—fine; then the amendment of the Senator from Michigan, there would be two amendments remaining, one by the Presiding Officer and one by the Senator from Delaware. Mr. BIDEN. That is correct.

Mr. DOLE. And as I understand, one would have a 60 minute time agreement, the other 90 minutes.

Mr. BIDEN. I would say we may not use all 90 minutes, but since it is the last amendment, I would prefer to have that cushion.

Mr. DOLE. The point is, we would like to complete action. We said no votes before 1 o’clock. I think it will be probably be before 2 o’clock, would be my guess, there will probably not be any votes before 2 o’clock, but we had hoped to complete action on this bill by 3 o’clock so we could start on tele-communications. We are probably going into the evening tonight on that bill.

I am told by the managers on that bill that it is a bipartisan effort, and may be able to complete that more quickly than we may have thought at the outset.

The bottom line is we need to finish this bill, and I know the managers are making progress. I appreciate it very much.

Mr. FEINGOLD. Mr. President, I wish to speak on the bill on the habeas corpus issue. I rise today to speak against provisions in S. 725 that are characterized as reforms in the habeas corpus appeals process. These items that are being referred to as reforms, in my view, would hasten the implementation of the death penalty and might well have the result of rushing innocent people to executions.

This is not, strictly speaking, a debate about the death penalty itself, but about the fundamental American right of due process.

Mr. BIDEN. Mr. President, there are several ways in which this fundamental right may be undermined by the pending bill, including the requirement that Federal
judiciary defer to State courts. This is a major departure from more than 200 years of legal precedent, and to my mind, the most egregious change proposed by habeas reform supporters.

There is also a concern which the ranking member has been discussing about the expiration of the current absolute right of petitioners in capital cases to counsel for Federal habeas corpus petitions and replacing it with a provision that leaves assignment of counsel to the discretion of the court. I understand there has been some movement on that, some progress. I am pleased to hear it and look forward to reviewing it.

Mr. President, we have heard the arguments for streamlining habeas corpus procedures to limit death row appeals and implement the death penalty more quickly.

On a gut level, these arguments carry power; they paint a picture of convicted criminals contemptuously manipulating our justice system to avoid punishment for heinous crimes, all the while supposedly languishing comfortably in their prison cells. The arguments remind us of the lingering pain and frustration of victims' families, who are forced to wait, sometimes for years, before they reach the end of their ordeals that began with the violent death of a loved one. The arguments also speak to the problems of clogged courts and precious resources tied up in lengthy and, perhaps, duplicative habeas proceedings.

But the supporters of so-called habeas reform usually do not tell us other stories—the rest of the story.

They do not tell us about innocent defendants sent to death row because they lacked competent counsel, and because some States do not have procedures in place to provide effective counsel to indigents. They do not tell us of murder defendants watching as their attorneys fail to properly prepare and present a defense, either because they lack resources or because they themselves are indifferent, incompetent, or inexperienced.

They do not tell us about innocent defendants convicted because of sloppy investigations or prosecutorial misconduct. They do not seem to take into account the amount of time it takes to properly prepare and present a habeas petition.

They seem ready and willing to hasten to fatal judgment in the name of efficiency and to accept tragic mistakes as the necessary price for timely justice.

I am not willing to support this haste.

While I completely understand the pain of victims' families, I do not want to create more pain, and more victims of violence, by approving changes in the law that could send innocent people to their deaths. That in itself would be a dreadful crime.

We must be mindful that when we change the law, it applies to all, not just to the clever manipulators of the system that the authors of the habeas reform provisions of S. 735 seem to believe fill our death rows.

Consider the case of Nathaniel Carter, an innocent man wrongfully convicted in 1982 of the stabbing death of his mother's boyfriend.

Mr. Carter is a man about my age. His story was told in the New York Times and in New York Newsday this past February. Ten witnesses placed Mr. Carter miles from the murder scene at the time the crime was committed. Nonetheless, he was sentenced to 25-years-to-life for a crime he did not commit, only because New York State at that time did not have a death penalty statute.

It does not, and if that statute had been in effect in 1982, the sentencing judge made it plain that it would have been imposed, on Mr. Carter, an innocent man.

Mr. Carter spent 28 months in prison before being exonerated. His former wife eventually admitted committing the crime.

Nathaniel Carter was lucky, but had conditions been different, his luck would not have saved him. His boyhood friend, George Pataki, now Governor of New York, noted this year that State's new death penalty statute stands law.

It is worth considering what would have happened if Mr. Carter had faced the death penalty and if he would have faced the habeas reforms included in S. 735. He might well be dead for a crime he did not commit.

So the question today is are we willing to put Mr. Carter and others like him to death for the sake of hastening other executions by guilty parties? The U.S. Supreme Court has handed down significant habeas decisions this year in two separate cases, decisions that should be considered in this debate.

On April 19, the Court, in Kyles versus Whiteley, reversed and remanded the first-degree murder conviction of a Louisiana man, Curtis Lee Kyles. Mr. Kyles was sentenced to death.

After his conviction, it was discovered that the State had not revealed certain evidence favorable to Mr. Kyles' case. His appeals to State courts won him a remand for an evidentiary hearing, but the State trial court afterward denied relief. He then went to the State supreme court, which denied his application for discretion this review.

However, the U.S. Supreme Court ruled that Mr. Kyles was entitled to a new trial because there was a "reasonable probability" that the disclosure of that evidence would have produced a different result than the original conviction.

Had Mr. Kyles not been able to file his Federal habeas petition, as might well be the case if we pass S. 735 with its habeas reform provisions, which include a higher bar to habeas petitions and deference to State courts, he might still be sitting in a Louisiana prison, awaiting death.

This year, in January, the U.S. Supreme Court handed down its ruling in Schlup versus Delo.

In that case, Lloyd Schlup, a prisoner in Missouri, was convicted of participating in the murder of a fellow inmate and sentenced to death.

However, Schlup, who was filing his second habeas petition, argued his trial deprived the jury of critical evidence that would have established his innocence. The U.S. district court had denied relief, stating Mr. Schlup had not met the "clear and convincing evidence" standard that the habeas reform provisions of S. 735 would impose.

The U.S. Supreme Court adopted a less stringent standard, that the habeas petitioner need only show constitutional violation complained of "probably resulted in the conviction of one who is actually innocent."

There is a body of evidence readily available to show that putting limits on habeas corpus process could well mean innocent people will be affected in the ultimate way.

A 19-page staff report prepared last November for the House Subcommittee on the Constitution, formerly the Subcommittee on Civil and Constitutional Rights, found 52 cases in 20 years where innocent people were convicted of capital crimes and later won release, some of them by filing habeas petitions.

That document, entitled "Innocence and the Death Penalty: Assessing the Danger of Mistaken Executions," might be worth reading before we decide to reform this system in this way that reminds me very much of something that is quite the opposite of reform.

At one point, the report states:

These 52 cases illustrate the flaws inherent in the death sentencing systems used in the states. Some of these men were convicted on the basis of perjured testimony because the prosecutor improperly withheld exculpatory evidence. In other cases, racial prejudice was a determining factor. In others, defense counsel failed to conduct the necessary investigation that would have disclosed exculpatory information.

I would also call to the attention of my colleagues a Yale Law School journal article entitled, "The Poor: The Death Sentence Not For The Worst Crime But For The Worst Lawyer," published in May 1994, by Stephen Bright, the director of the Southern Center for Human Rights, based in Atlanta, GA.

Mr. Bright's piece is a sobering, I might even say chilling description of problems encountered by defendants in capital cases.

Mr. Bright points out instances of States not providing sufficient resources to assigned defense counsel for proper investigation of a case. Compared to the resources available to an aggressive prosecutor, a defendant can
begin with a significant disadvantage in a life-or-death fight.

Mr. Bright also describes cases of professional incompetence on the part of attorneys representing indigent clients in capital cases. Some of these defendants were convicted and sentenced to death, were able to secure competent counsel, prove their innocence, and win just release.

Capital cases are complex, and the stakes are the highest imaginable, so expertise is needed to properly represent a defendant. Still, we are seeing evidence that these cases are not always tried by such experienced counsel. Imagine sitting in the defendant’s chair, your life on the line, knowing you are innocent, and watching your attorney fail to conduct proper investigation, fail to call witnesses, fail to present an adequate statement to the jury. Imagine that in this country.

When the day is done, that attorney walks home. You, the defendant, walk to death row. If you cannot find experienced, responsible counsel for an appeal, you walk to the gas chamber, the electric chair, or to a stark room with vials of poison to execute you.

We must not forget these stories as we debate reform.

Neither should we forget, in our frustration with the current system, that a habeas petitioner is not free to walk the streets while awaiting the ruling of the court. I think that is a misperception that some have. This man or woman is in prison, not sitting in a country club.

Many of the stories we hear during this debate rely on their persuasive power on the grief and rage many of us feel after a brutal murder. But let me speak a word of caution to those who stir those feelings. Grief and rage are not good foundations for making good policy, and emotions that strong can lead to oversights and unintended consequences, and in this case, to conclude, although it may not be very frequent and apparently is frequent enough, it literally can lead to the execution of innocent people.

I urge that the habeas provisions of this bill be removed. I do not think they are appropriate to this piece of legislation. Certainly, the bill could go forward without them, and it would be a far better piece of legislation.

I thank the Chair. I yield the floor.

Mr. WELLS L TONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. W ELLS L TONE. Mr. President, I came in at the very end to hear the remarks of my colleague from Wisconsin. I would like to thank him for his eloquence. I am not a lawyer, but I do believe that the Senator from Wisconsin has made an essential point. I think his point about habeas is as follows. Actually, he has modified his 1233 amendment. Mr. President, to me?

Mr. HATCH. Parliamentary inquiry: What is the number of which I have not the slightest idea.

Mr. WELLS L TONE. Mr. President, I send that modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator modifying amendment 1226?

Mr. BIDEN. No, the Senator is modifying, actually, it is a whole new amendment. I am attempting to modify the underlying bill.

Mr. President, I want to make clear. I may have done something inadvertently here.

If I do not mean to modify, I am sending the amendment to the desk, the purpose of which is to amend the Hatch amendment. We need a vote on it. I am not seeking unanimous consent for that.

The PRESIDING OFFICER. If there is no objection, the clerk will report the new amendment.

Mr. HATCH. Parliamentary inquiry: As I understand it, this is a substitute that will replace the pending Biden amendment.

Mr. BIDEN. That is correct.

The PRESIDING OFFICER. The Senator can either withdraw the pending Biden amendment 1226 and send up a new amendment, or he can modify the Biden amendment 1226.

Mr. BIDEN. That is correct.

Mr. President, if there is one thing I have learned after years, it is that it is very difficult to listen to staff and the Presiding Officer at the same time. I apologize.

I should have been listening to the Presiding Officer. Would he mind repeating his question to me?

The PRESIDING OFFICER. The Senator could either modify amendment 1226 or submit a new amendment, either one.

Mr. BIDEN. I am submitting a new amendment.

AMENDMENT NO. 1226 WITHDRAWN

Mr. BIDEN. President, I would like to withdraw amendment 1226. I hate numbers and acronyms. But that is what I wish to withdraw.

I send a new amendment to the desk, the number of which I have not the slightest idea.

The PRESIDING OFFICER. Amendment 1226 is withdrawn.

AMENDMENT NO. 1253 TO AMENDMENT NO. 1199

(Purpose: To amend the bill with respect to habeas proceedings)

The PRESIDING OFFICER. The clerk will report the new amendment.

The legislative clerk read as follows:

The amendment is as follows:

The amendment (No. 1226) was withdrawn by unanimous consent of the Senate. The amendment (No. 1226) was withdrawn.

AMENDMENT NO. 1199

Mr. BIDEN. Mr. President, I ask unanimous consent that the amendment be dispensed with.

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

The amendment is as follows:

Strike lines 9 through 11 on page 108 and insert the following:

(‘“Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as Strike lines 9 through 11 on page 108 and insert the following:

The amendment (No. 1226) was withdrawn by unanimous consent of the Senate. The amendment (No. 1226) was withdrawn.

AMENDMENT NO. 1199

Mr. BIDEN. Mr. President, I send that modification of my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is the Senator modifying amendment 1226?

Mr. BIDEN. No, the Senator is modifying, actually, it is a whole new amendment. I am attempting to modify the underlying bill.

Mr. President, I want to make clear. I may have done something inadvertently here.

If I do not mean to modify, I am sending the amendment to the desk, the purpose of which is to amend the Hatch amendment. We need a vote on it. I am not seeking unanimous consent for that.

The PRESIDING OFFICER. If there is no objection, the clerk will report the new amendment.

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The PRESIDING OFFICER. The Senator could either modify amendment 1226 or submit a new amendment, either one.

Mr. BIDEN. I am submitting a new amendment.

AMENDMENT NO. 1226 WITHDRAWN

Mr. BIDEN. President, I would like to withdraw amendment 1226. I hate numbers and acronyms. But that is what I wish to withdraw.

I send a new amendment to the desk, the number of which I have not the slightest idea.

The PRESIDING OFFICER. Amendment 1226 is withdrawn.

AMENDMENT NO. 1253 TO AMENDMENT NO. 1199

(Purpose: To amend the bill with respect to habeas proceedings)

The PRESIDING OFFICER. The clerk will report the new amendment.

The legislative clerk read as follows:

The amendment is as follows:

Strike lines 10-22 on page 125.

Mr. HATCH. Mr. President, as I understand it, that amendment has been
set over until some time at 1 o'clock, am I correct?

The PRESIDING OFFICER. No agreement has been reached on the disposition of that amendment.

Mr. HATCH. I move to table the amendment.

Mr. BIDEN. Mr. President, before he does that, I would like to be able to speak for 5 minutes to my amendment.

Mr. HATCH. I withdraw that.

I am unanimous consent that the vote occur on or in relation to amendment No. 1226, which is now 1253, at a time to be determined by the majority leader after consultation with the minority leader, but not before 1 p.m. today.

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

Mr. BIDEN. Mr. President, if I can speak very briefly now to my new amendment, let me make sure that I have it straight for myself, let alone for all of my colleagues.

My original amendment was designed to do three things, to change three provisions of the bill; it is technically an amendment—the thing we are debating, the counterterrorism legislation that is before us. In that counterterrorism legislation, there were a number of provisions, three of which were as follows: One deleted the existing statutory requirement that there be counsel appointed for an indigent at a trial. The second, deleted an existing statutory provision requiring counsel be appointed for an indigent. And the third amended existing law that says counsel for an indigent has the right to go before a Federal judge by himself without the prosecutor present and make a request to the Federal judge for additional resources in order to adequately be able to protect his client's constitutional interests, that is, go in to a Federal judge and say: Judge, I do not have the money to hire an investigator like the prosecutor can provide for an indigent. The judge would say that is the judge is the guy who dispenses the money, and the judge is going to go to the judge and say: OK, I will give you the money to hire that guy. You proved to me you need it. I will give you the money.

Now, what my friends do here—and I understand their motivation; I think it is pure—is they say, wait a minute now. That is costing money, and should the prosecutor, the State, have to be in that room when the defense attorney is in that room saying: Judge, I have no money, but I wish to hire an investigator to check this out.

They say that the State prosecutor should be able to be in that room while that is being done. Well, they would not say that if it were a civil case. You would not in a civil case say, by the way, you ought to tell the other side that you are about to hire two people to go investigate a witness who says they have information on you and he is not perfect, he is not perfectly healthy when they claim to have a bad back. They say, well, you would not have to telegraph that.

Just because somebody is poor, why should they have to give away their case in front of the prosecutor?

And, by the way, to put it another way, how is the State hurt by this? The State is not hurt in any way by this. There is a Federal judge sitting there who is going to listen to all of the evidence that is going to be in that room when the defense attorney is in that room saying: Judge, I have no money, but I wish to hire an investigator to check this out.

And so what my amendment does is it strikes another provision in the underlying counterterrorism bill, the Hatch bill. It strikes the part that says that before a poor man's appointed counsel can ask a judge a question, he has to have the prosecutor in the room with him while he asks.

Now, my good friend from Pennsylvania, who along with the chairman of the Judiciary Committee, one of the best trial lawyers in this place, and their previous records demonstrate that, says basically: I do, do not worry about that because our legislation says—and I will read it—"No ex parte proceeding, communication or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality."

I understand what they intend by that. What they intend by that is to solve the problem I have just raised, but under the law the use of the phrase "providing showing" means to in front of the prosecutor you are going to have to say: This is why I need this money, judge, to hire this investigator.

The effect of that is in making your proof to show you have to make it in front of the prosecutor. You have now given away the very thing you wanted to avoid when you asked for the closed hearing. This closed meeting with the judge has nothing to do with the facts of this case. But if the judge thinks it is an outcome of the case, nothing to do with the substance of the case.

It has to do with the resources made available to a court-appointed lawyer. He may go in and say: J udge, you have not given me enough money to be able to send out the following 20 questions to prospective witnesses. I want that money. Can you give me that money to send out those letters? Or to provide transportation to get a witness.

Remember Rosa, that woman in the O.J. trial who was going to Mexico? Well, it may be a situation where he said: I think, I have a witness who cannot get here. I do not have the money to get him here. Can you give us the money to get him here? The judge may say: No, I will not give you the money. I do not think it is essential for you. But if the judge thinks it is essential, he can say: OK, you are authorized to buy a ticket to send that person here.

But what you do not want to do is to necessarily have to tell that to the prosecutor at this point because it may be a witness you turn out not using.

Anyway, that is the crux of this thing, and although the intention to correct my concern in the underlying remaining amendment is the law says that "upon a proper showing of the need for confidentiality" you can have this secret hearing, or this closed hearing, it does not get it done because "providing showing" is essentially a term of art in the law. You have to make your case before the other person.

Now, the last point I will make—and this is, I think, an appropriate point to make—is that this in here evidences the fact they know I am right. The mere fact they acknowledge that there are circumstances under which confidentiality is appropriate makes my case.

Think about that now. If they thought everything I am saying here makes no sense, that it is not a legitimate point to raise, why would they
provide for any circumstance under which there could be a closed hearing in which only the judge and only the defense counsel were present? They acknowledge by implication. They try to correct it by saying “proper showing.”

But the truth of the matter is, it is real simple. It is human nature. If you have the prosecutor and the defense lawyer, why does the Presiding Officer is, and I have to make my case to you because you are not automatically going to get what I request, you want to know why I want it. So you have to ask me, “I oe, why do you want it?” And in order for me to convince you to give me the resources, I have to say to you in front of the other guy, “Well, I want it, I judge, because I think this witness is going to show that the witnesses for the prosecution are lying.” Bingo, out of the bag.

Now, if I could say to you, “I judge, I can’t say in front of the prosecutor here. Could you ask the prosecutor to step out of the room and I will tell you?” If you could say that, then that will get you to tell me that the prosecutor being in there as long as when it comes to me to make my case as to why I need the resources that the prosecutor is not there.

So I toyed with the idea of changing the law to say, “No ex parte proceedings, communication, or request may be considered pursuant to this section unless a request is made concerning the need for confidentiality.” A request is made—a request—not a showing, because when you move from request to showing, you are required to lay your cards on the table. “The very cards I have to show you, Your Honor, in order to get you to allow me the money.” I have to do it in front of those folks.

We have right that for a defendant who can afford a lawyer. We do not ask that for a prosecutor. We only ask that for somebody who is poor, and that is a double standard. That is a double standard. To put it another way, Mr. President, if we wanted to make it even for everybody, we should require the privately paid defense lawyer to have to tell the prosecutor every single investigator he or she hires and why they hired him, and should he have to tell him why they have to tell the defense lawyer every single thing their investigator is doing before they do it. That would be fair. Now everybody is on the same playing field. Now poor folks are treated just like wealthy folks. Prosecutors are treated just like defendants. That would be fair.

But what do we have here? We have a situation where I am poor, he is wealthy, and she is a prosecutor. She does not have to tell me anything about when she is investigating as a prosecutor. He does not have to tell her anything about what he is investigating as a defendant, he can afford it. But I have to tell everybody. It is not fair; not fair. That is what I am trying to correct.

The underlying statute is 848. My amendment strikes all of their reference to that statute. I would be willing to do it by just substituting the word “proper showing” in their language, but I do not think they are willing to accept that. So I am willing, when it is the appropriate time for my colleague to respond, if he wish-
ed, to move to table this—the bottom line. Mr. President, is I just think this is about fairness.

Why should an indigent defendant have to tell the prosecutor all that he is investigating? You say, “They don’t have to under the law.” They do prac-
tically. Mr. President, because they do not have the resources to hire these folks to do the investigation. Therefore, they have to ask for that. In order to get the judge to give them those resources, they have to tell him why they want those resources; thereby, the judge has to give them. They should not have to do that. Wealthy de-
fendants do not have to do it. Prosecu-
tors do not have to do it. Poor people should not have to do it.

I yield the floor and thank my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate what my colleague is saying and I know he, with his experience, feels very deeply about it. The real problem is and the reason we have to oppose this amendment is because at this point in the proceedings, we have had a trial, three appeals, we have had other proceedings, but at this point in the proceedings, to which Senator Biden is referring, all claims should have been out in the open. At that point, they should be out in the open. They should not be investigating new claims at this point.

Frankly, ex parte proceedings are simply unnecessary at this point in the proceedings. This is just simply an-
other way of dragging out the process and the proceeding, permitting the de-
fense counsel to argue his case outside the presence of the prosecutor. That is why we have to oppose this amend-
ment.

I suppose we could argue that we should never finish these proceedings; that there is no finality; that people who do not like the death penalty want these things to go on forever hoping that nobody ever has to live up to the judgment of the court or the jury, but that is what we are trying to solve here.

The bill before the Senate protects constitutional rights. It protects civil liberties. We give them every chance under our bill to be able to pursue their claims. There is no reason why they should be in the same room with the other party. The judge has to be in another room and get an ex parte hearing without having counsel for the State present and having hired people to in-
vistigate new evidence over the last 6 months and then get a nunc pro tuno ruling of the court—in other words, that they should pay for that, the State is going to have to pay for that, from the time they hired them right up to the present time—in an ex parte proceeding. Both argued this pretty much to death.

Mr. BIDEN. Mr. President, I would like to make one brief response. The PRESIDING OFFICER. The Sen-
ator from Delaware.

Mr. BIDEN. Mr. President, let me ex-
plain why, although it sounds reason-
able what my friend said. We have gone through the factfinding stage, the trial, this is just on habeas appeals, and why do you want to dig stuff up?

Many of the habeas appeals are pre-
mised on the following proposition: The defendant says, “Hey, look, I got convicted unfairly because there was perjured testimony in my trial,” like a couple trials that were mentioned here today, actually happened. I am not making these up, they happened.

It turns out, for example, the pro-
secutor had a witness that would have said, “I was with Charlie Smith and he couldn’t have committed the crime,” and the prosecutor never let anybody know that. Conversely, someone gets on the stand in the trial and lies and it is later found out that they lied.

The reason why the defense attorney needs to be able to investigate is to be able to root that out. You have a de-
fendant saying, “Look, I am about to be put to death, but I’m telling you, Charlie Smith lied. If you just go find Harriet Wilson, I found out she knows he lied.”

This is what happened. I am asking my staff to check the Carter case. I am not sure of the facts in the Carter case. If I am not mistaken, there was additional evidence found out after the trial—after the trial. That is why the defense attorney needs the same tools avail-
able to him or her that a wealthy de-
fendant would need or the prosecutor needs. That is all I am saying. Do not be misled by the notion that the trial is over, therefore, there is no other factfinding to go on, you do not need an investigator.

For example, in the Hurricane Carter case—I wanted to make sure I was right on my facts here—after the trial was over, Hurricane Carter’s lawyers were able to investigate. There was a polygraph test given to one of the witnesses, and the outcome of that polygraph test sus-
tained Hurricane Carter’s assertion that he was innocent. It was never made available. They never told anybody else. Everybody was able to come dig this out. Therefore, it took investigative work after the trial to go back and dig this out. They dug it out.

Old Hurricane Carter “ain’t” dead now, and the reason he is not dead now is because they dug that, among other facts, out. That is the investigative work we are talking about. Keep in mind now, this does not in any way ex-
tend the number of appeals someone
can make. This does not in any way extend the time in which appeals have to be filed. This is just simple fairness. Treat poor people like you treat wealthy people during and after the trial.

I yield the floor.

Mr. HATCH. One more sentence. This is after direct appeals, after collateral appeals have been done, after the State has decided the issue on perjury, or to use his hypothetical, where they would have had the opportunity. All we ask is that the State not be hammered. We have had judges that do these things. States have had inordinate expenses, and there is little or no justification for it.

Mr. President, I move to table the Biden amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There was no sufficient second.

The yeas and nays were ordered.

Mr. HATCH. I ask unanimous consent that the vote on the motion to table the Biden amendment No. 1253 be set aside and that the Senator from Michigan be recognized to offer his amendment.

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

Mr. HATCH. I ask that the Biden amendment No. 1253 be laid aside and the vote occur on or in relation to the Levin amendment No. 1245 following the vote on the motion to table the Biden amendment.

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

Mr. HATCH. It is my understanding that the distinguished Senator from Oklahoma has asked for some separate time.

I ask unanimous consent that he be given that opportunity to speak at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. I ask that the time not be charged to Senator LEVIN or our side.

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

Mr. NICKLES. Mr. President, first, I wish to compliment Senator HATCH for his leadership on this bill, and I also compliment Senator DOLLE for his leadership in bringing this bill to the floor and his willingness to bring it to the Senate this early.

Mr. HATCH. If the Senator will yield, before the Senator gets into his remarks, I want to also ask unanimous consent that immediately following the Senator from Oklahoma the Senator from Michigan be granted 10 minutes, without having the time count against any amendment.

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

Mr. NICKLES. Mr. President, again, I thank my friend and colleague from Utah for his leadership on this bill and for his willingness to bring it to the floor so quickly. Also thank Senator DOLLE for his leadership on the amendment that I introduced after the tragedy of April 19 in my State, talking to Senator DOLLE either that day or the next day, he stated to me his willingness to bring legislation forward to the Senate as quickly as possible. He made it clear that he did not do this usually move very fast in the Senate. I appreciate his willingness to schedule this as early as possible. I also appreciate the fact that finally we are going to bring this issue to a conclusion.

It was my hope that we were going to finish it last night. I wanted to be in Oklahoma today because of some base closing hearings both in Enid and in Oklahoma City, Vance and Tinker Air Force bases. That is very important. But I feel like this issue is most important for my State and for many people across our country. It is vitally important that we enact habeas corpus reform.

On Monday of this week was honored to meet with about a dozen Oklahomans who had lost family members in the Oklahoma City bombing. These brave individuals came to their Nation's Capitol to honor their loved ones by asking the U.S. Senate to do one meaningful thing—enact tough habeas corpus reform on the antiterrorism bill.

There are several important parts of the bill that is before us, but the one key element that will help the victims of the Oklahoma City bomber and other victims of violent crime in habeas corpus reform.

I will read a couple of the comments that some of the victim's families made:

In Oklahoma City they had a press conference in the State Capitol to urge Congress and the President to implement habeas corpus legislation that would significantly reduce the appeals process and expedite the imposition of death sentences. In strained, choked voices, they talked of the tragedy that tore at the city, leaving shattered families still only beginning to absorb the depths of their losses. Connie Williams wore a button with her dead son Scott's picture, bearing the words "Beloved Scott, Our Special Angel." His pregnant wife, Nicole, said, "I do not want his daughter to be in high school wondering why his killers are still on death row."

She is right.

Some of the families came up to our Nation's Capitol on Monday. One was Diane Leonard. Her statement was, "Our pain and anger are great." Her husband is gone, a Secret Service agent killed in the bombing in Oklahoma City. I might mention he was an agent of the Secret Service for 25 years. She added, "But, how would I, much greater, if the perpetrators of this crime are allowed to sit on death row for many years." She is talking about the pain and anger are great, but it would be much greater if the perpetrators were allowed to sit on death row for many years. She is a former Tulsa resident. Diane Leonard, her voice cracking with emotion, described to graphic detail the injuries her husband suffered. She urged Senators to have the courage to amend the law to allow death sentences to be carried out in 2 or 3 years.

I respect the fact that some of our colleagues feel differently on the death penalty. We have heard some of them speak very eloquently that they are opposed to habeas corpus reform in large part, in many cases, because they do not want the death penalty to ever be carried out. I respect their position, but I do not think they are correct. I think they are wrong.

Mr. President, I fear that our criminal justice system is in critical condition. The past couple of years have shown a dip in America's crime rate, but over the course of years our crime rate has gone up and will be much greater if the perpetrators of this crime are allowed to sit on death row for many years.

Today, an American is about 2 1/2 times more likely to be a victim of a violent crime than he or she was in 1960.

Today, an American is about four times more likely to be a victim of a violent crime than he or she was in 1960.

And in the face of these sobering numbers and the numbing real-life stories that appear on our television sets every night, our criminal justice system appears less and less able to dispense justice.

This bill, if it contains tough, new habeas corpus reforms, can be an essential step along the path to reform.

No adult in Oklahoma can consider the probable prospects for the Oklahoma City bomber without reflecting on the man who until a few weeks ago was Oklahoma's most notorious killer.

That man is Roger Dale Stafford who, in 1978, murdered nine persons in two separate incidents. Roger Dale Stafford was given nine death sentences for those murders, but he is living still.

Roger Dale Stafford does have an execution date; it is July 1, 1995. But Roger Dale Stafford has had execution dates before, and they all have come and gone. Whether this date will be the last I do not know for his attorney has announced that he will seek another stay of execution. Incidentally, this is the same attorney who has been appointed to represent Timothy James McVeigh, the man being held in connection with the Oklahoma City bombing.

Roger Dale Stafford's crimes are well known in Oklahoma; but the fact that they are well known does not reduce their ability to shock and sadden anyone who hears of his wickedness.

On June 21, 1978, after searching unsuccessfyl for a business to rob, Roger Dale Stafford and persons in town, his brother, Harold, decided to stop their car, raise the hood, and feign distress, in hopes that a wealthy and vulnerable Good Samaritan would come...
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along. They pulled their car to the side of the road, and Verna Stafford attempted to flag down passing cars. Roger and Harold Stafford lay in wait in the darkness.

Eventually, a blue Ford pickup truck with a white camper shell pulled off the road, and the driver, Air Force Sgt. Melvin Lorenz approached Verna Stafford with an offer to help. Sergeant Lorenz looked under the hood of the Stafford automobile and said that he could help, but not all that he had. Roger Dale Stafford then shot Sergeant Lorenz twice, killing him.

Hearing the shots, Linda Lorenz, Sergeant Lorenz's wife, got out of the pickup truck and ran toward her husband. Verna Stafford knocked Mrs. Lorenz to the ground, and Roger Stafford shot her as she fell, killing her.

The murders then a child calling from the back of the camper. Roger Stafford approached the camper, cut a hole in the screen, and fired his pistol into the darkness, forever silencing 11-year-old Richard Lorenz.

For the Lorenz murders, Roger Dale Stafford was convicted on six counts of first degree murder and sentenced to death for each murder.

As I said, Mr. President, Roger Dale Stafford lives still, and each day his penalty becomes farther and farther removed from the crimes for which it is so eminently justified. Justice still waits for Roger Dale Stafford.

And, with justice because since his convictions, Roger Dale Stafford has made at least 18 reported appearances in Federal and State courts. He has been before the U.S. Supreme Court six times—1985, 1985, 1985, 1984, 1983, 1983. He has also filed 100 Petitions of Appeal for the 10th Circuit once, 1994, before the Oklahoma Supreme Court once, 1986, and before the Oklahoma Court of Criminal Appeals nine times, 1993, 1992, 1991, 1990, 1987, 1985, 1985, 1983, 1983. This list does not include appearances which were not officially reported. It reports one pretrial appearance at an appellate court, 1979. And, it omits all activity at the trial courts.

Mr. President, 17 years ago he murders teenagers, he murders an innocent American family. He killed them out, and he is still on death row. That is not justice delayed, that is justice denied. What about the families that lost teenagers in that incident? What about the family that lost Lorenz?—178, in the Oklahoma City, bombing incident; 178, with over 400 injured. Are we going to be telling them 15, 17, 20 years from now, “Well, the appeals process is just very cumbersome,” and have taxpayers paying not only the expense for finding justice, but for the perpetuation of the crime, should they be convicted and receive the death sentences, as they surely should and hopefully will. What are we going to tell those families?

I met with some of the victims that lost two children. I met with them Friday. A young lady in her early twenties lost both her kids. I met with a daughter that lost her father just last Monday. I met with three spouses that lost their spouse. One of the individuals that was here was her father who lost his nephew, whose wife is expecting. What about that child who will never see her father alive? Are we going to tell that child, “Well, we are sorry, but the person that was responsible for murdering your dad is still in Federal court, he is still in prison living pretty well, watching TV; Uncle Sam, or the Government, is taking care of him, giving him three meals, making sure all his rights are protected,” and allow him to abuse the process for 15 years or so? I expect he has another one in the cards? And so what if he keeps the court? So what if it keeps them kind of busy? So what if they are as guilty as they possibly can be? So what if they have been convicted and gone through every appeal in the process and been to the Supreme Court? Roger Dale Stafford has had his case to the Supreme Court six times, and every time the Supreme Court said, “Guilty.” Yet he files another petition. I expect he has another one in the typewriter right now. It just so happens his attorney is a very competent, very professional, very good attorney, Steven Jones. He also happens to be the same attorney that will be defending Mr. McVeigh. I do not want the victims of the Oklahoma City bombing to have to wait 17 or 20 years for justice. That is why we need habeas corpus reform.

Second, the habeas system demeans federalism. The present system of review is demeaning to the State courts and pointlessly disparaging to the efficiency and effectiveness of our criminal proceedings. A single Federal judge is frequently placed in the position of reviewing a judgment of conviction that was entered by a State trial
Today I rise to also just indicate my overall support for this legislation. Clearly, the people in our country and in our State of Michigan in particular stand back and look at the events which took place in Oklahoma City with great concern. They have asked us, as I believe the American people, to incorporate the best ideas as to the sorts of actions we should be taking at this time to address the problem of terrorism, wherever it may originate. At this point I would like, in my remarks, to highlight a series of provisions in the bill I have introduced dealing with our outstanding floor leader and my good friend, the Senator from Utah, with the majority leader, and others. These provisions would facilitate the deportation of aliens who have committed serious crimes while in the United States.

The provisions at issue, contained in title III, section 303(e) of the bill, require that aliens who are convicted of serious crimes in courts of law in this country be deported upon completion of their sentences without any further judicial review of the order of deportation. These expedited deportation procedures will apply to the almost half a million aliens currently residing in this country who are deportable because they have been convicted of committing serious felonies.

Under the Immigration and Nationality Act, aliens who are convicted of felonies after entry are already deportable. They are rarely actually deported, however, because criminal aliens are able to request equitable waivers from the courts and other types of judicial review that were never meant to apply to convicted felons. Such abuse of process operates to prevent the order of deportation from becoming final.

Notably, both the administration's antiterrorism bill and S. 735 contain expedited deportation procedures for a small class of aliens reasonably suspected of planning terrorist activity. The administration's bill, however, makes no provision for rapid deportation of aliens who have actually committed crimes. This, despite the fact that the Attorney General has said that the removal of criminal aliens from the United States is one of the administration's highest priorities and that our prisons and jails are crowded with criminal aliens. The substitute to S. 735 remedies that omission.

According to the FBI, foreign terrorists have been responsible for exactly two terrorist incidents in the United States in the last 11 years: the World Trade Center bombing and a trespassing incident at the Iranian mission to the United Nations. While the World Trade Center bombing was obviously a very serious matter, it should not be the exclusive focus of our efforts to take strong action to protect American citizens from criminal conduct by non-citizens.
More than 53,000 crimes have been committed by aliens in this country recently enough to put the perpetrators in our State and Federal prisons right now. An estimated 20 to 25 percent of all Federal prison inmates are noncitizens; in California, almost one-half of the prison populations are noncitizens. According to a 1995 Senate Report on Criminal Aliens in the United States, a conservative estimate of the total number of deportable criminal aliens presently residing in the country is 3 million. All of these aliens have committed at least one serious crime in this country. For that reason all are deportable under the law. They have not been deported because they have not been able to prevent the order of deportation from ever becoming final by seeking repeated judicial review.

The grounds on which criminal aliens are legitimately entitled to waivers of deportation are extremely narrow. To avoid deportation, criminal aliens essentially must prove a case of mistaken identity—that the alien is not who the Government thinks he is; that he is not an alien, at all; or that he has been pardoned or had his conviction overturned. Mistakes of this order do not happen often. Mistakes of this order certainly have not happened 450,000 times—for each of the deportable criminal aliens currently in the country. Rather, the alien's capacity to demand successive judicial review, even wholly merit less judicial review, grinds the deportation process to a halt.

Meanwhile, the Immigration and Naturalization Service does not have adequate facilities to house this many criminal aliens. As a result, the great majority of these convicted felons are released back to our streets after serving their sentences, with instructions to report several months later for a hearing before the INS.

Needless to say, the majority of criminal aliens released from custody do not return for their hearings. Having been returned to the streets to continue their criminal predation on the American citizenry, many are rearrested soon after their release. Thus, for example, a recent study by the GAO found that 77 percent of noncitizens convicted of felonies are rearrested at least one more time. In Los Angeles County alone, more than half of incarcerated illegal aliens are rearrested within 1 year of their release.

The provisions at issue will put an end to this abuse of process by doing the following:

First, they will prohibit the Attorney General from releasing criminal aliens from custody prior to deportation. They will also eliminate judicial review for orders of deportation entered against noncitizen aliens—although criminal aliens will still be entitled to challenge their orders of deportation before the Board of Immigration Appeals.

In addition, these provisions will require deportation of criminal aliens within 30 days of the conclusion of the alien's prison sentence in most circumstances.

Finally, they will apply these expedited deportation to aliens who have committed crimes. Right now, section 1252b lists in section 1252b of title 8 of the United States Code. These include crimes such as murder, rape, drug trafficking, espionage, sabotage, and treason.

These reforms are extremely reasonable. Aliens in this country who commit these crimes will be afforded all the due process protections and lengthy appellate and habeas corpus review afforded U.S. citizens on the underlying offense. Moreover, once those appeals have run and the conviction has been upheld, the alien will continue to be entitled to a hearing before an immigration judge to determine whether an order of deportation should be entered. And if an order of deportation is entered, the alien will still retain the right to appeal the order to the Board of Immigration Appeals. The substitute to section 1252b eliminates additional judicial review for criminal aliens beyond this point.

Without the rapid deportation provisions for criminal aliens in this legislation, aliens who are convicted felons will continue to be deported at the current pace, that is about 4 percent a year. At this rate—assuming no alien is ever convicted of another felony—it would take 23 years to deport all the aliens presently residing in the country who are under felony convictions. Meanwhile, many will be released back into society to prey on more American citizens. No country, no matter how civilized, should continue to tolerate this abuse.

For that reason, as well as the many others that have been advanced over the past few days, we should enact this legislation, and quickly too. I urge the Senate to do just that.

Finally, Mr. President, I would like to say a few words about another very important set of provisions in this bill: the sections that would reform habeas corpus.

Like the provisions concerning deportation of criminal aliens, the habeas corpus reforms in the bill correct a completely judicial process in our criminal justice system. In this case they correct the obstructive and abusive manipulation of the writ of habeas corpus by criminals who have been convicted of serious violent crimes.

Right now, the delay made possible by abuse of this writ allows convicted criminals to essentially overrule a State's entire criminal justice system. By filing repetitive or frivolous habeas corpus petitions, criminals are able to delay the execution of capital sentences indefinitely. This delay in turn seriously undercuts the moral authority of the people, through their elected representatives, to impose this punishment on people who have committed extremely heinous crimes.

This is not fair to the people, who are entitled to determine the punishments to be accorded crimes committed in their States. Nor is it fair or humane to the families of the victims of crime.

The habeas reforms in the antiterrorism bill impose reasonable limits on the use of the writ—reforms that are long overdue. I support these reforms and I urge the Senate to enact this antiterrorism bill.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1245 TO AMENDMENT NO. 119
(Purpose: To retain an avenue for appeal in the case of prisoners who can demonstrate actual innocence.)

Mr. LEVIN. Mr. President, I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1245 to amendment No. 119.

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

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

The amendment as is follows:

On page 106, line 12, strike "and" and all that follows through the end of line 17 and substitute the following:

"or"

"(B) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish that constitutional error has occurred and that more likely than not, but for that constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense."

On page 110, line 3, strike "and" and all that follows through the end of line 9 and substitute the following:

"or"

"(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish that constitutional error has occurred and that more likely than not, but for that constitutional error no reasonable factfinder would have found the applicant guilty of the underlying offense."

Mr. LEVIN. Mr. President, it is my intention to offer and modify this amendment. I will do that in a moment so that the amendment clarifies language that more precisely tracks the Supreme Court language which is the subject of the amendment.

I ask unanimous consent that the modification be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.
AMENDMENT NO. 1245, AS MODIFIED, TO AMENDMENT NO. 1199

Mr. LEVIN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The PRESIDING OFFICER. Do you want to limit your time?

Mr. COOPER. (No. 1245), as modified, is as follows:

On page 106, line 13, strike clause (B) and substitute the following:

"(B) the facts underlying the claim, if proven, viewed in light of the evidence as a whole, would be sufficient to establish that a constitutional violation has probably resulted in the conviction of a person who is actually innocent of the underlying offense."

On page 110, line 4, strike clause (ii) and substitute the following:

"(ii) the facts underlying the claim, if proven, viewed in light of the evidence as a whole, would be sufficient to establish that a constitutional violation has probably resulted in the conviction of a person who is actually innocent of the underlying offense."

Mr. LEVIN. Mr. President. Justice Clark, discussing the Magna Carta, said the following:

Ever since the Magna Carta, the greatest right of personal liberty has been guaranteed to us. The writ of habeas corpus over the centuries has been the common law world's prompt and effective remedy for testing the validity of their detention. Over the centuries, it has been the common law world's freedom writ. We repeat what has been so truly said of the Federal writ. There is no higher duty than to maintain it unimpaired and unsuspended, save only the cases specified in our Constitution.

Mr. LEVIN. Mr. President. We require a showing of cause for the right of habeas corpus over the years has been abused. It has been overused and excessively attempted to be utilized in many cases. Over the years, the Congress and the courts have attempted to rein in some of those excesses, and have done so. Both the Supreme Court and the Congress have in a number of ways attempted to restrict the utilization of the right of habeas corpus excessively. One particular that I want to address in the next few minutes would deny access to the writ on the part of somebody who a court believes is actually innocent.

I want to repeat that because this is a very narrow group of cases that we are talking about. The case which this amendment addresses is the case where a court determines that the prisoner filing the writ is probably actually innocent.

I hope that sounds startling because this is a startling subject. The subject is whether or not we are going to execute somebody where a court finds that the person is probably—that is the key word—actually innocent of the underlying offense. I want to go back into history in order to give the background of this issue.

As I have said, the court as well as the courts have found that the writs of habeas corpus have been used excessively—the petition, more accurately, seeking a writ, has been used excessively. This has been happening for many, many years.

The court in the Schlup case, which is the case I want to discuss at some length, a 1995 case, went through the history of writs of habeas corpus, and they found that the writ had been excessively sought, that there had been repetitious petitions, there had been claims raised in it, and that the burden on the courts became too great.

So in the Schlup case, the majority said the following about the history of the applications for writs of habeas corpus:

To alleviate the increasing burdens on the Federal courts and to contain the threat to finality and comity, Congress attempted to fashion rules disfavoring claims raised in second and subsequent habeas applications for writs of habeas corpus, and they then went through congressional enactments starting in 1966. They also then talked about what the Court has done to restrict the applicability and the availability of petitions for writs of habeas corpus, and said the following in the Schlup case:

These same concerns—and that is the overutilization—resulted in a number of recent decisions from this Court that delineate the circumstances under which a district court may consider a habeas petition.

And the Court sent a second and third application for the writ and not the first application but when a case is repeated for the first time, faced with new evidence, is satisfied that that applicant is probably innocent.

And here is what the Court said:

Explicitly tying the miscarriage of justice exception to innocence

And I want to repeat that word because that is the heart of this amendment. We are only talking about people who are probably innocent as found by a court and as to whether or not they should be denied a hearing on the ground that their application is a second application for the writ and not the first application but where a case is repeated for the first time, faced with new evidence, is satisfied that that applicant is probably innocent.

And are we going to deny that? Are we going to deny that this bill does, a Federal court the right to grant a hearing on a second writ of habeas corpus when a petitioner introducing new evidence convinces a court that he or she is probably innocent and is awaiting execution?

Now, Justice O'Connor in the previous Carrier case, which is relied on heavily in Schlup, said the following:

In an extraordinary case, where a constitutional violation has probably resulted in the conviction of one who is actually innocent, a Federal habeas court may grant the writ even in the absence of a showing of cause for the procedural default.

And the Court went on to say:

Explicitly tying the miscarriage of justice exception to innocence

And the Court sent a second and third application for the writ and not the first application but when a case is repeated for the first time, faced with new evidence, is satisfied that that applicant is probably innocent.

And here is what the Court said:

Explicitly tying the miscarriage of justice exception to innocence thus accommodates the systemic interest in finality, comity, and conservation of judicial resources, and the overriding individual interest in doing justice in the 'extraordinary case.'

And the Court went on to say the following:

Experience has taught us that a substantial claim that constitutional error has caused the conviction of an innocent person is extremely rare. To be credible, such a claim requires petitioners to allege constitutional violations with new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical testimony—that was not presented at trial. Because such evidence is obviously unavailable in the vast majority of cases, claims of actual innocence are rarely successful.

And the Court said that:

A petitioner does not meet the threshold requirement unless he persuades the district court that, in light of the new evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt.

And the issue becomes whether or not we want to require that person to be executed. Is that person going to be executed?

And that is what we now must address. Is this the Schlup exception that Justice O'Connor was talking about?

Now, that is a pretty strong test for being eligible for a hearing on a second writ, that a court must find an applicant is probably innocent, meaning that no reasonable juror—no reasonable juror—would find that person guilty beyond a reasonable doubt.

And the issue becomes whether or not we want to require that person to be executed. Is that person going to be executed?
that he or she is probably innocent? Will we deny that court that opportunity?

Now, what the bill does is adopts the dissent in Schlup, which has a higher standard—not the standard of proba-
bility of innocence, but the standard of clear and convincing evidence of innocence. And that is the issue on this amend-
ment, whether or not we, in the Senate, are going to overturn the Supreme Court decision in Schlup, which said that if a court is convinced that a petitioner is probably innocent, that is enough for that court to grant a hearing on a second or subsequent ap-
lication for writ of habeas corpus, or will we adopt the dissent in Schlup, which says, no, probability of inno-
cence is not enough. Even if somebody is probably innocent of the underlying offense, we are going to execute that person unless there is clear and con-
vincing evidence, evidence above and beyond probability.

The case itself, Schlup was a case where Mr. Schlup was already a prisoner and was convicted of first-degree mur-
der, a murder that occurred in prison, and was sentenced to death. In the habeas corpus proceedings, he produced a videotape showing him in a cafeteria lunch line at the time the killing oc-
curred in a different place, sworn testi-
mony from a prison guard stating that Schlup could not have committed the murder, and sworn testimony of five eyewitnesses that Schlup was not present or did not participate in any way in the murder.

The Federal court of appeals judge found—this is the court of appeals now, before the Supreme Court—the court of appeals judge found “truly persuasive evidence that Mr. Schlup is actually innocent.” Despite that, the majority of the court of appeals upheld the death sentence and refused to grant a hearing on the new evidence. The court held that under the clear and convinc-
ing test, that they thought the petition should follow, they would not grant a hearing in his application.

Earlier this year, the Supreme Court overruled that court of appeals saying that the clear and convincing test, which is the test in the bill before us, failed to provide a meaningful avenue by which to avoid a manifest injustice in cases of actual innocence.

The Court ruled that the fair test for the relief sought is whether “a constitutional violation has probably re-
sulted in the conviction of one who is actually innocent.” I am going to re-
peat it because that is the issue in this amend-
ment. The issue is whether we ought to adopt the majority in Schlup or whether we ought to reverse it. The bill reverses it and goes with the dis-
sent. The amendment would allow the majority of the Supreme Court in Schlup to utilize that test in habeas corpus proceedings, the test being that whether a constitutional violation has probably resulted in the conviction of one who is actually innocent.

I think most of us feel that habeas corpus has been abused, that technical-
ies have been raised by people who are guilty. This amendment raises the opposite issue. This amendment raises the question of whether or not we are going to use a technicality to deny a hearing to someone who is probably ac-
tually innocent.” Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Sen-
ator has 4 minutes 7 seconds.

Mr. LEVIN. I thank the Chair and re-
serve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Sen-
ator from Utah has 25 minutes.

Mr. HATCH. Mr. President, again, what we are trying to do here is put some finality into the habeas corpus pro-
cess and the whole process of habeas corpus review. The amendment just allows another loophole that is un-
justified and allows further appeals. Because liberal judges who are opposed to the death penalty do not want the death penalty imposed, there will be an incentive for them to find that there is probable innocence under this amend-
ment and the whole process will have to start over again, regardless of whether the petitioner is truly inno-
cent of the crime.

The amendment offered by Senator Levin, while it seems reasonable, is prob-
le. When the Court rules on these issues, it does not write on a clean slate—and I am talking about the Supreme Court. The Supreme Court has held that Federal courts are not the forums in which to relitigate criminal cases. At the initial trial, society’s resources have been concentrated in order to de-
cide the question of guilt or innocence. The proposed amendment allows a claim of actual innocence falls well short of satisfying his burden if the reviewing court determines that any juror reason-
ably could have found the peti-
tioner guilty of the crime.

The proposed amendment attempts to follow the Supreme Court’s recent decision in Schlup versus Delo in which the Court exacerbates the confusion in the lower courts, undermines the final-
ity of lawful convictions and creates a greater uncertainty as to the standard under which a court must hold an evi-
dentiary subsequent hearing.

I know that I have said this many times before, but we are dealing with postconviction collateral proceedings, this is the final case. This is the habeas corpus review is a postconviction rem-
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In addition, the amendment guts the bill. The provisions is post-subsequent provisions by allowing successive ha-
beas corpus petitions where the death row inmate does not dispute his having committed the homicide in question but claims the death penalty should not be imposed.

The amendment offered by Senator Levin, while it seems reasonable, is problematic. When the Court rules on these issues, it does not write on a clean slate—and I am talking about the Supreme Court. The Supreme Court has held that Federal courts are not the forums in which to relitigate criminal cases. At the initial trial, society’s resources have been concentrated in order to de-
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dentiary subsequent hearing.
have been denied; and at least in collateral cases, as a general rule, the Governor also has ruled on the case because there has been a petition for clemency; and the Government has also reviewed the claim in a clemency petition and has denied it. At all points in the process—after all the prisoners, the defendant’s conviction has been proved beyond a reasonable doubt. It has been upheld on direct and State collateral review. The conviction has also been upheld on the death row inmate’s federal habeas petition. It is at this point that in the process—a defendant’s conviction would have been overturned for the first time, 30 different habeas corpus petitions all the time, on and on. In Utah, we had the Andrews case. It lasted 18 years. He filed over 30 different habeas corpus petitions—30 different habeas corpus proceedings. He began before the death penalty was finally carried out. All this does is continue the old system, the old business as usual. Frankly, because we all know the distinguished Senator from Michigan is one of the most eloquent advocates against the death penalty in this body—and I have respect for him; I believe he is very sincere on this issue—I think it is fair for him to argue against the death penalty straight up. But to just provide a mechanism whereby there can be another appeal because some liberal judge decides there ought to be an appeal and will delay a sentence that the law allows, I think is wrong. I know of no case—not one—that has been cited in the Senate, in its more than 100 years of study on this issue, in which Federal habeas corpus review has been successfully employed to release an innocent individual from an erroneous State court conviction. It is a myth. The amendment before us is just another method to try to get another appeal and delay the ultimate imposition of the sentence.

Where is the case of an innocent person being held in prison who can have his day in court, the opportunity for review, for a judicial determination that he is innocent? Take Randall Dale Adams, the Texas death row inmate who was the subject of the documentary “The Thin Blue Line.” How did he establish his innocence after he was convicted? Not through Federal habeas corpus, but through the Texas State court proceedings—proceedures similar to those available in virtually every State in the Union today.

Take the case of Walter McMillan, who was wrongfully convicted and sentenced to die for the brutal robbery-murder of an Alabama convenience store clerk. Was it habeas corpus that saved his life? No, it was the State of Alabama. Despite being granted relief through the States, both of these men were called before the Senate judiciary Committee by a colleague of ours, who opposes the death penalty, to demonstrate why our Nation needs more Federal habeas corpus review rather than less. Federal habeas corpus review had not been requested.

The State procedures were adequate and did the job in protecting their innocence and finding their innocence. Yet, they brought them up here to try and show that Federal habeas corpus review is important. I do not know of one case where Federal habeas corpus review has saved the defendant. But the State procedures have. In the Federal courts, the Federal defendants have important appeal procedures that sort of allow, as this is the present amendment, cannot even be called re-form even when it expands the rights of convicted murderers.

I mention these cases—Randall Dale Adams and Walter McMillan—not because I advocate abolition of Federal habeas corpus. It is clear that we put it in the Specter-Hatch antiterrorism bill. I am not advocating abolition of Federal habeas corpus. The President, with the Department of Justice, and law enforcement professionals do support banning and getting rid of Federal habeas corpus. There are many bright people who think that this system is out of whack and that we do not need Federal habeas corpus. But I am not arguing that position.

We have provided for protection of Federal habeas corpus, but we do it one time and that is it—unless, of course, they can truly come up with evidence of innocence that could not have been presented at trial. There we allow successive petitions. Any time somebody can show innocence, we allow that. I simply wish to provide my colleagues some perspective on this issue. We in this Senate have never taken into law the community’s legitimate interest in seeing justice done within the parameters of the Constitution, should soundly reject the present amendment to the Dole-Hatch bill. In my view, the Senate had a duty with respect to habeas corpus. As the inscription on the Dirksen Senate Office Building states, “The Senate is the Living Symbol of our National Union of States.”

The amendment before us will not only hinder and potentially defeat our efforts to pass a true crime bill this year, but in so doing, this amendment will also force an unprecedented and substantial intrusion into the State criminal justice system.

So I hope that our colleagues will vote against this amendment, as sincere as it is and as sincere as it is being offered. It is another way of just delaying the process because some people do not like the death penalty. I understand that. I think there are good arguments on both sides of the death penalty. I myself would very seldom use the death penalty and only in the most heinous of cases. On the other hand, I think it is essential that we have it on the books. There are those who would just as sincerely argue the other side, that there should be no death penalty, that it is cruel and unusual—even some of our Supreme Court justices of the past and maybe now and in the future. But I will not try to get it taken up.

The procedural process posttrial that has plenty of protections for defendants. There is no reason for this expensive litigation process with frivolous appeals to continue. That is what we are fighting today. And we are acknowledging that we protect the constitutional rights and civil liberties of the defendants in these matters.

Responsible scholars from Michigan is very sincere and I acknowledge that. I have a great deal of respect for his sincerity and intelligence. But this amendment should not pass because I
think it would make this process a continuation of the current process, and I think that would be a tragedy.

I reserve the remainder of my time.

Mr. LEVIN. Mr. President, I will take 30 seconds to tell my friend from Utah this is really a fundamental amendment. This is a habeas corpus amendment. The language in the bill reverses the Supreme Court opinion in the Schlup case. That opinion found that the man in that case was probably innocent. I do not think the body in this amendment wants to execute someone who is probably innocent and deny that person a hearing.

Now, Justice O'Connor said—not your liberal judge—one of the majority in the Schlup case, said, "The court today does not sow confusion in the law. Rather, it properly balances the dictates of justice with the need to ensure that the actual innocence exception remains a 'safety valve' in an 'extraordinary case'."

The issue is that the bill before the Senate reverses the Supreme Court. The Levin amendment is not trying to bring something new into this. The Levin amendment is trying to preserve a Supreme Court opinion of a few months ago, joined by Justice O'Connor. That is the issue.

I yield the remainder of my time to my friend from Illinois.

Mr. SIMON. Mr. President, I thank my colleague, and I rise in strong support. I think we all know that I oppose the death penalty. It is a penalty we reserve for those of modest means. If a person has enough money, that person will never get the death penalty in this country. That is the reality.

That is not the question, though. I find it of interest that today's New York Times has a story that the South African Supreme Court yesterday unanimously outlawed capital punishment in South Africa. We are one of the few countries left in the Western world where the death penalty is used.

The question is whether someone who is probably innocent—that is the language of the Levin amendment—probably resulted in the conviction of a person who is actually innocent of the underlying offense.

Now, whether a person is for the death penalty or against it, no one wants to send someone to prison who is probably innocent. We have done that. I can remember when we were debating the death penalty in the General Assembly and a man was about to be executed, and suddenly someone in the State of Georgia confessed that he had committed the crime.

Now, that case is clear and convincing evidence. I have to say that the bill without this amendment would take care of that case.

There are a lot of other marginal cases. We are not just saying a marginal case. The Levin amendment says where it is probably probably innocent a person ought to have that chance to appeal. I cannot believe anyone who really looks at this—the Senator from North Carolina, the Senator from Utah, my colleagues—I cannot believe they will vote against that. Maybe Members will vote against it if they are not aware of what the amendment does, and a briefing is right at the desk on either your side or our side. My colleagues do not have to do that. They can see what mean this disrespectfully to the fine staff—but it is very difficult to condense in a few words what these amendments do.

The Levin amendment says "If you are probably innocent, you ought to have the chance to appeal." I have a hard time believing that is not going to be accepted unanimously. Apparently, it may not be.

I am pleased to support the Levin amendment, proud to support it and vote for it.

I believe I have consumed my time, Mr. President. I hope I have been able to get the message across.

Mr. FRENCH. I move unanimous consent to have an article printed in the Record.

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

[From the New York Times, June 7, 1995]

SOUTH AFRICA'S CONSTITUTIONAL COURT ABOLISHES DEATH PENALTY

(BY HOWARD W. FRENCH)

JOHANNESBURG, SOUTH AFRICA—June 6—Its first major decision, South Africa's recently created Constitutional Court abolished the death penalty today, ending a decades-old practice of executing criminals convicted of serious crimes that had once given the country one of the world's highest rates of capital punishment.

Announcing the unanimous decision, Arthur Chaskalson, president of the Constitutional Court, said, "Everyone, including the most abominable of human beings, has a right to life, and capital punishment is therefore unconstitutional."

That the Constitutional Court chose the death penalty issue for its first major ruling underscored the importance of the issue in a country where for decades execution was used as a common crime, but as a means of terror in enforcing the system of racial separation known as apartheid.

"Retribution cannot be accorded the same weight under our Constitution as the right to life and dignity," Mr. Chaskalson said. "It has not been shown that the death sentence would be materially more effective to deter or prevent murder than the alternative sentence of life imprisonment would be."

In a strong show of support for the ruling, each of the court's 11 judges issued a written opinion backing the decision. The Constitutional Court was created earlier this year as an entity to the executive and legislative branches.

South Africa stopped executing prisoners in 1992 on the orders of the former National Party Government. With violent crime rampant, the number of prisoners awaiting execution on death rows has since swollen to 424. Of its 1,300 people were executed in the 1990's. Death sentences were carried out by hanging.

Reacting to the ruling, Justice Minister Dullah Omar said: "The Constitutional Court said that his National Party, a predominantly white party that had governed the country for decades under apartheid, would campaign to reinstate capital punishment.

Other conservative white groups condemned the ruling while many predominantly black political organizations portrayed it as a victory for racial justice.

South Africa's black African National Congress, the country's largest political party and the leading force in the fight against apartheid, hailed the ruling as a victory for the country's new democracy, saying, "never, never and never again must citizens of our country be subjected to the barbaric practice of capital punishment."

"It's making us a civilized society," Archbishop Desmond Tutu, the Anglican primate of Southern Africa, told the South African Press Association. "It shows we actually do mean business when we say we have reverence for life."

Archbishop Tutu, a leading campaigns against the death penalty, called the ruling "obscenity," saying it, in effect, said to criminals, "We want to show you that we care about life so we kill you too."

Amoung white political groups the reaction to the ruling was typically negative, running from carefully worded statements of displeasure to outright criticism.

Saying that the overwhelming majority of South Africans supported the death penalty, F.W. de Klerk, vice president in the country's new government, said that his National Party, a predominantly white party that had governed the country for decades under apartheid, would campaign to reinstate capital punishment.

Other conservative white groups reacted even more harshly. "The rights of murderers
Mr. BIDEN. Mr. President, this is pretty clear here.

The Senator from Michigan does in his amendment is stick with one part of the change in the law. Right now there is no requirement in the law for a successful petition that says that the defendant has to explain why he did not file the petition before.

Now, under the Hatch approach and under the approach if adopted by Senator Levin, that is tightened up. Even Senator Levin is saying we have to show cause why this was not raised before. There is only one disagreement before the Senate. That is, what standard of proof do you have to bring forward to show you are innocent?

By implication, they are agreeing a person ought to be able, if there is evidence of innocence, ought to be able to have another petition. Senator Levin says the same thing.

A person American would say you ought to have another crack at it. The difference is, they say “clear and convincing.” Right now, the Supreme Court says, no, you do not have to go that far, but you have to go pretty far. You have to sufficiently establish the constitutional violation. You said what happened to you in the lower court, you say your constitutional rights were violated in a way that probably resulted in the conviction of a person who is actually innocent.

Are you justified in abbreviating putting someone to death on whether or not we abide by the Supreme Court majority that says all you have to do is say “probably” this resulted in a conviction of an innocent person?

But they want to go even further. They want to say, no, “probably” is not enough. You have to show that there is clear and convincing. The only thing they do not say is “beyond a reasonable doubt.”

Keep in mind, folks, what everybody misses, when we talk about habeas corpus, is this is not about having a convicted person go free. That is not what this is about. Nobody under habeas corpus petition goes free. They get a new trial. That is all they are saying here. I sure think this is distinction with a difference that can make the difference between life and death of an innocent person. I hope they will yield on “probable” and stop “clear and convincing.”

Mr. HATCH. Mr. President, I do not want to prolong this. I think I have 11 minutes left. I will just take a minute or two.

What I am saying, there has been a trial, conviction, there have been posttrial proceedings, there has been an appeal to the intermediate court in the State, an appeal to the supreme court of the State, then a petitioner of certiorari to the Supreme Court, all of which are denied, and a petition for clemency to the Governor. He denies. In every case where we found actual innocence, or any kind of innocence, it has been through those proceedings, not in Federal habeas. I have to say all of this is another attempt to just prolong the process and allow—call it what it is—a liberal judge who does not believe in the death penalty to prolong the process, again at a tremendous cost to the States, to the legal community which, having a legal obligation to do what you can.

People out there are starting to say, my goodness gracious, is there no finality to the decisions, the just decisions, of the court?

I have up to say the cases that we can cite where people have been helped, where innocence has been proven, have been through that State process, not through the Federal habeas process. It is just another layer of expense. I am not going to knock those who are trying to do this because they will sincerely do anything to stop the death penalty. I respect that.

If I was a defense lawyer again, I would do anything to try and preserve somebody. I have to say it would be pretty cynical to keep doing what is being done in some of these cases today. We can call it sincerity, but the fact of the matter is it is a legal obligation to do what you can. But there is an element out there in the legal community which, having failed to convince the public and the courts that the death penalty is wrong, has set about to eliminate the death penalty defect by making death penalty litigation too costly and protracted.

As a lawyer I do everything I can within the law, and if we provide this law, I will be doing that, and so will every other defense lawyer. It is another appeal, another cost to the States, another frivolous appeal which we are trying to limit here while still giving the protections we need in these matters.

The Levin amendment relies on the term “actual innocence.” Actual innocence means—and let me just read out of the leading Supreme Court case on it, Sawyer versus Whitney. This is what they held:

1. To show actual innocence one must show by clear and convincing evidence that but for a constitutional error no reasonable juror would have found the petitioner eligible for the death penalty under the applicable State law.

The amendment before us, the Levin amendment, will not help the truly innocent. This amendment will further undermine the proper role of habeas corpus and that is the effect of the Levin amendment. The effect of it is not meant to overturn the fundamental defects. The Specter-Hatch habeas bill has the safety valve. It has a safety valve available for the truly innocent. We provide successive petitions for those who prove innocence. The proposed amendment will do nothing to help the truly innocent. It is merely another means of delaying justice. There are plenty of procedures and mechanisms in the Specter-Hatch bill to protect the truly innocent. So we do not need to continue to prolong this.

I move to table the Levin amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator yield his remaining time?

Mr. HATCH. I yield my remaining time.

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. HATCH. Mr. President, I ask unanimous consent the vote on the motion to table the amendment be deferred to a time to be determined by the majority leader, after consultation with the minority leader, after 2 p.m. today.

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

Mr. HATCH. I now ask the Levin amendment be laid aside so the distinguished Senator from Arizona can call up his amendment. I understand there is to be a 1-hour time agreement.

I ask unanimous consent there be a 1-hour time agreement with the time equally divided—in the usual form, we will put it that way.

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

Mr. HATCH. I also ask unanimous consent at the conclusion or yielding back of the time on the Kyl amendment that it be set aside and the vote occur on or in relation to the Kyl amendment following the vote on the motion to table the Levin amendment.

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

The Senator from Arizona is recognized.

AMENDMENT NO. 1211

(Purpose: To stop the abuse of Federal collateral remedies)

Mr. KYL. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk reads as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 1211.
At the appropriate place, insert the following new section:

**§ 2257. Adequacy of State remedies**

"Notwithstanding any other provision of law, an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment or order of a State court shall not be entertained by a court of the United States unless the remedies in the courts of the State are inadequate or ineffective to test the legality of the person's detention."

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

**§ 2257. Adequacy of State remedies**

"Notwithstanding any other provision of law, an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment or order of a State court shall not be entertained by a court of the United States unless the remedies in the courts of the State are inadequate or ineffective to test the legality of the person's detention."

The amendment is:

(a) In General.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

**§ 2257. Adequacy of State remedies**

"Notwithstanding any other provision of law, an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment or order of a State court shall not be entertained by a court of the United States unless the remedies in the courts of the State are inadequate or ineffective to test the legality of the person's detention."

(b) Clerical Amendment.—The table of sections for chapter 153 of title 28, United States Code, is amended by adding at the end the following:

2257. Adequacy of State remedies.

Mr. KYL. Mr. President, the reason I asked the key provision of that amendment be read is to illustrate its simplicity. It is very simple and yet I think very important and necessary as an improvement to the bill which is before us now.

I want to begin by complimenting the managers of the bill, the Senator from Utah, for not only getting the bill to this point but for insisting that we have habeas corpus reform in this important piece of legislation.

My amendment will improve the habeas corpus reforms by, as was just read, ensuring that a case in the State courts can be reviewed in the State court system, but that as long as the State court system provides adequate and effective remedies, that person does not have the authority to go over to the Federal courts and relitigate all of the same claims in the Federal courts.

Of course, it should go without saying that there is always a review in the U.S. Supreme Court from any decision of the Federal district court or the circuit court of appeals. So there is ultimately still the potential for Federal review of a State court decision.

I would like to illustrate exactly what we are talking about here with a hypothetical and a real case. The Senator from Oklahoma is here. One of the reasons the Senator from Oklahoma is so interested in this provision is because of the recent tragedy in his State. Let us assume two cases in the State of Oklahoma. In the first case, there is a robbery and in the course of that robbery someone is shot. The person is tried in the State courts, there is an appeal to the Oklahoma Court of Criminal Appeals and on appeal to the supreme court of the State—eventually a prosecution, a conviction and a sentencing.

Thereafter that State court prisoner may file an application in the Federal system. If that Oklahoma State court system as often as that person can find grounds for doing so. Those writs can be determined legally in the appeals and supreme court of the State of Oklahoma, and eventually of course, after the supreme court of Oklahoma has ruled, they can be considered by the U.S. Supreme Court. So that State court prisoner has virtually an unlimited right to take these writs of habeas corpus up and down the State court system.

In today's society, the right to go to the Federal court system and essentially relitigate the exact issues. "I have some newly discovered evidence that will prove I was innocent of the crime. I have gone up and down the State courts, and I would like to try my luck in the Federal courts." Under existing law, that person can do it.

What the bill says is we are going to put a cap on that. But in the way. It should not be quite so easy for you to go to do that. You at least ought to have some time limits within which to file these habeas corpus writs in Federal court, and the Federal courts at least ought to give great weight to the previous decisions of the supreme court. Those are both sound provisions but they obviously do not preclude the State court prisoner from going to Federal court.

Let us take, on the other hand, the perpetrator of the heinous tragedy in Oklahoma City a few weeks ago. They will probably—he or they—will probably be tried in the Federal district court in Oklahoma. If convicted, there could be an appeal to the Tenth Circuit Court of Appeals and eventually to the U.S. Supreme Court. But those people, having been convicted, will have their writs of habeas corpus reviewed only in the Federal district court and circuit courts of the United States of America. Those people have the right to go over to the Oklahoma State court system and relitigate those same claims. So, whereas the State court prisoner can use both the State system and the Federal system, in duplicate appeals, a Federal prisoner may only use the Federal system.

The constitutionality is obviously clear. Either the State courts or the Federal courts are competent to adjudicate constitutional claims. That is established. The only legal question about that whatsoever. But the Federal court prisoner has one set of options. The State court prisoner, under the status quo, has two sets of options. And we are limiting them a little bit by the bill before us.

My amendment says: No, a Federal court prisoner adjudicates his claims in Federal court. A State court prisoner adjudicates his claims in the State court system. The only time the State court prisoner can go to a Federal court is from an ultimate appeal to the U.S. Supreme Court.

This will end the duplicative appeals that we have all been complaining about, and only this amendment will end those duplicative appeals. Because it will still be quite possible for State court prisoners under the bill before us to adjudicate their claims in State court and then go to the Federal court so long as they do it in a timely manner. So long as they meet the time limits we impose in this bill, they can still go to the Federal court and relitigate exactly the same claims.

What ordinarily happens is that the Federal district court, the circuit court, and the Federal courts of appeals say, "Wait a minute. The State court has already decided that. Your appeal is summarily denied." But that takes time.

I just spoke to the presiding judge of the Tenth Circuit Court of Appeals. He said he summarily dismissed many of these. But he said every one of them has to be considered. And that is the point. From a very small number to a very large number, the district courts and the circuit courts of appeals are hearing habeas cases that have already been decided by the State court and, as the Federal courts have said over and over again, the State courts are perfectly able to resolve these issues.

Mr. President, this is not just an idea that I have come up with. This is what is happening in the District of Columbia today, and has been for the last 25 years, because 25 years ago the Congress passed a law and established that we in the District of Columbia—by the way, the District of Columbia has in effect a State court system which parallels the U.S. District Court and the Circuit Court of Appeals for the District of Columbia.

So it is similar to States in that it has its own system of courts. We in the Congress 25 years ago said that prisoners in the District of Columbia can only use that quasi-State court system here in the District of Columbia. That was in 1972. And that has been for the last 25 years, and the constitutionality was upheld in the case of Swain versus Pressley in 1977. And there have also been other opinions with respect to the constitutionality of what was done. One judge, as a matter of fact, even proposed that because of this experiment in the District of Columbia, which has worked very well for the last 25 years, that the Congress ought to consider the same kind of limitation of remedies in the State courts, exactly what we are proposing here today.

So at the invitation of Judge McGowan, we are proposing an amendment which says in the State courts,
you do like the District of Columbia. You exhaust your remedies in the State court. You can go to the U.S. Supreme Court, but not jump over to the Federal District Court and the Circuit Court of Appeals to litigate the same claims.

Judge Robert Bork has written a letter in support of my amendment. He writes, in part:

Your proposed amendment to the antiterrorism bill to stop the abuse of federal collateral remedies is an excellent and much-needed reform. There is no doubt about the constitutionality of the provision you propose, nor is there any doubt about the need for it. Your amendment is a sorely needed reform to a situation that is now out of hand.

Mr. President, the constitutionality of what I propose is beyond question. It has been tried for 25 years here in the District of Columbia. It is found to be very workable. Everybody agrees that we need to limit duplicative appeals.

Therefore, it seems to me that, if we are to really make the provision of habeas corpus reform in this bill work, we do not just play with it at the edges by proposing some time limits and providing for deference to State court proceedings. We go right to the heart of the matter and say if you have a complete and adequate remedy in the State courts, then that is what you will get except, of course, for your ultimate appeal to the U.S. Supreme Court. You cannot jump over to the Federal system of courts to readjudicate those very same claims.

The Senator from Oklahoma is on his feet. I would like to yield time to the Senator from Oklahoma to further discuss this particular amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I would like to compliment my friend and colleague from Arizona for his leadership. He brought this amendment to my attention. I told him I was not very familiar with it, but I told him I would do a little more homework. I have. I have become more convinced that he is on the right track.

I talked to the Federal judge in the Western District of the State of Oklahoma, and I asked him about the number of appeals; prisoner petitions. We find out in the last 10 years they more than tripled, and have actually consumed about 25 percent of the workload in the western district. The Court has before them hundreds of prisoner petitions and appeals that have to be reviewed.

The Senator from Arizona makes an excellent point, and says the States have adjudicated these cases thoroughly. They have gone all the way through the State courts, through the appeals process, State supreme courts, and then all the way even—with capital punishment cases—to the Supreme Court.

Yet, they continue to press, and want to run through the Federal court system as well where the Federal judges do not have time to go through the entire case, where there is almost a presumption that, if they have to do that, maybe the Federal Government knows better, which is not always correct. The Federal judges have talked to say that you are a serious need of habeas corpus reform.

I compliment my friend and colleague from Arizona for, I believe, truly making more significant reform. I think Senator HATCH’s bill has some good reform for it. The reforms in S. 735 will help expedite the procedures. There are time limits under the proposal now before us from the Senator from Utah. Senator Kyl’s amendment would go much, much further. It would eliminate these hundreds of, in almost all cases—at least, in my State, frivolous petitions placed before the Federal courts, frivolous but yet they still take time. At 25 percent of the caseload, you are talking about a very significant amount of time and energy and dollars that now are being expended by frivolous appeals because many prisoners become quite good at filing petitions, and there is no limit whatsoever on the number of petitions that they can file.

So I compliment my colleague from Arizona for his leadership and for coming up with very significant reform. I appreciate the fact that we have outstanding scholars such as Judge Bork and others who have endorsed the reforms in this amendment.

I urge my colleagues to adopt the amendment.

Mr. Kyl. Mr. President, I would like to yield 7 minutes of additional time to the junior Senator from Oklahoma, Senator INHOFE.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Thank you, Mr. President.

First of all, let me thank the Senator from Arizona for bringing this up. I think it is significant for all of us to realize that had it not been for the bombing in Oklahoma City, we would not be here today. We would not even be having a discussion. There would not be a debate on habeas reform. There would not be a counterterrorism bill.

Certainly, this contentious item of habeas that we have been trying to bring up, at least for the last 9 years that I know of, would not even be discussed in an open debate as it is today. So it is very significant for people to understand this is all precipitated by one act of terrorism that took place in April of this year in Oklahoma City.

On Monday of this week, we had a group of people that came up from Oklahoma. Among others, they were Diane Leonard, whose husband, Don, a Secret Service agent, was killed in that bombing; Gloria Seidl, who lost her husband's, Kay ice, who lost their brother, Paul, a Customs Agent; Mike Reyes, who lost his father and was injured himself; and Danny McKinney, Linda’s husband. It goes on and on. There is not time to name all of them. But they were here for one reason. That reason is that they wanted to be sure that we had the strongest possible habeas reform in this bill.

They want us to realize what has happened in Oklahoma, and what happened in Oklahoma as I mentioned once before on this floor, but I think it is worth bringing up again at this point because it gives you an insight into what the families in Oklahoma are thinking about because it is something that is contemporary right now—a guy named Roger Dale Stafford is scheduled to be executed on July 1. I do not know whether he will be. It is hard to say. In the spring of 1978, someone stopped to help him with his car. He was broken down in Oklahoma. He murdered in cold blood a Sergeant Lorenz, and the sergeant’s wife and small son, and drove 60 miles to Oklahoma City, and committed a great crime known as “The Sirloin Stockade Crime,” where he rounded up six people and took them into the refrigerator, tied them up, and executed the six of them. He has been found guilty on all nine counts and has nine death sentences. That was 17 years ago.

I might suggest that Roger Dale Stafford today is 100 pounds heavier than he was 17 years ago. So I am sure he is eating well. He has been in the cell, probably living under better conditions than he was before, for the past 17 years.

I cannot help but think when anyone is considering a crime of the magnitude of that which we had in Oklahoma, Mr. President, that they spend a lot of time thinking, “What is the downside? What is the worst thing that can happen to me if I get caught and convicted? It is going to be that I will be executed. Wait a minute. The average time between conviction and execution in America is 9½ years. So I will be there for 10 or 15 or 20 years watching color TV in an air-conditioned cell.”

That loses its deterrent value for those of us who are narrow enough in our thinking to believe that punishment is a deterrent to crime.

So without this, we have no way of delivering the message to other individuals who might be considering such a heinous crime as that which was committed in Oklahoma City.

So let me just say that I am here today on behalf of multitudes of people in the State of Oklahoma who were killed in the brutal bombing, the mass murder that took place last April in Oklahoma City.

The message they told us last Monday to deliver on the floor of this Senate, the loud and clear message, was yes, if this does not pass we still want the best out of it right now and the habeas element that is in the bill. That is fine. But the message was let us get the strongest possible habeas
Mr. President, I would like to reserve the remainder of my time at this point should anyone from the minority wish to speak.

Mr. BIDEN addressed the Chair.

Mr. KYL. Both Senators from Oklahoma have conducted themselves in an exemplary manner following the tragedy in their State in a way both to help the people of their State but also to try to do everything they could to assist law enforcement officials to bring to justice the responsible parties and to see to it that there are changes in the law that perhaps can help prevent those kinds of things from happening in the future, and in the cases where they cannot be prevented, that the people are brought to justice.

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Leave that graph up for another moment, please. I want to make sure everybody understands. The State of Texas, under State court and State law, provided for 9 years 2 months' worth of delay. The Federal courts, having Federal habeas available, did, in fact, add to the delay, 2 years and 10 months. But let us eliminate, as my friend from Arizona wishes to do, in effect, the ability of the Federal courts to get into the game. There still would have been a 9-year 6-month delay in the execution of a man who was convicted and should have been put to death. The point is, the end result of all this was he ended up with a granting of habeas in the end. The point is, it was 9 years 2 months in the State court.

In the State of California, we heard a lot of talk about how Federal habeas corpus causes all these delays. The delays in execution of the death penalty, much of the responsibility is in the State of California. Our experience: California's Supreme Court has on its docket four capital cases that have been fully briefed for over 7 years, but the State court has not even heard the argument yet. It has nothing to do with the Federal courts. You have four cases, as of a month ago, when this chart was made up for a hearing. Maybe something has happened in the last month, but as of a month ago, there were four capital cases in the California Supreme Court where the petitioners seeking redress filed their briefs 7 years ago, and the State court has not even acted yet. Translated, that means 7 years living off the taxpayers in an air-conditioned cell because the California State Supreme Court has not even looked at the briefs or, if they looked at them, have not told anybody they looked at them. The California Supreme Court has taken more than 8 years to decide 24 of the cases in which it affirmed the death penalty.

One State habeas petition has been pending for 4½ years and another has been pending for 6 years. This is not even getting to the Federal court. The reason I cite this is the distinguished former Member of Congress and attorney general of the State of California, Mr. Lungren, came before our committee and said, "The Federal courts should work like the State courts. We in California really know what it is doing." Look at what the State of California knows.

I understand the anger. I feel angry and aggrieved as an American citizen that convicted killers are in California sitting there for 7 and 8 years because the court has not even gotten around to listening to what they have to say. You cannot put them to death, because they filed a petition but they have not gotten around to looking at the petition.

What are we doing, though, when we decide that we are angry about that? We are saying the answer is get the Federal Government out of this, the Federal courts out of this. That does not solve the problem, but it creates another problem. The problem it creates when there is no Federal habeas corpus is bad decisions. Bad decisions made by State courts allow people who did not deserve capital punishment to get it. Their constitutional rights are violated. A significant number of the habeas corpus petitions that are filed are granted.

I admit I cannot change the State of California. I did, as a Federal official to tell the State of California how they should look at their petitions. But I can do one thing. When it gets to the bottom here and then they actually, under the proposal I want, they get one chance to get into Federal court, to say the State court judges did not know what they were doing on the Constitution.

Keep in mind now, what I am proposing means when all this is done, within 6 months, the person in jail has to file the petition. If they do not, they are out of luck, and they can only file a second petition under the same ground rules that my friends from the Republican Party, that Senator Specter and Senator Hatch's bill provides. But I says debate later, where we differ, Senators Specter, Hatch and Biden, is on what they are allowed to look at once they get that petition in front of them. I will speak to that later. But look, I really think, to quote my old friend Sid Balick again, "You gotta keep your eye on the ball here." The vast majority of us in this body want to and have been trying for years to change the old system to limit the time in which a petition can be filed and to limit the number of petitions that can be filed. So essentially you get one bite out of the apple.

What my friend from Arizona would do would deny that one bite. I ask you, damage the Nation allowing a person who, after the fact, learns that perjured testimony was used against him; after the fact, learns that information was made available to the prosecution which went to his innocence that was never made known to him; after the fact, the after the fact, after the trial, after the appeals?

If you have to file it within 6 months, I do not know how much additional weight old Stafford would have gained in 6 months that he did not have now, 100 pounds. What is the alternative? The alternative, for example, in this Guerra case was when they finally got down to it, they granted his appeal. They said, "Wait a minute, you did not get it right at the trial." But look, I really think, to quote my old friend Sid Balick again, "You gotta keep your eye on the ball here." The vast majority of us in this body want to and have been trying for years to change the old system to limit the time in which a petition can be filed and to limit the number of petitions that can be filed. So essentially you get one bite out of the apple.

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Mr. BIDEN. I reserve the remainder of my time.

The PRESIDING OFFICER. If I was not clear, the Senator from Arizona has 12 minutes. The Senator from Delaware has 4 minutes.

Mr. BIDEN. I reserve my 4 minutes.

Mr. KYL. Mr. President, I will yield myself 6 minutes of my remaining time.

The last argument he made essentially was what happens when, after the fact, the defendant finds something out that might enable him to win his freedom? That, of course, is the rationale for the writ of habeas corpus. Of course, the answer is, if you are a Federal court prisoner, you have the opportunity to file a writ of habeas corpus. If you are an Arizona State court prisoner, you have the right to file a habeas corpus petition in the State courts. So that is your remedy for something that happens after the fact.

The Senator from Delaware said it must be a fair process, and indeed it must be. Under my amendment, one of the things that can be contested, and could be contested in Federal court, is that the remedy of the State is not sufficient. If you are an Arizona State court prisoner, you have the right to file a habeas corpus petition in the State courts. So that is your remedy for something that happens after the fact.

The Senator from Delaware said it must be a fair process, and indeed it must be. Under my amendment, one of the things that can be contested, and could be contested in Federal court, is that the remedy of the State is not sufficient.

The point of the matter is the Senator from Delaware is correct in noting that most of the delay would be State courts. I submit, however, that that is due to several factors. I am not sure the statistics fail to account for the fact that most of the cases are in State court. As a matter of fact, there are not that many in the Federal court.

Say it is between 25 and 40 percent. At least under my amendment we are dealing with 40 percent of the problem. That is not insignificant. Or, the least, taking the number of the Senator from Delaware, 25 percent of the problem.

Whereas the Senator from Delaware would simply make it more difficult to get into Federal court if you are a State court prisoner, we say you cannot. As Federal legislators, what we can do something about, the Federal courts, we do something. We say you cannot go there. It is up to the States to deal with the rest of the problem which is before them.

Finally, Mr. President, the Senator from Delaware made a point with respect to Senator INHOFE’s presentation, and it was a valid point. But I think it makes a point too far, or one point too much.

The Senator from Delaware said it is doubtful that Senator INHOFE’s constituents understand the difference between the Hatch and Kyl amendment. It was a valid point. But I think it makes a point too far, or one point too much.

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while the common citizen may not understand the technicalities, the legalities, even the word habeas corpus coming from Latin, the common citizen does understand when something is broken. And the Senator from Delaware and the Senator from Mississippi opposed the death penalty. I think it is not in use in many jurisdictions in many nations. I think it is very, very important to retain the death penalty as an effective weapon. Therefore we have to use it very, very carefully.

I have objections to the pending amendment both on constitutional grounds and on public policy grounds. I am well away of the contention that there is constitutional support to it. Frankly, I doubt that the constitutional support is there.

When we are dealing with the question of jurisdiction of the Federal courts to entertain questions on Federal issues, on constitutional issues, I believe it is necessary that the Federal courts retain that jurisdiction as a constitutional matter.

I am aware of ex parte McCardle and aware of the distinctions on habeas corpus where there is supposedly an adequate State habeas corpus remedy. When you have the Federal courts on habeas corpus, especially in a capital case, and makes an assertion of denial of actual rights on privilege against self-incrimination or coerced confession or ineffective counsel or absence of counsel or search and seizure issues, I believe it is necessary as a constitutional matter that the Federal courts retain that kind of jurisdiction.

In our Judiciary Committee hearings, this is a question which I frequently ask the nominees as to whether they believe the Congress has the authority to take away jurisdiction on constitutional issues from the Federal courts. It is too lengthy a subject to discuss at any length today.

Beyond the constitutional issue is a matter of public policy. I think it is very important to have the kind of detached, objective review that the Federal courts give.

In many of our States we have elected judges. I think that is, in some circumstances, would stand up in many circumstances, an impediment to the kind of review we have by judges who have life tenure.

I recall reading for the first time in our law school the case of Brown versus Mississippi, 1936, a decision by the Supreme Court of the United States saying that the due process clause which limited State action warranted the Supreme Court of the United States to reverse a conviction in a State court in a capital case. Without citing the case of Brown versus Mississippi and the horrendous facts there, it was not until 1936 that the Supreme Court of this country intervened in a State criminal matter to say that it violated the U.S. Constitution.

The Federal courts have been providing the safeguards on constitutional rights significantly through Federal habeas corpus. I believe that has to be maintained. In urging the adoption of the Specter-Hatch amendment, our amendment really goes to the issue of curtailing the time.

Some might say that it is a restriction on defendant's rights. I think, actually, it is not, for reasons stated earlier, on the challenge to cruel and barbarous treatment, keeping someone on death row for a protracted period of time.

The international court I referred to earlier this morning, refused an extradition from England to Virginia, because Virginia kept prisoners on death row for 6 to 8 years, which was deemed a violation of cruel and barbarous treatment.

The Senator from Pennsylvania spoke on, so that I may utilize the remaining amount of my time to close the debate.

I am not a constitutional expert. But let me just read what Judge Robert Bork has said about this particular amendment. He says:

[This] . . . amendment to the anti-terror-ism bill to stop the abuse of federal collat-eral remedies is an excellent and much-needed reform. . . . There is no doubt about the constitutionality of the provision you propose. . . . Nor is there any doubt about the constitutionality of the provision you propose. . . . The amendment is a sorely needed reform to a situation that is now out of hand.

Again, I am not a constitutional expert and I know when we have bills like this I am unusually beginning the floor in this debate.

I believe that it is very, very important, Mr. President, if we are to use it very, very carefully. There are some States which favor the death penalty. Thirteen jurisdictions have 25 death penalty propositions that are in the last 10 years. The system is drastically broken. It does not take a lawyer to figure that out.

Mr. President, let me conclude at this point that the ordinary man may not understand all of the technicalities we are talking about, but he knows something is broken here. The fix in my case is quite simple. Federal prisoners go to Federal court, State prisoners go to State court with an ultimate review to the U.S. Supreme Court, but State prisoners do not get the extra bites of the apple in the Federal court. It is a simple solution.

The solution in the bill and the solution of the Senator from Delaware is much more. We will impose some limitations on how you get into the Federal court. That does not stop you from getting in the Federal court.

So if you want to solve between 25 and 40 percent of the problem, voting for the Kyl amendment will definitely do that.

It has been held as constitutional. It is supported by Judge Bork and by many others. I submit it would be a good addition to this bill. I am happy to yield to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask the distinguished Senator from Delaware to yield.

Mr. HATCH. I ask unanimous consent that the Senator be granted 5 minutes.

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

Mr. SPECTER. Mr. President, I believe the Senator from Delaware needs his remaining 4 minutes. How much time does the Senator need?

Mr. SPECTER. I shall be brief, holding the 5 minutes.

Mr. HATCH. I ask unanimous consent that the Senator be granted 5 minutes.

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

Mr. SPECTER. Mr. President, I am opposed to the amendment by the distinguished Senator from Arizona. At the outset, I acknowledge his experience in the field. But it is my view that Federal review of State criminal convictions in capital cases is, very, very important in order to guarantee appropriate constitutional safeguards.

I believe the death penalty is an effective deterrent against crimes of violence. I spoke earlier about my own experience as a district attorney of Philadelphia, and before that as an assistant district attorney where I tried murder cases. My thought is that it discourages many professional robbers and burglars from committing crimes because of the notion that is a killing weapon that they would result and they would face the possibility of first-degree murder and the death penalty.

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The PRESIDING OFFICER. Without objection, it is so ordered.
States. They think there is horrible abuse in this area. They think these endless appeals are totally out of control and that it should be cut back and cut back significantly.

I want to emphasize, this does still allow the Supreme Court to be involved. But how many rounds are we going to have? The American people understand how this system is being abused. That is what is so applicable in this case. If we have a process whereby the people who were involved in the bombing of Oklahoma City, apprehended, indicted, convicted and sentenced, if you will, perhaps to death, and then we go through a long, protracted process of appeals through the State courts, appeals through the Federal courts, the American people are going to be even more horrified at our judicial system in America.

They are looking now at the Simpson trial and wondering what have we wrought? This is one small step in the right direction.

Under current law, habeas corpus claims that are rejected after thorough consideration in the State courts are rejudicated in the lower Federal courts. It is duplicative review in the Federal courts and it is needlessly time consuming. The habeas corpus provision in S. 735 reduces this redundancy, but it does not eliminate it.

I commend the Senator from Utah, Senator HATCH, for the good work he has been doing in this area for years. Finally he has brought this issue almost to a climax. But I think now Senator Kyl will go one step further and that will really help in dealing with this problem of abuse, delay, and repetitive litigation in the lower courts, the State courts, and the Federal courts.

Under current law, criminal defendants in the State present their claims at their trials, in State court appeals, in State collateral proceedings and in applications for review by State Supreme courts and then by the U.S. Supreme Court. After exhausting these State remedies, prisoners can then go back and initiate additional rounds of litigation through the habeas corpus proceedings in the lower Federal courts, presenting the same claims that have already been raised and decided in State court review. As a result of this redundant review, the criminal justice system in the United States really is plagued with problems of delay and abuse.

We talked about, I guess it was, cruel and inhuman punishment in the past. The Supreme Court addressed the question of people staying in jails awaiting final conclusion of their trials or convictions, and that was ruled as being wrong. What about the fact that many of them now sit on death row for years and years with access to libraries and computers and everything they could possibly need so they continue to drag out this process? There has to be an end to it.

The habeas corpus provisions in the bill, S. 735, do moderate the redundancy of the current situation through the time limits on Federal habeas filings, stricter limits on the repetitive habeas filings, and more deferential standards of review. But they do not address the underlying problem of delay and abuse in the lower Federal courts. The Kyl amendment addresses the root cause of the existing problems of delay and abuse by eliminating these habeas corpus reviews of the State judgments.

I think we have seen where this has been working well, Utah as the District of Columbia. That has worked quite well. The experience here in DC demonstrates that the rights of defendants can effectively be protected without the redundancy of these habeas corpus reviews in the lower Federal courts. This amendment, as I understand it, would extend those benefits to all the other States.

Punishment is intended to be a deterrent to heinous crime. Under the present system, however, many killers are let off because they do not know of the delays that will be involved. The Kyl amendment addresses this problem, I commend him for his efforts. I certainly support this amendment.

I yield the floor. The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself the remainder of the time.

Let me respond quickly to my friend's comment in response to what I had said.

First of all, he said this is about winning freedom. This is not about winning freedom. Habeas corpus is granted—no freedom. It means a new trial.

He points out very forthrightly that he attempts to prevent folks from going to Federal court except as it relates to being able to go to the Supreme Court. It is not the Supreme Court's job to take a detailed look at the constitutionality of the various amendments. It is for the Supreme Court to decide weighty issues of Federal constitutional law.

That is why we have Federal courts and that is why my committee spends so much time, a significant portion of it, considering the nomination of Federal judges. Our system depends on Federal courts, all the Federal courts, being the safeguards of Federal law.

Let us just put this in very practical terms. Let us assume he is right, the State courts are fully capable and do not need any Federal review. What you end up with is as many as 50 different interpretations of the Federal Constitution; 50 different ways in which 50 different States could interpret who or not a constitutional right has been denied or not denied. I just from a very practical standpoint that is not sound policy. Whereas, when you have the appeal to the Federal court system, that becomes the law, the law of the land governing all.

I also point out that the State—as the Senator said: Look, we allow folks who are convicted in State court to go to State courts for their appeal and folks convicted in Federal court to go to the Federal court for their habeas corpus petitions. The problem is that Federal court judges are trained in their experiences in interpreting the Federal Constitution. State courts have no son of that Federal law or, in this case, the Federal Constitution.

Last, Justice Powell, I am confident—and I am willing to bet; you are not allowed to bet on the floor—but figuratively speaking, I would be willing to bet him dinner at any restaurant in America that Justice Powell does not support his amendment. I can say that with certainty because Justice Powell's commission came forward with an explicit guarantee that there would be access to Federal courts; an explicit guarantee. They made it absolutely clear that it is essential there be access to the Federal courts. I do not doubt that Judge Bork would support this, I do not doubt that at all. In fact, I am certain he would and we should all keep that in mind.

So I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask both sides to allow me to have a few minutes just to make— I ask unanimous consent I be given a few minutes just to make some short comments.

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

Mr. HATCH. Mr. President, I have listened to this debate and I really want to compliment the distinguished Senator from Arizona. I think this has been one of the most spirited parts of this whole debate on the habeas corpus provisions of the bill. I deeply appreciate, of course, the frustration some have with the Federal court's micromanagement of State court decisions. Indeed, I think the abuses of Federal habeas corpus procedure fuel the desire to remove the Federal courts altogether from the review process. The Kyl amendment would effectively end Federal habeas review of State convictions where the State already has postconviction collateral review. And I can appreciate my colleague's willingness to address the gross abuse that currently occurs under our Federal habeas process. We are all sick of it. Something has to be done.

Senator Kyl's amendment would return habeas review to its original moorings, as a corrective process where no other real remedy exists. And it deserves consideration.
In the early history of this country, habeas review was not available at common law to review by any other court a conviction of a felony entered by a court of competent jurisdiction. The function of the writ was to free people who had been improperly imprisoned. I am only saying that we should ensure that the purpose of the constitutional concept of habeas corpus is protected.

That is the Constitution writ. The writ of habeas corpus we are talking about is postconviction, and it is a statutory writ that can be changed freely by the Congress of the United States. Senator Kyl has cogently pointed out that that is exactly what it is. The writ is guaranteed against suspension by the Constitution. The earlier great writ was well understood to refer to habeas for Federal prisoners, only Federal prisoners. The Kyl amendment appreciates the history of the writ and attempts to return it to its original understanding. He has argued that nobly and well.

I think the proposal of the Senator from Arizona deserves close scrutiny, and he should be complimented for his efforts to address this difficult problem. I have to say that I believe there needs to be postconviction habeas corpus review. But I also believe that the Senate makes a very strong point because, as a lot of people do not know, the District of Columbia has done away with postconviction habeas corpus review. But I also believe that it has worked very well in the District of Columbia. All the Senator is saying perhaps is that we should consider doing that for the country as a whole.

So I just wanted to make these few short comments. I have to say that I compliment my friend and colleague from Arizona for his intelligence on this issue, and for the very, very spirited debate that we have had here on this. I want to express that for all concerned.

The PRESIDING OFFICER. Who yields time?

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to use the remainder of my time and close the debate, if there are no others who wish to speak.

Mr. President, first of all, let me compliment the Senator from Delaware who has conducted a very intelligent and thoughtful debate. I appreciate that. I very much appreciate the comments of the Senator from Utah just now. It is only because of his tenacity that this issue is before us. As he said, he has been fighting this issue for years to try to bring some reform to the Senate and was able to do that finally in the bill that he brought to the Senate floor. I appreciate very much his efforts.

I am also grateful to the Senator from Arizona for his amendments. He is exactly correct in describing my amendment as an attempt to return the habeas petition to its original meaning. There is a statutory postconviction remedy, as he points out. I believe he is very familiar, as a matter of fact, with Congress' law of 25 years ago under which the District of Columbia uses a purely quasi-State court system for the review of its writs that are brought as habeas into the Federal system, a system which has worked very well and which we have been invited to consider as a result by Federal judges who have written on the subject.

Let me address briefly two points, one made by the Senator from Pennsylvania, and one by the Senator from Delaware. The Senator from Pennsylvania questioned the constitutionality of what we are doing here. I understand the point he was making. But I do not think that the constitutionality of what we are proposing here is in doubt. The U.S. Supreme Court has upheld this procedure unanimously in a 1977 opinion, Swain versus Pressly. The opinion was written by Justice Stevens. That was to use the phrase--"bandied about"--a fairly liberal court in 1977. Subsequently, the Federal courts have consistently held that the remedy provided in this District of Columbia court system, which uses this Federal writ of habeas corpus, is adequate and effective to test the legality of detention.

Among the cases are, for example, Garris versus Lindsay in 1986, a D.C. Circuit Court case; Bexley versus Braiton, a District of Columbia District Court case in 1992. So consistently the courts have upheld, and I also cited the U.S. Supreme Court decision upholding the constitutionality, as well.

The Senator from Delaware argued finally that there could be 50 different interpretations of the constitutional law, if the State court prisoners are relegated only to a State court habeas remedy. With all due respect, I do not think that is correct because, as we all know, by any constitutional lawyers anyway, the U.S. Supreme Court precedents must be followed when State supreme courts—or, as in New York's case, it is called the court of appeals, or the circuit courts—are adjudicating constitutional questions, they must follow U.S. Supreme Court precedents.

Therefore, it is not possible for there to be 50 different interpretations of Federal law by State supreme courts unless those courts are dealing in bad faith, and I am sure that no one is suggesting that is the case. It has always been the case that under our Constitution, the Framers contemplated that State courts would be making these interpretations. As a matter of fact, there is an interesting book by Curt Sneideker who writes to this point. He said that in our judicial system it has been understood from the very beginning that State courts could pass on Federal questions, and he cites Federalist Papers No. 82 for that proposition. Indeed, the Constitution itself expressly directs them to do so in article VI, clause 2.

So very clearly, the State courts have always been thought of as a place where Federal constitutional issues could be resolved. As I noted earlier, Justice Powell has made a very convincing case, and he is not the only one. He has made a very convincing case that the State courts have the competence to rule on these issues.

Mr. President, just in summary, again I compliment both managers of this for the very intelligent way in which they have approached this issue. I appreciate the opportunity to debate my amendment in this way, and I will simply say that in summary, what I am trying to do with my amendment is to ensure that there is a Federal remedy for all habeas petitions for both Federal and State court prisoners, Federal prisoners in the Federal system, State court prisoners in the State court system, but to limit State court prisoners to the State court system just as Federal writs are limited to the Federal system.

The only exception which we could not take away, even if we tried—and, of course, we do not want to—even in the State court system, prisoners have the ability to go to the U.S. Supreme Court, the ultimate Federal court, to test the propriety of the final decision of the State court, in most cases called the State supreme court. So there is adequate ability to protect the constitutional rights of both State and Federal prisoners.

My amendment simply helps to solve this problem of overburdened Federal courts. I believe by taking harm to the Federal courts somewhere between 25 and 40 percent perhaps of the cases that are currently adjudicated not only in State courts but in a duplicative way in the Federal courts, as well.

I urge that my colleagues support my amendment.

Mr. BIDEN. Mr. President, do I have any time left?

The PRESIDING OFFICER. The Senator from Delaware has 1 minute and 19 seconds.

Mr. BIDEN. Mr. President, my staff pointed out to me, as I sat down when I said we should keep that in mind, I said in jest that we should keep that in mind, my reference was to Judge Bork. I believe Powell does not support this, the Powell Commission would not support this, and that Justice Bork would. We should keep in mind the distinction.

But I would also like to point out, as my staff pointed out to me, in Wright versus West, the Supreme Court case decided a couple of years ago, where the Bush administration sought to ask the Supreme Court to rule on the standard of full and fair, which is what Senator Kyl is proposing, Justice Rehnquist, from his home State of Arizona, refused to adopt the standard. And the Senator Kyl is proposing, he is certainly no liberal. He refused to adopt the standard and insisted that there be access to the lower Federal courts.
But I thank my colleagues for their indulgence.

I yield the remainder of my time.

Mr. KYL. Mr. President, let me again compliment both managers of the bill. I think this has been a good bill. I reiterate my amendment simply restricts the State court prisoners to the Start court as prisoners until they are able to go to the U.S. Supreme Court. I believe this will significantly reduce the burden of duplicative appeals. That is what this is all about on the habeas corpus reform, to strengthen the bill. In any event, I reiterate that this is a good bill that we should all support.

Mr. PRESIDING OFFICER. The Senator's time has expired.

The Senate from Utah.

Mr. HATCH. Mr. President, I compliment both Senator Kyl and Senator Biodh. Both have presented very interesting and good arguments. They both deserve being listened to.

Mr. President, I ask unanimous consent that the vote on the Kyl amendment be at a time to be determined by the majority leader after consultation with the minority leader.

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

Mr. KYL. Mr. President, do we have a sufficient second?

Mr. HATCH. Yes, I ask for the yeas and nays.

Ms. SNOWE. Mr. President, I would like to join my colleagues in supporting S. 735, the Comprehensive Terrorism Prevention Act. This legislation contains a wide range of needed changes in law to enhance our country's ability to combat terrorism, both at home and from abroad. The managers of this bill have described its provisions in some detail, so I will not repeat them here. Briefly, I believe this bill would increase penalties: for conspiracies involving explosives, for terrorist conspiracies, for terrorist crimes, for transferring explosives, for using explosives, and for other crimes related to terrorist acts.

The bill also contains habeas corpus reform to curb the abuse of habeas corpus and to address the acute problems of unnecessary delay and abuse in death penalty cases. The bill also includes changes to combat international terrorism, to remove aliens, to control fundraising for foreign terrorists, and procedural changes to strengthen our counterterrorism laws. Among those strengthening laws are a requirement to use chemical tagging in plastic explosives to criminalize the threat to use a weapon of mass destruction, and to add conspiracy crime to certain terrorism offenses.

Finally, the bill authorized increased funding for Federal law enforcement agencies, providing $1.5 billion over 5 years for the FBI, DEA, assistant U.S. attorneys, the INS, and the U.S. Customs Service.

Mr. President, I would like to concentrate the remainder of my comments on two provisions of mine that are included in this bill with the assistance of the chairman of the Judiciary Committee, Senator HATCH, and our distinguished majority leader, Senator Dole. These two provisions are the Terrorist Exclusion Act and the Law Enforcement and Intelligence Sources Protection Act, both of which I have introduced separately this session of Congress.

Traditionally, Americans have thought of terrorism as primarily a European, Middle Eastern, or Latin American problem. While Americans abroad or U.S. diplomatic facilities have been targets, Americans have often considered the United States itself largely immune from acts of terrorism. Two events have changed this sense of safety. The first was the international terrorist attack of February 26, 1993, against the New York World Trade Center, a shockingly domestic terrorist attack this April 19 against the Federal building in Oklahoma City.

I first introduced the Terrorist Exclusion Act in the House 2 years ago, and then introduced the legislation in the Senate with Senator Brown as my original cosponsor. The Terrorist Exclusion Act will close a dangerous loophole in our visa laws which was opened up in the Immigration Reform Act. That bill eliminated then-existing authority to deny a U.S. visa to a known member of a violent terrorist organization. The new standards required knowledge that the individual had personally been involved in a past terrorist act or was coming to the United States to conduct such an act. This provision will restore the previous standard allowing denial of a U.S. visa for membership in a terrorist group.

This is a sufficient second?
citing U.S. law generically, without further clarification or amplification. Individuals denied visas due to the suspicion that they are intending to immigrate would still have to be informed that this is the basis, to allow such an individual to comply with additional information that may change that determination.

Under a provision of the Immigration and Nationality Act [INA], a precise written justification, citing the specific provision of law, is required for every alien denied a U.S. visa. This requirement was inserted into the INA out of the belief that every non-American denied a U.S. visa for any reason had the right to know the precise grounds under which the visa was denied, even if it was for terrorist activity, narcotics trafficking, or other illegal acts. This has impeded the willingness of law enforcement and intelligence agencies to share with the State Department the names of excludable aliens.

These agencies are logically concerned about impeding an investigation or revealing sources and methods if they submit a name of a person they know to be a terrorist or criminal—let alone those who may not want to know that we know about their activities—who then goes on the lookout list, is denied a visa, and then is informed in writing that he or she was denied a visa because he or she had a drug trafficking activity. That drug trafficker then will know that the DEA knows about his or her illegal activity and may be developing a criminal case. This information is something the United States would want to protect, until the case is completed and, hopefully, some law enforcement action is taken.

At the same time, however, for the protection of the American people we should also make this information available to the Department of State to keep the individual out of our country.

The key issue is that travel to the United States by noncitizens is a privilege, not a constitutional right. There is no fundamental right for extensive due process in visa decisions by our consular officers overseas. While I believe that our country should do what we can to be fair in our treatment of would-be visitors to the United States, in cases where providing information to an alien would harm our national security, complicate potential criminal cases or potentially reveal sources and methods of intelligence gathering, we should err on the side of protecting Americans, not the convenience of foreign nationals.

Mr. President, I again congratulate Senator Dole, Senator Hatch, and all of my other colleagues—on both sides of the aisle—who have been instrumental in bringing this comprehensive communications bill to the floor for swift action. This is an example of our capacity to act quickly on a bipartisan basis and in cooperation with the administration on critical issues. It is my hope that this bill is an example of what we can accomplish together in this body, and I hope we will continue to approach issues important to the future of our Nation in this manner.

I urge adoption of the bill.

Mr. Hatch. I now ask that the Kyl amendment be laid aside and the Senator from Delaware be recognized to offer the last amendment to this bill as soon as we have a quorum call.

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

Mr. Dole addressed the Chair. The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. Dole. Mr. President, what is the pending business? Are we on the final amendment?

The PRESIDING OFFICER. The Chair would observe we just dispensed with the Kyl amendment. There is no pending amendment at this time.

Mr. Dole. Is there a time agreement on the Biden amendment?

Mr. Hatch. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from Arizona be laid aside; that as soon as the pending majority leader finishes, we can move to the final amendment, the Biden amendment.

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

Mr. Dole. How much time is the Biden amendment?

Mr. Hatch. Mr. President, I ask unanimous consent that there be 90 minutes equally divided between Senator Biden and myself.

Mr. Cohen. Reserving the right to object, I might indicate to the Senator from Utah that the distinguished Senator from Maine indicated he will allow me to have an additional 15 minutes separate and apart from this agreement.

Mr. Hatch. Let us make it 105 minutes with 45 minutes—

Mr. Dole. I have a better idea. Why not the Senator from Utah give him 15 minutes of his 45.

Mr. Hatch. That will be fine.

Mr. Cohen. I do not want to take too much time then.

Mr. Dole. We want to finish this bill.

Mr. Hatch. That is fine with me. Half-hour to me, an hour to Senator Biden.

The PRESIDING OFFICER. Is there objection? Does the Senator from Maine object?

Mr. Cohen. No.

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

Mr. Dole. Mr. President, then it would appear to me that we are not going to finish this bill until after 5 o'clock. But we will take up the telecommunications bill. We will be here late because we have flitted away the time that we are supposed to conclude action on this bill by 1 o'clock. It is now 3:30, and it is going to be 5 or 6 o'clock. So we do not have any recourse because Senator Pressler and Senator Hollings have been waiting all day long to take up the telecommunications bill, and there will be votes and there will be amendments probably until 10 or 11 o'clock tonight. So if we can finish, whenever we finish, we will be on the telecommunications bill.

I understand the Senator from Delaware is now prepared to offer his amendment, which will be the final amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. Hatch. Mr. President, I see the distinguished Senator from Maine is prepared to speak and utilize his 15 minutes.

Mr. Cohen. Mr. President, first let me thank the Senator from Utah for allowing me to use 15 minutes of his time. I will try and cut it down if I can, because I do not want to trespass on his time, especially since I am going to be speaking in opposition to his position. So it is kind generosity on his part, superimposed by the majority leader, I might add, but nonetheless I appreciate it.

Mr. President, I have in my past life been both a prosecutor and defense counsel. I believe firmly that some reform of habeas corpus is necessary. Successive and repetitive petitions, appeals and Supreme Court reviews have led to excessive delays and imposed costs on State prosecutors that would otherwise be dedicated to law enforcement. I think these delays have rightly been perceived by the American people as an abuse of the judicial process by those opposed to the death penalty.

I also want to point out that I oppose the death penalty, but I cannot support a system that allows respect for the law to be undermined. Consequently, I believe many of the procedural reforms contained in S. 725 are appropriate and necessary.

I support limits on successive, repetitive petitions. I support a statute of limitations for filing habeas petitions. And I support time limits on judicial consideration of habeas cases. I think these reforms should be sufficient to eliminate the abuses of the habeas system that have led to decade-long delays in many capital cases. But the goal of habeas corpus reform ought to be that prisoners have one complete bite at the apple.

The bill before the Senate gives prisoners one bite at the apple but changes the law so that the bite is incomplete. It weakens the standards under which Federal courts review constitutional errors that take place in State courts by requiring a Federal court to defer to a State court’s reasonable interpretation and application of constitutional law.

By weakening the effectiveness of the writ in this way, I think it is going to erode what has been a cherished procedure over the centuries, the hallmark
of Anglo-American jurisprudence. The writ of habeas corpus is the last line of defense for constitutional rights.

An effective habeas remedy is especially necessary in modern times because of the poor caliber of legal representation of defendants who are being provided in capital trials.

Many of the States that produce a large number of capital cases have no minimum competency standards for defense counsel. One State limits the compensation for court-appointed counsel to $1,000 for all pretrial preparation and trial proceedings—I repeat, $1,000 for all pretrial preparation and trial proceedings.

Another State pays a maximum of $2,500. A survey by the Mississippi Trial Lawyers Association estimated that the average capital defense attorney is compensated at a rate of $11.75 an hour, just 2½ times the minimum wage.

There are reported cases of trial counsel sleeping during trial, not presenting any mitigating evidence during the penalty phase of the trial, having only 6 months of legal experience and no criminal trial experience, or filing a one-page brief on appeal. In one of his last opinions from the bench, Justice Blackmun listed six egregious examples of the poor representation many capital defendants receive. One case Justice Blackmun described was that involving John Young, who was represented in his capital trial by an attorney who was addicted to drugs and who a few weeks after the trial was incarcerated on Federal drug charges. The court of appeals of the eleventh circuit rejected Young's ineffective assistance of counsel claim on Federal habeas review and the Supreme Court denied certiorari. Young was executed in 1985.

In another case, Larry Heath was represented on direct appeal by counsel who filed a six-page brief before the Alabama Court of Criminal Appeals. The attorney failed to appear for the oral argument before the Alabama Supreme Court and filed a brief in that court containing a one-page argument and citing a single case. The eleventh circuit found no prejudice, and the Supreme Court denied review. He was executed in 1992.

The bill before the Senate does nothing to remedy the serious problem of incompetent counsel in State court capital cases. But in light of this, I think the Biden amendment is all the more imperative to maintain the effectiveness of habeas under these circumstances. When trial counsel has done little to protect a capital defendant's constitutional rights at trial, at the very least, it seems to me the Federal Government ought to provide effective Federal court review of the State court conviction and sentence to ensure that the core constitutional requirements are satisfied.

Mr. President, I think Senator Biden has already talked at some length about the case of Rubin “Hurricane” Carter. I read a book that was written some time ago called “The 16th Round.” In “The 16th Round,” we have a description of what happened to Rubin “Hurricane” Carter, the one time the lightweight prizefighter. It was not a death penalty case, but it was a case of a man being convicted for a crime he did not commit, primarily because he was a black man who was in the vicinity when a triple murder was committed.

It was way back in June 1966. Two light-skinned black men, one described as thin, about 5 feet 11 inches, shot and killed three people in a Paterson, N.J., bar. Carter, a very dark-skinned, stocky, prizefighter, 5 feet 8 inches tall, was driving in the vicinity with two other people. They were stopped by the police and then released because they did not match the description of the killers. Later that night, Carter and a man named John Artis were again picked up by the police, but the survivors of the killing failed to identify them as the killers. They were given lie detector tests and they passed.

In the meantime, a small-time thief who was robbing a factory nearby the murder scene had seen the commission of the crime, and in an attempt to curry favor with the police, he told them Rubin “Hurricane” Carter was the killer.

Based on that information, Carter and Artis were again picked up by the police and Artis convicted. Artis was sentenced to life in prison. Ten years later, after the thief recanted his testimony, Carter and Artis were given new trials. Then at the time of trial the thief recanted his recantation. Carter and Artis were convicted again. The New Jersey Supreme Court affirmed Carter's conviction by a vote of 4-3.

Then a habeas corpus petition was filed in Federal court. In 1985, the court issued an opinion finding two serious constitutional violations: The prosecutor's misuse of a lie detector test and the denial of equal protection due to the prosecutor's unfounded racial allegations against the defendants. The prosecution argued that the defendants were simply out to murder white people when, in fact, the evidence was that they both had many white friends. The third circuit upheld the lower court's decision to grant the habeas corpus petition. The Supreme Court denied certiorari, and the State of New Jersey finally dismissed the indictment.

Here we have a situation where a person spent over 20 years in prison over charges that were false. The attorney for Mr. Carter has written to Senator HATCH to point out that if a proposal similar to the one on the floor right now were law today, Carter's habeas corpus petition would have been dismissed. He said, “I do not see what legal purpose would be achieved by such a result.”

Indeed, the 16th round would have knocked Carter out for the rest of his life, without him ever having a legitimate opportunity to challenge the injustice that took place 20 years ago. So let us not fool ourselves. The substantive changes to the habeas bill being proposed are not designed just to stop the endless delays and appeals, but are designed to weaken the Federal courts' role in scrutinizing State court verdicts for constitutional error. Prof. Henry Monaghan from Columbia University said it very well in a letter to Senator HATCH. He recognized that he is "no fan of habeas corpus." But he was satisfied that the changes in the Supreme Court law and the procedural reforms in this bill "would go a long way to eliminating abuses." He went on to urge that the substantive standards not be altered.

I believe the writ's core function of affording independent Federal review to mixed questions of law and fact should be retained at the deference provision in S. 735 should be withdrawn. The deference provision in S. 735 would keep habeas corpus from serving any meaningful role. Effectively, it would repeal the habeas corpus statute.

As similarly, a former prosecutor recently wrote to me that the "reasonableness" rule of deference in this bill is not the way to speed up habeas corpus review. It is not a way to prevent the same prisoner from filing more than one petition. Rather, "it is an unprecedented attack on the rule as old as the Republic, that Federal courts have the last word on what the Federal Constitution means and how it is to be applied. It would require Federal courts to stand by and do nothing even in the face of a State court ruling that was wrong, and the cause of the person being unjustly imprisoned or even executed."

So, Mr. President, I think it is important that those accused of serious capital offenses have their day at the apple. I believe the Biden amendment will make sure that one bite is complete and not incomplete. I hope that it will receive the endorsement of the Senate, because habeas corpus without it will become a hollow remedy, one that I do not think would be worthy of the title “the Great Writ.”

A strong case has been made for the procedural reforms in this bill. They will increase respect for the law by stopping the endless delays and appeals and that the habeas process has been made for changing the substantive standards applicable in federal courts for well over a century. When we are making such radical changes in our legal system, we should act prudently. We can look back on our habeas process in the future if the procedural reforms in this bill do not work. But we may never recover the habeas process once it has been effectively been repealed by the substantive changes being proposed.

I yield the floor.

Mr. BIDEN. Mr. President, I thank the Senator from Maine. The Senator from Maine has a reputation in this...
body of being one of the most thought-
ful, and when he speaks in debates, un-
like the Senator from Delaware, a most
measured Senator, and one whose ca-
reer has been marked by observable
high points of principle. And this is, I
detected, a speech, a principled
issue here. This is an important issue.
This is not one where we should, quite
frankly, be guided by the legitimate
but sometimes not fully articulated
concerns of our constituents.
I believe what our constituents want
is what the Senator from Maine has
outlined. I doubt whether there is a
man or woman in America who thinks
that Hurricane Carter should not be
free today. I doubt whether there are
any people in America today who
would have been happy had this been
the law and had he been denied the op-
portunity to make that final plea in
Federal Court.
Yet, if we amend the law along the
lines of the Biden amendment, which
Senator Cohen supports, we would
have drastically cut down frivolous appeals
and drastically cut down successful
appeals. As a matter of fact, there is no
difference in the time limitation for
successive appeals that are allowed be-
filing an appeal and the number of suc-
sessful petitions. As a matter of fact, there is no
dramatically cut down frivolous appeals
as the Senator from Maine today who
would have been happy had this been
the law and had he been denied the op-
portunity to make that final plea in
Federal Court.
So what I propose to do is precisely
what Professor Monaghan, who is not a
fan of habeas corpus, wants done. Let
us be real clear right from the start
here what we are arguing about and
what we are not arguing about. Again,
as my old buddy Sid Balick, says, “keep your eye on the ball.” What are
we arguing about and what are we not
arguing about? We are not arguing
about whether or not to speed up the
process of habeas corpus review, and we
are not arguing about reducing the cur-
rent abuses in the system.
I agree with my Republican colle-
agues from Utah and Pennsylvania
that we have to have a strict statute of
limitations and a strict limit on suc-
cessive petitions. Put another way, how
many times after that first one, or
under what circumstance, can you file
another petition if you are able to at
all. Nothing I am trying to do today,
nothing in my amendment would
change what the Republicans propose
for speeding things up or cutting down
on abuses. They have a 6-month statute
of limitations in their bill. I am not
trying to make that 9 months or 1 year
or 2 years. I am not proposing to
change a single word in the statute of
limitations.
As this chart in hand shown in the
Biden amendment the time limits for filing a petition are the same as in the Specter-Hatch provi-
sion. We both set limits on time.
Nothing in my amendment, nothing at all, would change what the Repub-
licans propose for speeding things up or
for cutting down on abuses.
The Republicans have a new strict
limit on successive petitions in their
bill. Many of my liberal friends think
this amendment. I do not. I have not attempted to change a
word. I have not attempted to change a
word on their bill relating to succes-
sive petitions. Not a period, not a
comma of their proposal is changed by
my amendment.
Put another way, at the end of the
day, or the end of today, even if I were
to win everything I am asking for, the
statutory right of habeas corpus will be
dramatically altered from what it is
today. No longer will we see a guy fil-
ing petition after petition. No longer
will my friend from Utah, my distin-
guished friend from South Carolina,
Senator Thurmond, my friend from
Pennsylvania, my new friend and col-
league from Oklahoma, be able to put
up petition after petition in cases which
are real and exist today where someone
has sat, after having been convicted for
a capital offense, on death row for 2, 5,
10, 12, 15, or 19 years. That will not
be possible if we adopt my amendment.

Now, usually, the Senator from Utah
has a chart out here listing the number
of petitions in several cases. I am not
making light of that. When he brings
out that chart, if he does in his re-
sponse, I want everyone to look at it
and understand that if the Biden
amendment passes, that would be the
end of charts like that.
There would no longer be an ability
for a convicted prisoner, convicted of a
capital offense, to be able to fil those
successive petitions and delay for the
number of years the charts have al-
ways shown.
I also point out that we will still
have the problem of irresponsible State
courts who do not read briefs, who do
do take the time to follow through.
I cannot affect that, nor can they. At
a Federal level, we will have eliminated
the ability to have those successive pe-
titions.

So let the Senate be clear on what
we are not arguing about. What we are ar-
guing about is whether we should dis-
mantle the habeas corpus process by
dramatically restricting the Federal
power of the Federal courts to decide
whether a State court got it wrong,
whether a State court wrongly con-
victed a person, whether a State court
is wrongly sending a person to death.
That is what we will be changing.
That is where I part company with
my Republican friends. I want to fix
the problem. They want to do away
with the right. I want to get a habeas
corpus petition in and out of Federal
court quickly. I do not want to make it
practically impossible for someone to
get into Federal court. I want you to say
you get in, and you must get in quickly,
and you can only get in under certain
circumstances, and you are out. The
Republicans want to slam the door of
the Federal courthouse closed.
I know there are a lot of things about
Federal overreaching, but one thing I
do not think most Americans—whether
they are liberal or conservative, wheth-
er they are moderates, whether they are
Republicans or Democrats—I do not
think they believe that is a remedy, to
slam the Federal courthouse door.

They do not want it swinging off its
hinges, but they do not want it slammed shut.

So that is what we are arguing about.

AMENDMENT NO. 1224
(Purpose: To amend the bill with respect to
deleting the rule of deference for habeas
corpus petitions.)
Mr. BIDEN. 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 Delaware [Mr. BIDEN]
proposes an amendment numbered 1224.
Mr. BIDEN. Mr. President, I ask
unanimous consent that reading of the amend-
ment be dispensed with.
The PRESIDING OFFICER. Without
objection, it is so ordered.
The amendment is as follows:
Delete page 105, line 3, through page 105,
line 17.
Mr. BIDEN. Mr. President, let Mem-
bers be clear about what we are talking
about.
A petition for habeas corpus—I want
to complicate this—a petition for ha-
beas corpus is literally and simply a piece
of paper on which a State pris-
or says, “I have been denied my con-
stitutional rights in the following
circumstances.”
The purpose of the paper is to say,
“Slam the Federal courthouse door.
I have a chart out here listing the number
of petitions in several cases. I am not
making light of that. When he brings
out that chart, if he does in his re-
sponse, I want everyone to look at it
and understand that if the Biden
amendment passes, that would be the
end of charts like that.

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The purpose of the paper is to say,
“Slam the Federal courthouse door.
Mr. BIDEN. Mr. President, let Mem-
bers be clear about what we are talking
about.
court systems are following the Constitution. It ensures that those in jail or on death row were not only not put there mistakenly, but that they were not put there in violation of the U.S. Constitution.

I might add, if we, in fact, eliminate Federal habeas corpus or in effect eliminate Federal habeas corpus, what we do is we leave to 50 different States the potential for 50 different interpretations of fact and law.

We therefore, if a Federal court makes a judgment on a Constitution in a circuit or in a district, it usually goes to a circuit, and then to the Supreme Court. We get a final national judgment on how to read that provision and that fact/legal mixture under the Federal Constitution. We have a uniform application of the law.

The writ of habeas corpus, known historically as the "great writ," is enshrined in the Constitution itself, which provides that "The writ of habeas corpus shall not be suspended, article I, section 9.

Unfortunately, under the current system, a person can sometimes delay their death sentence by filing frivolous habeas petitions. There is no time limit on when the petition has to be filed, and there is no statutory limit on the number of petitions.

I have, in years past, proposed legislation that would reform this system to generally limit a petitioner to one petition in Federal court, and to impose strict limits on when that petition had to be filed. But my legislation also recognizes that in some rounds of Federal review, the prisoner is allowed and must be allowed a full and careful review to ensure that we do not execute innocent people.

The death sentence is unlike any other. There is no turning back once it has been carried out; to state the obvious, a mistake cannot be fixed. Because of that, we cannot allow the death penalty to be used against innocent people and we cannot allow it to be carried out unfairly.

I am certain all of my colleagues would agree that, although the death penalty should be applied swiftly and with certainty, the worst thing in the world would be for it to be applied wrongly.

My amendment tries to preserve the important role that habeas plays, while reducing delays. It strikes at what I believe is the issue that truly rises above all else, the problems of the Republican bill. It strikes the provision in the Republican bill that I think is the most troublesome, and that is the so-called rule of deference, which has been known around here the last 20 years that I have been here to be fraught with error.

This, in my view, and probably in the view of advocates of both sides of the habeas corpus debate, is the single most important provision of the Republican bill and the single biggest difference between my approach and their approach.

As the chart I have just had put up illustrates, when it comes to speeding things up, Senator Hatch and I are in the same spot. Both our bills have time limits on when a petition can be filed. Both our bills have limits on successive petitions. But our bill differs when it comes to the issue of deciding those petitions.

I said the Federal courts should exercise independent review while the Specter-Hatch bill requires Federal courts to defer to the States.

It is important to realize that the deference standard in the Specter-Hatch bill effectively makes the rest of the bill irrelevant. After all, what difference does it make what the time limits are if the Federal courts are going to be precluded from examining what the State courts did in any event? What difference do the time limits make? That is the fundamental difference in our approaches, because that is what the result of the Specter Hatch bill will be.

Let me give a hypothetical example. Suppose an innocent man is charged with a capital crime and during the investigation one of the witnesses identifies someone else as having committed the crime. If there is a fact which is concealed from the defendant. And there are cases where this has occurred.

At trial the witness identifies the defendant, and even though the prosecution has in its possession the evidence that another witness identifies someone else as having committed the crime. But at trial, the second witness identifies the defendant, the error is not corrected.

In addition, the witness testifies that he has never met the defendant before when, in fact, the prosecutor knows that the witness harbors a grudge against the defendant, the witness who identifies the defendant.

Now, the prosecutor goes ahead and does not tell the defense about the details of what the witness previously said, that he previously said, no, I identify somebody else, and where the prosecution knows that the identifying witness has a grudge against the defendant.

The State courts go ahead and uphold the conviction anyway, reasoning that the truthful evidence would not actually prove the defendant innocent.

Let me get this straight now. If in a trial the stenographer here is accused of killing John Doe and the prosecutor interviews me as a witness. I say no, he is innocent, and Charlie Smith said he killed John Doe. But then I say, no, I change my mind. I think he did kill John Doe.

The prosecution investigates and finds out that the stenographer and I have had a grudge against the defendant for the last 20 years, or I have had a grudge against the stenographer because he took down one of my speeches incorrectly.

They never do that, I might add.

Now, the prosecutor does not tell the defendant about my grudge against the defendant and about the fact that I initially identified somebody else. So, now there is a trial and he is convicted.

After the conviction takes place, he files a petition for the writ of habeas corpus and proves that this information was withheld from him; that it would have made a difference to the jury. And the State court of Delaware says, no, even if that is true, it does not prove that he is innocent. It just proves that I have a grudge against him and it just proves that the prosecution was not totally honest. But it does not prove his innocence. That is a different battle.

The way the Specter-Hatch bill would be for it to be applied with certainty, the worst thing in the world would be for it to be applied improperly, a mistake cannot be fixed. Because once an innocent man may be put to death because, as long as the State court decision could be described by a lawyer as being reasonable, the Federal court could not overturn it. In this example, an innocent man could say, all right even if the jury did this, it did not prove his innocence. They still may have convicted him. The Republican bill says:

An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim * * * resulted in a decision that * * * involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.

That is a heck of a standard to have to apply.

So, I say goodbye to the stenographer. He is off to death row. He probably thinks he is off to death row when he has to come out here and take down my speeches. But he is off to death row. Because even though—even though—the prosecution withheld evidence that goes to his innocence, instead of the court saying, "This would have made it difficult for the jury to find even if that is true, it did not prove his innocence. They still may have convicted him. The Republican bill says:

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the current practice of independent review by the court, the Federal court. The Federal court should be able to say in that circumstance: We understand what the State court did but under our interpretation of the Constitution and his constitutional rights. We believe that withholding this information was so prejudicial that he should get a second trial with all the facts being known. They should be able to do that. This would preclude them from doing that.

I think there are four parts of this long sentence I read up here on the board, four parts of this long sentence which have a devastating effect.

(Mr. THOMPSON assumed the chair).

Mr. BIDEN. First, the language sets out clearly what the general principle is. The general principle in this language in the Hatch bill is that Federal courts shall not grant a claim that was adjudicated in State court proceedings. That is what is at the top. It seems to me that is what the sponsor of this bill views as the most desirable outcome in a habeas petition. Of course, this is directly contrary to the purpose of habeas corpus, which is to have Federal courts, and in particular the Supreme Court, decide issues of Federal constitutional law.

The second problem, in this instance, the bill seems to allow an exception to the general rule but one that is likely to be illusory because a claim can be granted only if the State court's application of Federal law to the facts, before it was unreasonable, not merely wrong but unreasonable. It could be wrong but viewed as reasonable. This is an extraordinary deferential standard to the State courts, and I believe it is an inappropriate one. It puts the Federal courts in the difficult position of evaluating the reasonableness of a State court rather than applying the standard of deciding whether or not he correctly applied the law, not whether he did it reasonably. You can have a reasonable mistake. They could reasonably conclude that on a constitutional provision, it should not apply, when in fact the Supreme Court would rule it must apply. Reasonable people could have reached the conclusion prior to the application of the Miranda decision that it was reasonable not to tell someone their rights. That is a reasonable decision. It may not be born out of animus. The Supreme Court said no. You have to tell people their rights. A reasonable standard of review is the lowest standard used by Federal courts.

In reviewing the constitutionality of statutes, in cases where we believe courts used the reasonable or rational standard, it looks only at whether there is any rational basis supporting the statute. It is a cursory standard of review. In fact, looking at thousands of cases since the late 1930's, our Supreme Court has virtually ignored the best of knowledge—no statute invalid when they have applied the reasonable standard.

Reasonable people, like Senator HATCH and I, are going to be arguing on the floor about the regulatory reform bill and about the takings clause and all of those issues, right now if the U.S. Congress passes a law saying you cannot have more than 2 parts per billion of a carcinogenic substance in the liquid effluent coming out of your factory, the Supreme Court says not whether that does or does not cause cancer, they say it is reasonable for those folks in the Senate and the House to pass a law because it is dangerous and, therefore, they will uphold the statute.

It is the lowest standard. It is one thing to apply that when we are protecting the public against environmental pollution. It is another thing when we are applying that standard to the application of constitutional rights to individuals. There we have always applied the highest standard. The Government has been required to meet the highest standard, not Federal law, but it must have applied the law, not Federal law, but it must have been unreasonable in light of Supreme Court rules.

Second, the exception to the general rule in habeas is that the court must determine whether or not the Federal court has been unreasonable in light of Supreme Court rules. The Federal court is to apply a reasonableness standard. The court also uses a reasonableness standard in reviewing Federal agency action that is administrative. The general rule in this language, I will not get into it now. But the Chevron case and others are cases we debated about whether or not, in applying civil law, which standard we should apply. But the bottom line is this, for the Supreme Court's reasonableness, it is the lowest common denominator. And, if the Federal court is required to give deference to a State court on the grounds that it acted reasonably as opposed to correctly, a lot of folks—I should not say a lot; I do not know how many—but there will be individuals who will be put to death where they otherwise would not have been put to death if the Federal court were able to apply the standard that determines their ability to go back and look at the trial law and make an independent judgment.

By the way, let me say the whole reason to have the ability of a defendant to go into Federal court is to allow Federal judges to apply the Federal Constitution and determine whether they think the State court applied it correctly. But if you limit what they can look at and the standard they use in review, you have in effect undercut the very rationale for allowing the defendant to get into that Federal court in the first place.

The third problem with this language is the bill's reasonableness exception is limited not only by the requirement that the decision must have been unreasonable, but that it must have been unreasonable in light of Supreme Court law. So even if there is a Federal court decision directly on point, the State court could ignore it as long as the Supreme Court has not spoken to it. In other words, State courts could ignore the decisions of the lower U.S. courts interpreting the Constitution without any prospect of being corrected by Federal courts.

For example, an appeals court recently held that a defendant cannot be prosecuted criminally and have his property forfeited under the civil forfeiture laws because of the double jeopardy clause prohibiting that. That ruling is clear. It is unambiguous. But it is not a Supreme Court ruling. Under this bill, a State court, which subsequently refused to follow that interpretation, would not be corrected by habeas corpus review because it could never get back into the Federal court system.

This limitation on Supreme Court law is particularly nonsensical because the Supreme Court generally does not accept for review decisions by circuit courts of appeal unless there is a split in the circuits, as the Presiding Officer knows. If all the circuits agree on a principle of law, the Supreme Court would have no reason to address it.

So under this standard that we are about to write into the law, a State court could ignore a rule that all the circuit courts agreed on and no Federal court could correct the decision. That is preposterous; maybe unintended, but that is the effect.

Fourth, the exception to the general rule in habeas shall not be granted if the State court adjudicating the claim is further narrowed by the language in the statute requiring that the Federal law at issue must have been clearly established. Not only must the decision of the State court have been unreasonable, and not only must it have been unreasonable in light of Supreme Court law, the Federal law must have been unreasonable in light of Supreme Court law that is clearly established.

The one thing we know is that where lawyers are involved, there is little that can be said to clearly establish the Supreme Court generally does not accept for review decisions by a U.S. Supreme Court decision to a new set of facts is unclear, the State court need not worry about it.

For instance, the Supreme Court quite logically has held that the prosecution must give to the defendant any evidence it has that is favorable to him. It is called justice—justice. This is not a game. Prosecutors are not
there to determine whether they can win. They are there to do justice. And so the Supreme Court has said that, if the prosecution has at its disposal evidence that goes to the innocence of the defendant, that has to be made available. But is there a certain kind of evidence favorable to the defendant? That might not be clearly established. And so the State courts will be free to go their own way.

For example, a clear case would be when the State court, relying on the prosecutor had evidence there were two witnesses at the same time who said the defendant did not do it. Well, they cannot withhold that from him. But they may conclude at the State court level that they have evidence there is a motel receipt that indicated the defendant was at such and such a place when this crime was committed. They can reasonably conclude at a State court level we really do not think that goes to the innocence, that is not favorable to the defendant, that is a marginal question, so we are not going to tell him.

Now, what you have to do, if you are filing a Federal habeas corpus appeal to get them to go back and get them to look, you have to prove to the court that judgment was unreasonable even though there is a Supreme Court decision out there saying you have to make things that are favorable to the defendant available to the defendant, because it is simply established law because it is not around long enough to have been applied to 10, 20, 30 fact circumstances.

Now, it seems to me that we are requiring an awful lot of hurdles and limitations on what a Federal judge can look at once we get to court. Again, keep our eye on the ball here. We are not talking about successive abilities to get into Federal court. We are not talking about extended time limits to get from Federal court. We are not talking about whether or not you can get into Federal court repeatedly. We are only talking about when you get to Federal court what is the Federal judge able to look at. And right now the Federal judge is able to look at the whole thing from ground up if he wants to. He can make an independent decision based on what the specific statement by the defendant is in his petition as to why they should be granted a new trial. They can go back and look at the facts in the court and the law and apply them in conjunction with one another.

So let me summarize what I think this language in the Hatch bill says. First, it states that habeas relief cannot be granted by a Federal judge if a State court has adjudicated the claim, which is directly contrary to the entire purpose of Federal habeas corpus.

Second, it creates what looks to be an exception but one that is largely illusory. It does not require that a State court merely behave reasonably—which is correctly, reasonably. It requires that a State court merely act reasonably in relation to a Supreme Court decision, not in relation to decisions of lower Federal courts in their State. And it requires them to act reasonably only if the Supreme Court law can be said to be clearly established. All this amounts to is that State courts in almost every case will be free to reach virtually any decision without any chance of Federal review later. This rule, the so-called rule of deference, turns habeas on its head. The purpose of habeas is to correct State court errors. But if Federal courts have to defer to State courts, they will not be able to correct their mistakes except in the most egregious circumstances.

Now, through the years we have fought in this Chamber battles over the so-called full and fair standard, essentially what Senator Kyl had introduced. At least he was straightforward and blatant about it. He said: Look, my purpose here is to do away with any State prisoner being able to get into a Federal court because the Constitution says you can go to the Supreme Court under rare circumstances. I am not going to try to eliminate it. But he said 40 percent of the delay is in Federal court, so what I am going to do is do away with the ability to get into Federal courts.

Straightforward. This provision suggested by my Republican friend essentially does the same thing, making it sound like we are really letting someone get in.

Admittedly, the most egregious cases, which would not be captured by the Kyl amendment, would be captured in this amendment. But the vast majority of cases are in a gray area. And again my proposal to delete this standard will in no way slow the process up and will in no way increase the number of opportunities that a prisoner has to file a petition.

While this language looks different than full and fair, the language in this bill would have virtually the same effect. It would prevent Federal courts from granting relief for a violation of the Federal Constitution because it would require deference to the State decision unless that decision were unreasonable. Being wrong would not be enough to get it overturned. It would have to be unreasonable.

If I can make an analogy to the Presiding Officer—who is the only one here speaking to him, although I always like to speak to him—it is like this deal with good-faith exceptions to the fourth amendment, search and seizure. All of a sudden, by the way, my friends on the right side of the Chamber, my right and on the ideological right, all of a sudden are beginning to realize: Wait. Maybe we do not want to do away with that so quickly. But at any rate, there is an exception that if a cop violates the fourth amendment but did it in good faith, it should be admissible in court.

Well, you can theoretically argue that makes sense. But how about where a court wrongly but in good faith, in good faith wrongly decides a provision in the Constitution, wrongly decides it, the result of which is the person goes to death. Are we going to reward ignorance? Are we going to reward reasonableness? Just because it can happen in the State? It may be reasonable that he reached that decision but wrong. Wrong. This would preclude Federal courts from looking at the merits—whether it was wrongly decided. They only get to do it if it meets the threshold of being unreasonable. This can be a reasonable application of the facts and the law.

When the Supreme Court announces a constitutional wrong such as the right of the defendant to know about evidence held by the prosecutor that suggests he is innocent, it necessarily leaves open the question of how that general rule applies to specific facts. Does that mean evidence that could be used to impeach a witness must be turned over? How strong does the evidence need to be before the requirement kicks in? Federal courts cannot possibly decide all of these issues in one case.

But lawyers arguing in courts will be able to come up with all sorts of different ways of applying that general rule in individual cases. And many of those ways of applying them may be reasonable. That means that Federal courts will be unable to review State decisions through habeas corpus and begin to establish some uniform law in that portion of the country. Instead, virtually any decision a court reaches will have to be considered acceptable solely because it was reasonable.

I ask everybody listening to this, do we want 25 different interpretations of what is reasonable? Do we want 25 or 50 different versions of what is reasonable? That flies in the face of the notion that a Uniform application of the only unifying document that exists in our Nation, the U.S. Constitution. This would mean that the Federal Constitution would be determined by State courts judges.

Placing primary responsibility for the Federal Constitution in the hands of State courts is a dramatic departure from this country's historical principle, and that is that it is the Federal courts that should be the final arbiters of Federal law. It would relegate us to a system in which the 50 State court systems and in fact the individual judges within those systems are the separate and ultimate arbiters of what the Constitution means. The meaning of the Federal Constitution could be different, depending on what State you are in.

Independent review is the only sensible approach, I suggest. Even Justice O'Connor has said in rejecting a judicially created new rule—which is what this rule is—that:

We have never held in the past that Federal courts must presume the correctness of State court legal decisions.

Let me stop there and read it again:
We have never held in the past that Federal courts must presume the correctness of State court legal decisions.

This requires us to presume—presumption of the correctness of State court decisions. I am not certain that the State of Mississippi would apply the Constitution the same way the State of New York would, as the State of California would, as the State of New Hampshire would. I do not know if anybody else is very sure of that.

Let me go on and read the entire quote from Justice O'Connor:

We have never held in the past that Federal courts must presume the correctness of State court legal decisions or that State courts' incorrect legal determination has ever been allowed to stand because it was reasonable. We have always held that Federal courts, even on habeas, have the independent obligation to say what the law is.

That is the Federal constitutional interpretation by the Supreme Court. I quote her again:

We have never held . . . that State courts' incorrect legal determination has ever been allowed to stand because it was reasonable.

This would allow incorrect State court decisions to stand because they are reasonable, although incorrect.

That quote, I might add, was from Wright versus West, decided in 1992. Even Justice Rehnquist—

The PRESIDING OFFICER. All the time of the Senator from Delaware has expired.

Mr. BIDEN. Mr. President, I ask unanimous consent, although I have much more, that I be allowed to have 7 more minutes.

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

Mr. BIDEN. Mr. President, even Justice Rehnquist publicly stated that this full and fair doctrine goes further than is wise, and the Supreme Court, reflecting that view, has on at least five occasions refused to apply this doctrine. Let me give some of the cases.

The effect of the deference rule is best illustrated, I think, by looking at some of the real-life cases. The last time the Federal courts were required to defer to State courts, we executed an innocent man. That was in 1915.

There is a chart I have to illustrate that.

Leo Frank, a Jewish man, had been convicted and sentenced to die by a jury intimidated by an angry lynching mob outside the courtroom. The mob could be heard inside the courtroom. Mr. Frank's lawyers were so intimidated that they left the courtroom at times because they feared for their lives.

Nevertheless, the State court reviewing the conviction concluded the trial had been fair and upheld the conviction. A majority of the Supreme Court voted to uphold the conviction and, after the Federal habeas appeal was required to defer to the State court decision, upheld the conviction. The dissenters thought independent review was appropriate and, on that basis, they concluded that the State court decision was wrong.

The Supreme Court applied the rule of deference in 1915, and Mr. Frank was killed in prison by an angry mob, and later the actual offender confessed and Mr. Frank was posthumously pardoned. But because of the deference rule, an innocent man was executed, and that is what is at stake today. We are talking about going back to the 1915 standard.

Several years later, after the Frank case in 1915, the Supreme Court was faced with another similar case. Again, this time several African-American men were on trial for murder, which they claimed was self-defense, when a mob attacked them in their church and set the church on fire. At the trial, the same mob armed and surrounded the courthouse. The State court held that there had been no violation of the constitutional right to a fair trial by an impartial jury, notwithstanding those little incidents.

This time, the Supreme Court rejected the deference rule and concluded that independent review is required and the dissenters argued that the Federal court should defer to the State court decision and voted to uphold the conviction.

Many years later, in the famous 1953 case of Brown versus Allen, the court considered a case in which the defendant had confessed after being subjected to psychological and physical coercion, sleep deprivation, and other types of pressure that put the confession and the resulting conviction in serious doubt.

The State court found the confession to be voluntary, notwithstanding the circumstances. The Supreme Court overturned the conviction, applying independent review. Had they been required to apply this standard, they would have been required to hold that the confession had been obtained by their condemned because of their psychological and physical coercion and sleep deprivation before the confession was granted.

These Supreme Court cases, and others I will not take the time to go into, illustrate in concrete terms what the effect of the deference rule is. There are also lower court cases in which habeas relief has been granted. These cases would be decided differently under the deference rule.

Consider the recent case of Herrera, who was convicted of murder and sentenced to death. The State court denied her appeal and the habeas petition. A few months ago, a Reagan appointee of the Federal bench granted habeas relief because the prosecutor had threatened and intimidated witnesses and failed to disclose evidence that proved Mr. Herrera innocent and knowingly used false evidence in a closing argument to the jury.

That was the scene of speech of the wacko liberal judge appointed by a liberal President. That was a judge appointed by Reagan. If, in fact, this law had existed at the time, he would not have been able to make that judgment. For instance, one woman told the police Herrera had not committed the killing. She was threatened by a police officer who said he would take away her daughter unless she cooperated. The prosecutor knew this. The prosecutor also insisted she change her testimony to implicate Herrera, and the judge found many other such violations of law, but the State court concluded, no, he was guilty; the conviction should stand.

The Federal court corrected it. Based on this severe misconduct, this Reagan-appointee judge said but for the conduct of the police officer and the prosecutor, either Herrera would not have been charged with the offense or the trial would have resulted in acquittal. The prosecutor's misconduct was designed to obtain a conviction and another notch in their guns despite the overwhelming evidence that another man was the killer and the lack of evidence pointing to Herrera.

Nevertheless, the State court reviewers I will not take the time to go into, either Herrera or the Federal court habeas petition, but the State court found that they did not amount to a constitutional violation. If the bill's deference rule had been in effect, the Federal judge would have been foreclosed from correcting the State court's decision and saving an innocent man's life.

Let me pose the question to Senator HATCH. In the Herrera case, the court was confronted with various questions, including whether the conduct of the police officer, when intimidating witnesses and withholding evidence, amounted to a violation of the Constitution.

I would like to ask him when he comes back, would not his bill, which requires deference, prevent the State court from granting Federal habeas relief?

Mr. HATCH. As I understand it, it is the Herrera case.

Mr. BIDEN. It is the Herrera case.

Mr. HATCH. I do not think so. The fact of the matter is, let me just take a second and look at that Herrera case.

Mr. BIDEN. I would like to describe another case: Fred Macias. He was convicted of murdering two people in their homes. The main evidence was the testimony of another man who admitted that he had been required to apply the deference rule, in the Herrera case, and the judge found many other such violations of law, but the State court concluded, no, he was guilty; the conviction should stand.

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The prosecution still tried to reindict Macias, but on being presented with all the evidence, a grand jury in that same jurisdiction refused to indict Macias again.

Again, as I read the Hatch-Specter bill, the Federal court would have been forced to defer to the State court. So I would like to also point out another case, that of Hurricane Carter, which has been referred to. Carter was convicted of the murder of three people—despite the fact that he did not match the physical description of the killers, and was sentenced to life in prison.

The prosecution used the eyewitness testimony of a thief who at first denied seeing Carter at the scene. But the police then showed the witness a manufactured lie detector test that falsely showed he was lying. In the face of this pressure, the witness changed his testimony. The fact that the witness had lied previously to his testimony using a false lie detector was not disclosed to the defendant, and was concealed from the jury.

The New Jersey Supreme Court upheld the conviction—but the Federal court ruled that the prosecutor had unconstitutionally withheld evidence favorable to Carter. After habeas was granted, the State dismissed the indictment rather than seek a retrial in which it would have to give all the evidence to the defendant.

The deference rule in this bill would have prevented the Federal courts from correcting the State court's decision that the prosecutors had not violated the Constitution.

In fact, in that case, the State of New Jersey tried to win the case by arguing that the Federal court should defer to the State court. The Federal court instead exercised independent review, and ruled for Mr. Carter.

Let me also discuss the case of Walter McMillian. McMillian was convicted of murder and sentenced to death. The main evidence at trial was the fact that he had been a black man claiming to have been an accomplice, and who was granted immunity. Two other witnesses testified that they had seen McMillian's truck in front of the dry cleaners. The jury ignored the testimony of a number of friends and family members who said he was at a fish fry.

After trial, a new investigation showed that the alleged accomplice who testified against McMillian at trial did not know him at the time of the offense.

That, in fact, he had denied McMillian's involvement in three interviews before finally fingering McMillian.

The witnesses who claimed to have seen McMillian's low-rider truck could not have done so since the truck was not a low-rider at the time of the offense. That the accomplice had complained to prison doctors that he was being pressured to frame McMillian, and that the doctors told the prosecutors about this before trial.

And that the State had interviewed other inmates who said the "accomplice" had told them he was going to frame a man.

The new investigation into the McMillian case showed that all of this evidence was withheld from the defendant at trial.

Despite this new evidence, the Alabama trial court refused to grant relief, turning down the constitutional claims about perjured testimony and Government misconduct. Eventually, the Alabama Supreme Court reversed. But, had the Alabama Appeals Court come out the other way, the deference language would have barred the Federal court from preventing the execution of an innocent man.

While my colleagues rightly point out the crush of repetitive petitions—many of which are frivolous, they leave the impression that habeas is no longer needed.

The cases I have just described demonstrate how important it is to be able to seek independent Federal review. While most State courts try to apply the law properly, sometimes they fail because of police or prosecution misconduct, or simply because they make mistakes.

Here are a few more examples of recent cases in which Federal courts granted habeas relief:

In Brown versus Lynaugh (5th Cir. 1988), habeas relief was granted because the presiding judge left the witness stand and provided evidence against the defendant. Even though that type of conduct seems to make the trial patently unfair, the State court didn't think so. The rule of deference has prevented the Federal Courts from correcting that error.

In McDowell versus Dixon (4th Cir. 1988), the conviction of a dark-skinned African American was reversed because the prosecutor had withheld eye-witness statements that the assailant was white. The state courts found that this error did not deprive the defendant of a fair trial. The Federal court overruled and granted habeas relief. The deference rule would have prevented the Federal courts from doing so.

These cases demonstrate that habeas corpus is still needed—and that injustices continue to occur. Without habeas, those injustices would be left to stand uncorrected.

CONCLUSION

Everyone agrees that there is a need to end the delays and that the current system just doesn't work right. But just because people also think everyone would agree that we should have a fair process—one that does not execute innocent people—does not make this charade to go on and on—continue to allow this to happen because they do not like the death penalty.

I think we ought to face that death penalty straight on and down. If you don't want to stand against the death penalty, you understand that. I know there are two sides to it. I do not like it myself, except in the most heinous of cases. I would never use it unless it was a really heinous case, like the Andrews case, or like a number of other cases, like the Manson case. He was saved by the Furman case, the Supreme Court case where we had a temporary law on whether or not the death penalty is to be inflicted. There are many others you can talk about.

Mr. President, I have to oppose this amendment. It is offered to modify the standard of habeas corpus reform that we have proposed in this antiterrorism
I notice the standard of review on the habeas proposals by the Biden staff-prepared poster. It says that Specter-Hatch requires Federal courts to defer to State courts in almost all cases, even if the State is wrong about the U.S. Constitution. That is absolutely false. This legislation, cur-
rently, Federal courts have virtual de novo review of a State court’s legal determination. Under our change, Fed-
eral courts would be required to defer to the determination of State courts, unless the determination was “con-
trary to or involved in an unreasonable application of clearly established Federal laws as determined by the Supreme Court.” I will read that again.

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim adju-
dicated on the merits in a State court proceed-
ing unless the adjudication of that claim (1) resulted in a decision that was con-
trary to or involved an unreasonable applica-
tion of clearly established Federal laws as determined by the Supreme Court of the United States or (2) resulted in a decision that was based on an unreasonable deter-
nement of the evidence presented in the State court proceeding.

This is a wholly appropriate stand-
ard. It enables the Federal court to over turn State court positions that clearly contravene Federal law. It fur-
ther allows the Federal courts to re-
ead the evidence that improperly apply clearly established Fed-
eral law. The standard also ends the improper review of the State court de-
cisions.

After all, State courts are con-
strained to uphold the Constitution and faithfully apply Federal law as well. There is simply no reason that Federal courts should have the ability to virtually retry cases that have been properly adjudicated by our State courts. There is no reason to allow Federal courts to do that. If you talk to your State attorneys general, they will tell you that a review standard is the single most important provision of our bill. Meaningful reform will stop repeated appeals upon fair and valid State convictions through spurious pe-
titions filed in the Federal courts. We cannot stop the spurious petitions without changing the standard under which these petitions are reviewed.

If the Biden amendment passes, we are back to business as usual, except for some time constraints. Even then it is business as usual, because there will be repetitious frivolous appeals allowed by the liberal judges in almost every case. To iron out whether they can make any kind of a claim, regardless of whether it is legitimate or not.

It happens all the time now. People who have to live through that every time there is a habeas petition found. It determines the degree of def-
ence the Federal court will give to the decisions of a State court.

Mr. President, I think that part of the disagreement we have with respect to the appropriate standard of review in habeas petitions involves differing visions as to the proper role of habeas review. Federal habeas review takes place only after there has been a trial. A direct review of a State courts is available in habeas petitions filed in the Federal courts again, all the way up to through the Federal court again.

I notice the distinguished Senator from Pennsylvania was at an Inte-
ligence Committee hearing and needs to get back there. So I will interrupt my remarks to give him credit for his remarks on this very important issue.

Mr. SPECTER. Mr. President, I thank my distinguished colleague, the chairman of the committee, for yielding to me at this time. I have worked with him intimately on this legisla-
tion. As he has noted and I noted earlier, we are in the midst of an Intelligence Committee meeting, a committee which I chair, so I appreciate his yielding to me for a few moments.

I have sought recognition to support Senator HATCH and to oppose the amendment offered by the distin-
guished Senator from Delaware.

This legislation is the result of a great deal of work over many, many years. It has been going on since the 1980’s. As I commented earlier, a ha-
bear corpus reform bill passed by the U.S. Senate in 1990, but it did not survive a conference with the House of Repre-
sentatives.

Legislation to reform habeas corpus has been considered and reconsidered each year for many years. The provi-
sion which is being debated now, I think, is a reasonable compromise. It is not my absolute preference on the kind of language that I would have chosen had I written the bill alone, but I think it is a reasonable compromise.

Part of my concern is that when we change the standard, it means a lot of new litigation to have interpretations of untested language. I think there is substantial latitude here for interpre-
tation.
Current law gives significant deference on questions of law and on factual determination to State court determinations. Under the current bill, I think there is still a good bit of latitude which the Federal judge will have whether or not the Federal judge involved an unreviewable application of Federal law as determined by the Supreme Court of the United States, or resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceedings.

So there still is latitude for the Federal judge to disagree with the determination made by the State court judge. It is my sense, having litigated these cases as an assistant district attorney years ago, in the Federal and State courts, that where there is a miscarriage of justice, the Federal court can come to a different decision than was made in the State court proceedings. The language in the habeas corpus reform bill passed earlier this year by the House is even more restrictive than the language in the Senate bill. The House bill contains a provision that precisely circumscribes the writ of habeas corpus unless the State court’s decision is arbitrary. This is an even more restrictive standard than that in the Senate bill.

Mr. President, in the legislation which is pending before us, there are provisions which I consider a step backward from the bill which passed the Senate in 1990, which would have eliminated the requirement of exhaustion of State court remedies. Well, I will say this. I would not require an exhaustion of State court remedies before the filing of a Federal habeas corpus petition because if that exhaustion requirement were not present there would be a more orderly and a prompt disposition of these contested issues.

Were exhaustion of State remedies not necessary, we would not have the interminable tennis match back and forth between the State and Federal courts. By the Federal Government in the case of Peoples versus Castille, which is illustrative of the complexity of bouncing back and forth between the courts.

In the case of Peoples, the defendant was convicted in the State court of aggravated assault. The conviction was reviewed and upheld by the Pennsylvania superior court, an intermediate appellate court. Then the case went to the Supreme Court of Pennsylvania on what is called an allocatur application, a request for allocatur. The Supreme Court of Pennsylvania denied the petition for allocatur but the court may do so either considering the case on the merits or refusing to hear it as a discretionary matter.

The defendant then sought a writ of habeas corpus from the U.S. District Court for the Eastern District of Pennsylvania, which sent the case back to the State court. The People of the Commonwealth appealed to the Supreme Court of Pennsylvania for review. The People of the Commonwealth had failed to exhaust his available State remedies because it was unclear whether the Pennsylvania Supreme Court had considered the merits in denying allocatur.

The case then went from the district court to the court of appeals which reversed the district court, saying that there had been an adequate exhaustion of State court remedies. The Supreme Court of the United States then reversed the circuit court and sent the case back to the district court.

Now, had there been no requirement for an exhaustion of State court remedies, the case could have had one hearing in the Federal court, all of the issues would have been decided, and I think decided another way if we had had the State court proceedings, bearing in mind that there had already been a full decision by a State appellate court which had upheld the judgment of conviction in the first instance.

What we are really looking at with about 2,900 inmates on death row, there were only 38 cases in which the death penalty was carried out. It would be very much in the interests of the objective of swiftness and certainty to put an end to the long delays. Eliminating the requirement of exhaustion of State remedies would go a long way to achieving these goals.

The State prosecutors and the attorneys general, however, disagree with my view as to what is in the public interest on the issue of exhaustion. We have the same objective. That is, to make the punishment swift and certain, to eliminate the long delays which are a detriment to law enforcement and the y in which the deterrent effect of the death penalty, not to have the matter come to closure for the families of the victims, and not to harm the interests of the defendants, as interpreted by some international tribunals, which say it is cruel and unusual punishment to have the cases last longer than 6 to 8 years, an issue also raised by two of the current justices of the Supreme Court, as I mentioned earlier today, I will not go into that because of the intervention of time.

The provision of State court remedies has been eliminated, however, because this bill does not abolish to exhaustion requirement. Unlike the resolution of this issue in the 1990 legislation, which passed the Senate, which eliminated the requirement of exhaustion of State remedies, that provision is not in this bill.

I refer to that to illustrate how uniformly the United States Supreme Court cannot be achieved on these difficult issues, and different people will have different views. But what we come down to at bottom in this legislation that is currently crafted, I think, is a realistic compromise, I think defendants’ rights are protected. There are protections in this legislation with the appointment of counsel. We have the requirement that there are timetables and limitations periods so the defendants’ rights, the States rights, and the victims’ rights are all protected.

I think it is a carefully crafted compromise which ought to be enacted to promote the interests of all parties involved. That is why I urge my colleagues to reject the amendment offered by the distinguished Senator from Delaware on this state of the record.

I thank my colleague for yielding to me at this time.

Mr. Hatch. Mr. President, I thank my colleague. I have enjoyed working with him on this Specter-Hatch habeas corpus reform. Without him I do not think we would be nearly as far along as we are, so I want to personally thank him for the efforts he has put forward.

Let me get back to what I was saying. Look at all the reviews these cases have: The trial, the direct review to the intermediate court, the direct review to the State supreme court, the direct review to the Supreme Court of the United States of America, petition to the Governor for clemency.

But that is not the end. In virtually every State a postconviction collateral proceeding exists. In other words, the petitioner can file a habeas corpus petition in State court. The petition is routinely subject to appellate review by an intermediate court and the State supreme court. The prisoner then may file a second petition in the U.S. Supreme Court and may also, of course, seek a second review of that by the Governor. So after conviction we have at least six levels of review by State and Federal courts, two rounds of review at least in capital cases by the State executive.

Contrary to the impression that may be left by some of my colleagues on the other side of this issue, Federal habeas review does not take place until well after conviction and numerous rounds of direct and collateral review.

The Supreme Court has clearly held in Goeke versus Branch that habeas corpus is not in this bill.

Mr. Hatch. Mr. President, I thank my colleague. I have enjoyed working with him on this Specter-Hatch habeas corpus reform. Without him I do not think we would be nearly as far along as we are, so I want to personally thank him for the efforts he has put forward.

Let me get back to what I was saying. Look at all the reviews these cases have: The trial, the direct review to the intermediate court, the direct review to the State supreme court, the direct review to the Supreme Court of the United States of America, petition to the Governor for clemency.
Now that we have the proper context for this debate, let us look at the proposed standard again. Under the standard contained in S. 735, Federal courts would be required to defer to the determinations of State courts unless the State court's decision was "without" or "inviolate of" the Federal law. Indeed, this standard essentially gives the Federal court the authority to review de novo whether the State court decided the claim in contravention of Federal law.

Moreover, the Federal standard, this review standard proposed in S. 735, allows the Federal court to review State court decisions that improperly apply clearly established Federal law. In other words, if the State court unreasonably applies Federal law as defined by clearly established Federal law, the decision is subject to review by the Federal courts.

What does this mean? It means that if the State court reasonably applied Federal law, its decision must be upheld. If the State court applied Federal law so that a reasonable jury could have found the defendant guilty, the decision is subject to review.

The Supreme Court in Harlow versus Fitzgerald has held that if the police officer's conduct was reasonable, no claim for damages under Bivens versus Six Unknown Agents can be maintained.

In Leon versus United States, the Supreme Court held if the police officer's conduct in conducting a search was reasonable, no amendment violation ensues or would obtain, and the court could not order suppression of the evidence obtained as a result of the search.

The Supreme Court has repeatedly endorsed the principle that no remedy is available where the Government acts reasonably. Why, then, given this preference for reasonableness in the law, should we empower a Federal court to reverse a State court's reasonable application of Federal law to the facts? If we give that power that Senator Biden has proposed, we have hundreds of judges who do not like the death penalty, who are just going to give repeated habeas corpus reviews any time some clever defense lawyer demands it—which is exactly what we have today.

Our proposed standard simply ends the improper review of State court decisions. After all, State courts are required to uphold the Constitution and to faithfully apply Federal law so there is no reason for what the distinguished Senator from Delaware is arguing for.

He is not concerned with the death penalty. I understand that. I respect him for that. But the arguments against meaningful habeas reform, like we have in this bill, are in reality arguments against the death penalty. If that is so, then let us debate the efficacy of the death penalty. Let us not continue frivoious appeals at a cost of billions of dollars in this society, just because we do not like the death penalty. Let us decide whether death is the appropriate sanction for people like those who murdered 168 individuals in Oklahoma City, for whom I am wearing this memorial set of ribbons pinned on me by the daughter of one of the dead—a woman—the improper review of State court decisions. After all, State courts are reviewing State court decisions. We do not review State court decisions. We review decisions. After all, State courts are reviewing State court decisions.

The second argument I think my friends are making is that they fundamentally distrust the decisions of the State courts. It is an insult to all the people of our country to say that a group of judges around this country. They cannot show cases that literally show that the State courts cannot do the job.

Let me just give an illustration. We have heard a lot about the Rubin Carter case. It was a part of the Carter case. The specific fact of the matter is we have heard all kinds of arguments relating to that case.

He is supposed to be an innocent individual, falsely held in prison despite his innocence. It is suggested he be a trial lawyer. I know that you should always be suspicious of alleged evidence offered at the last minute by your opponents. And this Carter case is no different.

Here, at the last minute, we hear about still one more apocryphal, highly disputed case on which there is absolutely no agreement whatsoever about the guilt or innocence of the defendant. First we are told that Carter was falsely convicted in New York—well, he was convicted twice, but in New Jersey. Then we are told that he served 28 months, when, in fact, he served for nearly 20 years. And now, we are told, without any supporting proof, that he is innocent of the very murders that two juries have found—beyond a reasonable doubt—that he committed.

And we are supposed to believe these unsupported allegations of innocence—allegations made by Senators who don't even know what State Rubin Carter was talking about.

These allegations are directly disputed by the prosecutors in New Jersey who know this case best. They are directly disputed by every jury and every court that has reviewed this case. And we should remember that it was Judge Lee Sarokin—a very liberal judge—who was the district judge that released Rubin Carter, after nearly 20 years in jail. And he released him not because he was innocent, but because of a procedural objection to the composition of the jury. The procedural objection was raised 20 years after the fact.

The Carter case does not show the value of Federal habeas corpus—the Carter case is a fresh indictment of the current system. It shows more clearly than ever, that if you can get your habeas petition before the right liberal Federal judge, you can get out of State prison, regardless of your innocence or guilt.

Here is what the New York Times—one of the most liberal papers in our Nation—said about Judge Sarokin's decision in the Carter case: it said that the judge's decision was "flawed by excessive lecturing on the need for 'compassion' and the injustice of a possible 'third trial'" for Rubin Carter. Well, I submit that the Federal courts are not empaneled to provide compassion, they are there to provide justice. In the area of habeas, they are there to provide a constitutional back-up for court decisions. The Hatch/Dole bill preserves that function of the Federal courts.

The floor of the U.S. Senate is not the place to determine the guilt and innocence of persons involved in highly disputed cases. That is what hearings are for.

Where were these defenders of the alleged innocence of this three-time murderer when the Judiciary Committee was considering how to provide compassion to Rubin Carter?"
him, but it happened. That case, decided in 1915, occurred at a very different time and under very different circumstances. That is not applicable to this debate. We can go on and on.

Madam President, this is the most important stage in criminal law in the last 30 years, and maybe in our lifetimes. This is a change to stop the incessant frivolous appeals that are eating our country alive. We have the chance to really do something about this while the same time protection of constitutional rights and civil liberties for everybody, and doing it in an appropriate, legally sound manner.

This amendment will do that.

I hope we will vote down all of these amendments that we have heard debated here today.

I am prepared to yield back the remainder of my time.

I ask unanimous consent that the rollcall vote on the motion to table the Biden amendment No. 1253 be the standard 15-minute vote and that all remaining stacked votes be limited to 10 minutes each.

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

Mr. HATCH. Madam President, I ask unanimous consent—I have the approval of Senator Biden to do this—on behalf of myself and Senator Biden, that all action on amendment No. 1241 be vitiated, the Heflin amendment.

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

Mr. HATCH. Madam President, do we have rollcall votes ordered on every one of the amendments?

The PRESIDING OFFICER. The rollcall votes ordered on the first three with the exception of 1224.

Mr. HATCH. I move to table the Biden amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Madam President, a rollcall vote is ordered on one which is not a motion to table, and the rest are motions to table?

The PRESIDING OFFICER. The Senator is correct.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1253

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to lay on the table amendment No. 1253 offered by the Senator from Delaware [Mr. BIDEN]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. CONRAD] is necessarily absent.

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

The result was announced—yeas 65, nays 34, as follows:

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

The result was announced, yeas 53, nays 46, as follows:

ROYAL VOTE NO. 241 L.leg

YEAS—53

Abraham
Ashcroft
Baucus
Bennet
Bond
Brown
Burns
Byrd
Breaux
Biden
Faircloth
Domenici
Dole
D'Amato
Craig
Cochran
Campbell
Byrd
Burns
Bond
Bennett
NAYS—46

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryant
Bumpers
Byrd
Chafee
Collins
Daschle
Dodd
Dodd
Dole
Domenici
Faircloth
McCain

So the motion to lay on the table the amendment (No. 1224) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. HATCH. Madam President, I suggest the adoption of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. HATCH. Madam President, I ask unanimous consent that the quorum call be dispensed with.

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

AMENDMENT NO. 1294 TO AMENDMENT NO. 1299

Mr. HATCH. Madam President, on behalf of Senator Biden and myself, I send a managers' amendment to the desk, which is agreed to by us, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. BIDEN, proposes an amendment to amendment No. 1294 to amendment No. 1299, as follows:

On page 5, line 20, strike “destroys” and insert “obstructs”.

On page 7, line 11, insert “intent to commit murder or any other felony or with” after “assault with”. 

On page 9, line 12, strike “any manner in” and insert “interstate”. 

On page 10, between lines 18 and 19, insert the following new subsection:

(f) EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended by striking “any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping” and inserting “any structure, conveyance, or other real or personal property.”

On page 13, strike lines 5 through 8 and insert the following:

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking “one” and inserting “five”;

(2) in subsection (c), by striking “5” and inserting “15”;

(3) in clause (ii), by inserting “23994A” and inserting “2394A” of title 18, United States Code;

(4) in clause (iii), by striking “1962” and inserting “1994”;

(5) in clause (iv), by striking “murder or any other felony or with” after “by reason of”;

On page 22, line 24, strike “all that follows through “(ii) expand” and inserting “and designate”;

On page 21, strike “item of”;

On page 48, lines 21 and 22, strike “Notwithstanding any other provision of law.”;

On page 60, strike lines 1 and 2, and insert “Columbia not later than 30 days after receipt of actual notice under subsection (b)(6).”;

On page 57, strike lines 18 and 20, and insert “The designation shall take effect 30 days after the receipt of notice under subsection (b)(6), unless otherwise provided by law.”;

On page 93, lines 22 through 24, strike “to—” and all that follows through “(iii) expand” and insert “and”;

On page 43, strike “shall provide” and insert “shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State.”;

On page 95, strike line 23 and all that follows through page 96 line 2 and insert the following:

(D) ALLOCATION.—(i) Of the total amount appropriated pursuant to this section in a fiscal year—

(1) of $500,000 or 0.25 percent, whichever is greater, shall be allocated to each of the participating States;

(ii) of the total funds remaining after the allocation under clause (i), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(ii) DEFINITION.—For purposes of this subparagraph, the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the funds made available pursuant to this section shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

On page 99, line 19, insert after “Attorneys” the following: “and personnel for the Criminal Division of the Department of Justice.”;

On page 99, between lines 21 and 22, insert the following:

(C) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

On page 117, lines 3 and 4, strike “right made retroactively applicable to cases on follow review by collateral review by the Supreme Court” and insert “right that is made retroactively applicable.”

On page 133, line 3, strike “(a) in GENERAL.”.

On page 133, strike lines 8 through 10 and insert the following:

(b) by striking “;” and inserting the following: “and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce if such use occurred;”;

(c) by redesigning paragraph (3) as paragraph (4);

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

“(3) against a victim, or intended victim, that is the United States Government, a member of the uniformed services, a federal officer or employee, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or any department or agency, of the United States, and”;

(E) in paragraph (4), as redesignated, by inserting before the comma at the end the following: “; or is within the United States and is used in any activity affecting interstate or foreign commerce.”

On page 133, line 21, before the end quotation mark’s insert the following: “The preceding sentence does not apply to a person performing an act that, as performed, is within the scope of the person’s official duties as an officer or employee of the United States, as a member of the uniformed services, or any official, officer, employee, or agent of the United States, or to a person employed by a contractor of the United States for performing an act that, as performed, is authorized under the contract.”

On page 134, strike lines 1 through 8.

On page 140, line 20, insert after “employee,” the following: “or any person assisting such an officer or employee in the performance of official duties.”.

On page 140, line 21, strike “their official duties,” and insert “such duties or the provision of such assistance.”.

On page 141, line 1, insert “or manslaughter as provided in section 1113” after “an order.”

On page 143, between lines 15 and 16, insert the following:

(i) CLARIFICATION OF MARITIME VIOLATIONS JURISDICTION.—Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking “the activity is not prohibited as a crime by the State” and inserting “the activity is not prohibited as a crime by the State or is otherwise provided in this section”; and

(2) in clause (iii), by striking “the activity takes place on a ship flying the flag of a foreign country or outside the United States,” and inserting “the results of such use affect interstate or foreign commerce.”;

On page 148, line 13, insert “of title VII” after “date of enactment”.

On page 148, line 18, insert “of title VII” after “date of enactment”.

On page 149, line 6, strike “effective date of section 801” and insert “date of enactment of title VII”. 

On page 152, strike lines 3 through 5 and insert the following:

(a) in paragraph (1), by striking “the activity otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.”;

On page 160, between lines 11 and 12, insert the following:
SEC. 902. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE UNITED STATES PARK POLICE.

(a) In General.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $1,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 903. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE ADMINIS-TRATIVE OFFICE OF THE UNITED STATES COURTS.

(a) In General.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the Administrative Office of the United States Courts, to help meet the increased needs of the Administrative Office of the United States Courts, $4,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 904. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) In General.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service, $10,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

Page 51, line 10, replace “1252(a)” with “1252a”. On page 51, line 34, insert “of this title” after “section 101(a)(43)”. Mr. HATCH. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1254) was agreed to.

Mr. HATCH. I move to reconsider.

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

The motion to lay on the table was agreed to.

Mr. BRADLEY. Madam President, I rise in support of the Comprehensive Terrorism Prevention Act. The Oklahoma City bombing brought into sharp focus the reality and horror of domestic terrorism in America. The death toll of the bombing now stands at 167, making it the single mass murder in the history of the United States. This legislation will enhance the ability of law enforcement to combat both foreign and domestic terrorism. It is a strong, adequate response to the serious problem of terrorism, and will provide the United States with the necessary tools to respond to the international and domestic terrorist threats and prosecute these despicable acts to the fullest extent of the law.

Madam President, I fully support the provisions in this bill which are vitally important to our efforts to respond to international and domestic threats of terrorism. I, therefore, fully support this bill, and I am confident that because of our actions today, America will be more fortified against the evils of terrorism.

Mr. PELL. Madam President. Today, as the Senate considers final passage of S. 735, legislation designed to combat domestic and international terrorism, I regret that I must oppose the final version of the bill. I believe that appropriate steps can be taken by this Congress to add to the tools currently available to law enforcement to combat terrorism. Especially in light of the recent, horrific tragedy in Oklahoma City, enhancement of the available tools to combat the growing menace of terrorism is timely and necessary.

However, as Congress rushes to respond, we can not let our fervor for action allow us to unwisely circumscribe basic protections long enshrined in our Constitution. Unfortunately, I believe that as the bill stands, the Senate has gone too far in changing and restricting the application and availability of the right to appeal court decisions to render the current habeas corpus system incapable of functioning. This limit on habeas corpus has been a fundamental part of our jurisprudence since our country's founding. It is a critical part of the means by which our system of justice guarantees that everyone has the opportunity for a fair trial and that the rights granted under the U.S. Constitution will be respected and enforced.

With this time-honored tradition of habeas corpus so much a part of the bedrock legal principles which underpin our society, why are we considering changing it all? The answer is clear and has been readily acknowledged by the proponents of this so-called reform: they want to expedite the execution of those who have received the death penalty. It is that simple. There is no other driving force behind these efforts; efforts which incidentally have been around for years now. Those who favor the death penalty are frustrated that appeals under habeas corpus are available for those who protest their innocence. Those who were denied a fair trial. They argue that with an appeals process that lasts for years, the deterrent effect of the death penalty is lost. Thus, they want to drastically limit the ability of those convicted of crimes and given the death penalty to appeal their convictions, despite the fact that the sentence, if carried out, is irreversible and final.

Mr. HATCH. It is clear that a harbor no sympathy for those appropriately found guilty of murder and strongly believe that it is critical that they face certain and severe punishment, including life in prison without parole. The victims deserve no less. The bill deserves no more. However, I do oppose the death penalty. I do so because I believe that the death penalty is not a conscionable punishment in a civilized society. The reason is obvious; the death penalty once carried out cannot be reversed if turns out that an individual really was innocent. Indeed, I note that the last time an individual was executed in my state of Rhode Island, it was later proved that he did not commit the crime. It is unacceptable that in a legal system which has the death penalty, such as ours, that procedures would be sought which limit the opportunities otherwise available for an individual to prove his innocence. If anything, I believe that those procedures should be made more available for the proof of innocence, not fewer. But the bill before us today does just that—it limits the rights of the accused to have their convictions reviewed for error. This is wrong and in my opinion, a sad day in the U.S. Sen-

Accordingly, I feel that the limited good done by the bill—by which I mean the commendable efforts to fight terrorism—is outweighed by the attack on habeas corpus which has been included. Interestingly enough, efforts to limit the changes in habeas corpus to apply only to Federal terrorism cases, the supposed reason for this bill, were rejected. The entire habeas corpus system will be affected. Thus, the changes in habeas corpus brought in State and Federal courts, has been changed. It brings into question the true motivations behind attaching this language to this bill—a bill that on its face has great public appeal and is being moved by a sense of urgency given the events in Oklahoma City in April. But despite my profound sympathy for the victims of the bombing in Oklahoma City—indeed as well as all terrorist acts—and my desire to do something about relieving the pain they suffer, I believe, after due con-

Madam President, I do not want to offer an amendment to this bill that was designed to make a technical correction to the existing law banning handgun bullets capable of piercing body armor. Law enforcement represents the first line of defense against threats to our internal security. My amendment therefore was designed to give the maximum level of protection to our police officers by extending the ban on handgun bullets capable of killing bullets that can penetrate body armor will be banned, regardless of the bullet's physical composition. I decided not to pursue adoption of the amend-

Mr. BRADLEY. Madam President, I agree to. The motion to lay on the table was agreed to.

Mr. HATCH. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1254) was agreed to.

Mr. HATCH. I move to reconsider.

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

The motion to lay on the table was agreed to.

Mr. BRADLEY. Madam President, I rise in support of the Comprehensive Terror-
in our fight against crime. It disrupts strong provisions against criminal aliens enacted in last year's crime bill and only recently implemented through regulation. It ties the Attorney General's hands in obtaining convictions and results in the elimination of judicial review in these cases—a major departure from fundamental principles of due process.

This provision harms our crime fighting efforts in at least three ways.

First, it undermines the Attorney General's ability to target the removal of the most serious offenders within the resources she has available. It applies to all criminal aliens, regardless of the gravity of their offense. Under current law, only aggravated felons—those committing the most serious offenses—are placed in expedited proceedings. Under this provision, the Attorney General would be required to detain all those in this broadened category of criminal aliens, with no allowance for those whose home countries will not or cannot take them back. This is the case today with Cuba, Vietnam, and Bosnia. In these cases, the Attorney General General would be required to keep the alien in indefinite detention, even if the offense is relatively light and the Attorney General believes the alien would pose no danger to the community.

This is a drastic and unnecessary expense to the taxpayer. It takes jail space and resources away from more pressing criminal enforcement.

Under this provision, a Cuban refugee convicted of shoplifting in certain States could face life imprisonment in an INS jail. Finally, by providing that all criminal aliens be removed within 30 days of the issuance of a deportation order, this provision ignores real law enforcement needs. The 30-day requirement may be waived where criminal aliens are cooperating with law enforcement as witnesses. However, there is no allowance for other law enforcement purposes. However, there is no allowance for other law enforcement purposes. This provision eliminates the Attorney General's discretion to order deportation within 30 days under other circumstances. For example, one of the suspected conspirators in the case was already in jail for another crime. Under this provision, he would be subjected to mandatory deportation within 30 days of the issuance of a deportation order for the new crime, and would not be available for prosecution under the second—and far more serious—crime.

In addition to undermining the war on crime, this amendment virtually eliminates the Attorney General's discretion to allow discretionary relief from deportation for long-time permanent residents convicted of lesser crimes. This discretionary relief is available to permanent residents who have resided here for at least 7 years. It is granted if the immigration judge believes their equities in the United States—such as American citizen spouses or children or contributions to their communities—outweigh the gravity of their offense.

Under current law, permanent residents with aggravated felony convictions who serve at least 5 years in prison are ineligible for this discretionary relief from deportation. However, under this provision, this discretionary relief is available to permanent residents for carrying a concealed firearm, drug abuse, or addiction, in which no conviction would even be required, any drug offense involving more than 30 grams of marijuana, and other such crimes. They could live here productively for 30 years and have an American citizen wife and children. But for them, it is one strike and you are out. Similarly, refugees could also be deported to the hands of their persecutors for very minor offenses.

Under this provision, for example, a refugee from Rwanda could put a bill in the mailbox and he is arrested for tampering with the mail—a felony. Due to poor representation, he accepts a plea bargain of sentence of 1 year. To his surprise, he is suddenly subject to expedited deportation with no judicial review.

Under this provision, an older immigrant who came to the United States as a child but was never naturalized gets tired of a rash of robberies on her store and buys a firearm which she doesn't realize is illegal. She is convicted of a felony. Even though she is married to an American and has four U.S.-citizen children, she must be placed in expedited deportation proceedings with no recourse to the courts.

A long-time permanent resident could decide to go fishing. He hooks and kills what he does not realize is a rare fish, which is a strict liability felony with a mandatory minimum of 1 year. Even though he is a U.S. citizen and has U.S.-citizen children, he is convicted, serves his time, and is immediately deported with no prospect for judicial review.

These are the kinds of cases which can easily happen if this drastic provision is allowed to stand.

Even if we accept—as this provision proposes—that virtually any offense results in automatic deportation, the elimination of judicial review alone will not do grounds for opposing this provision. This is a major departure from fair principles of due process.

The need for judicial review in this instance is obvious. Immigration judges in the Justice Department make mistakes.

For example, in a recent Ninth Circuit case, the panel reviewed an immigration judge's deportation order against someone convicted of drug trafficking who claimed to be a U.S. citizen but did not have a lawyer. The court found that the Immigration Judge's order was “not based on substantial evidence.” In this case, a possible U.S. citizen could have been erroneously deported if the court had not intervened.

It is because of cases such as these that the standing policy of the American Bar Association is that legislation should not:

Limit the availability and scope of judicial review of administrative decisions under the Immigration and Naturalization Act . . . in a manner less than what is provided . . . in the Administrative Procedures Act; in particular judicial review of . . . denials of stays of execution of deportation orders and constitutional and statutory writs of habeas corpus.

I had intended to offer an amendment to the counter-terrorism bill which would correct these problems. While I will not offer the amendment at this time, it is my hope that the grave problems of the current language will be addressed as the bill proceeds.

The provision in the pending bill would do nothing to enhance our ability to exclude suspected terrorists. It would impede current efforts to remove dangerous criminal aliens. And I hope it will be addressed at a later stage.

ALIEN TERRORIST REMOVAL ACT

Mr. SMITH. Madam President, I rise this afternoon to commend Senators Dole and Hatch for incorporating my amendment S. 707, the Alien Terrorist Removal Act of 1995, into S. 735, the comprehensive antiterrorism legislation now before the Senate.
I also want to thank Senator Specter again for the opportunity to testify before his Terrorism Subcommittee last month regarding my alien terrorist removal bill.

My bill—now the alien terrorist removal bill—embodies the Smith-Simpson amendment that the Senate passed unanimously as part of the crime bill in the last Congress. Unfortunately, certain House Members of the conference committee insisted on the removal of the Smith-Simpson amendment from the 1994 crime bill.

This year, however, Madam President, the Clinton administration proposed its own substantially identical version of my bill as a part of its omnibus antiterrorism legislation. Thus, I am confident that the alien terrorist removal title of S. 735 will enjoy broad bipartisan support here in the Senate, will be supported by the House as well, and will be signed into law by the President in the next few weeks.

Let me summarize briefly for the benefit of my colleagues what the alien terrorist removal title of S. 735 is all about. The alien terrorist removal provisions of the bill would establish a new, special judicial procedure under which classified information can be used to establish the deportability of alien terrorists.

The new procedures provided under title III of S. 735 are carefully designed to safeguard national security interests, while at the same time ensuring appropriate protection to the necessarily limited constitutional due process rights of aliens.

Under current law, Madam President, classified information cannot be used to establish the deportability of terrorist aliens. Thus, when there is insufficient unclassified information available to establish the deportability of a terrorist alien, the Government faces two equally unacceptable choices.

First, the Justice Department could declassify enough of its evidence against the alien in question to establish his deportability.

Sometimes, however, that simply cannot be done because the classified information in question is so sensitive that its disclosure would endanger the lives of human sources or compromise highly sensitive methods of intelligence gathering.

Second, and equally untenable, choice would be simply to let the terrorist alien involved remain in the United States.

Unfortunately, that is not just a hypothetical situation. It happens in real cases. That is why the Department of Justice—under both Republican and Democratic Presidents and Attorneys General—has been asking for the authority granted by my bill—now title III of S. 735—since 1988.

Utilizing the existing definitions of terrorism under the Immigration Act of 1990 and of classified information in the Classified Information Procedures Act, title III of S. 735 would establish a special alien terrorist removal court made up of sitting U.S. District Judges that is modeled on the special court that was created by the Foreign Intelligence Surveillance Act.

Under title III of S. 735, the U.S. district justice sitting as the special court would personally review the classified information involved.

Without the compromising classified information, the alien in question would be provided an unclassified summary of the classified information involved.

Ultimately, the special court would determine whether, considering the record as a whole, the Justice Department has proven, by clear and convincing evidence, that the alien is a terrorist and should be removed from the United States.

Finally, any alien ordered removed under the provisions of title III of S. 735 would have the right to appeal to the full U.S. Court of Appeals for the District of Columbia Circuit.

In closing, let me say that the most serious threat that our Nation faces in the post-cold-war world is the scourge of terrorism.

Foreign terrorism came to our shores in 1993 with the World Trade Center bombing. Tragically, with the Oklahoma City bombing in April, we learned the bitter lesson that we face the threat of terrorism from domestic extremists as well.

Now, this year, the 104th Congress is doing its job by moving quickly to respond to those twin threats. I urge the prompt passage of S. 735 and, once again, I commend the sponsors for incorporating my alien terrorist removal bill into their landmark legislation.

Mr. FEINGOLD. Madam President, after the despicable attack on the Murrah Federal building in Oklahoma City almost 2 months ago, I reacted with the same feelings of shock and outrage as millions of other Americans.

Those feelings run deeper than language can adequately describe. The pictures of the ravaged building, the stories of the victims and the families will never be forgotten.

Madam President, there should be absolutely no debate about our national resolve to fight terrorism and to keep it from our shores. No American wants to fear that the kind of thing that happened in Oklahoma City and the World Trade Center in New York will occur in their hometown or that one of their loved ones will be hurt by this kind of heinous act.

Fighting terrorism requires that we take strong and forceful steps to stop terrorists before they strike, and if they do strike, to prosecute, convict and punish them.

We need to make sure that law enforcement officers have the resources to investigate and prosecute terrorist acts. We need to give them tools to apprehend terrorists before they strike.

There are a number of provisions of this legislation that are aimed at achieving that goal, and I strongly support those proposals.

The bill would make available about $1.2 billion to increase law enforcement resources to carry out these tasks. There are provisions added during floor consideration to provide for tracer elements to be placed in explosives to help identify where these materials are likely to have originated. There are other provisions included in this bill that are also likely to help us fight terrorist threats.

Nevertheless, I intend to vote against this legislation. I believe that in the haste to respond to a national tragedy, we may be making mistakes that will be difficult to undo.

There are a number of provisions in this legislation that are problematic, and quite frankly, I am equally concerned about the process which brought this measure to the floor of the Senate, the Judiciary Committee, the Committee never met to debate the bill, there is no committee report, and the measure which was called up by the leader was drafted in private and introduced shortly before many Members left town for the Memorial Day recess.

It has also become the vehicle for what is called “habeas corpus reform.” What is described as “reform” is in fact an attempt to rewrite and weaken what is known as the “Great Writ” that common law instrument, that allowed citizens to challenge the lawfulness of their detention by the crown. Suddenly, habeas reform has become a tool for fighting terrorism. I find that a stretch of the imagination. What we have is a classic piece of legislation to get another agenda wrapped into an emotionally charged, moving vehicle.

In the past year, many of our basic, fundamental protections against government intrusion contained in the Bill of Rights have been under assault. I think many Americans are unaware that these reform movements are in fact assaults upon fundamental rights—not just the rights of criminals, but the rights of all Americans to be free from government overreaching and harassment.

I spoke at some length earlier today on my very grave concerns about how the so-called habeas reforms engratified in this bill all threaten the rights of the innocent and raise the spectre of gross miscarriage of justice taking place.

There are also a number of other provisions of this bill that I believe are either not well thought out or misguided.

For example, last night the Senate adopted by a voice vote an amendment
authorization of greater role for the military in domestic antiterrorism activities.

Provisions dealing with this issue were included in the administration's original proposal and they were of great concern to me and a number of Senators who believe that the military should be playing a role in domestic law enforcement efforts.

Madam President, one of the hallmarks of a democratic society is the separation of the military—whose primary function is to defend the Nation from external threats—from internal law enforcement responsibilities. Military dictatorships use soldiers to enforce their laws; democracies do not.

This country has a very closely defined set of rules, arising out of the Bill of Rights itself and applied by our judicial system, which guarantee due process and fairness in the administration of justice. Law enforcement personnel are trained in carrying out these rules; soldiers are not.

I recognized, Madam President, that a very sincere effort was made by a number of the principal authors of these provisions to craft a very narrow exception to the posse comitatus law, the 1878 statute which limits the role of the military in domestic law enforcement activities.

However, I believe that both the process used to craft this amendment and the substance of this amendment are flawed. This broadening of the authority of the military, albeit in a narrow area, was not part of a bill reported by the committees of jurisdiction, but rather was introduced and voice voted within the span of a few hours last night. There were no hearings on this specific proposal, no committee report filed outlining the expectations of how it will operate, and no real deliberation. Rather, we had a voice vote on language most of us had first seen a few hours earlier.

That is not the way to deal with such a fundamental issue. There is no reason for this hasty disposition of this kind of important issue.

Beyond the process used, I have concerns about whether the amendment itself may operate to open the door to perhaps an even broader role for the military than even the administration had initially proposed. The administration's proposal did not explicitly give the military the authority to make an arrest, although it had language about disabling and disarming individuals that was troublesome. The amendment adopted last night gives the Department of Justice and the Department of Defense the authority to promulgate regulations governing the role of the military and provides that those regulations shall not authorize arrests by the military except under "exigent circumstances" or as otherwise authorized by law. In other words, the military is given the power to make arrests, but the regulations will limit that authority to certain circumstances.

Madam President, while I recognize the authority being created is limited to cases involving biological or chemical weapons, I am concerned that we be ever operationally close to the case in which is made that the military can play a greater role, for example, in the war on drugs or other areas which have been the subject of heightened public concern. I do not believe it is necessary to give the military arrest powers within the U.S. If military needs to be involved in a domestic investigation, I believe that civilian law enforcement officials should be present and available to make any arrests needed. The notion that military personnel will be operating without accompanying civilian officials is very troubling. If authority is needed to detain an individual until a civilian law enforcement official arrives, arguments against giving that authority, but that does not justify, in my mind, granting a direct power to make an arrest under any type of circumstances.

Madam President, in a similar vein, I am concerned that the amendment adopted yesterday which loosens the requirements in current law for issuance of a warrant for what is called a "roaming" or "roving" wiretap. The Fourth Amendment, in very explicit language, requires that no search warrant may issue unless "particularly describing the place to be searched, and the persons or things to be seized."

The Fourth Amendment was written in such precise terms because the drafters of the Constitution were aware of the practice of British authorities of obtaining sweeping search warrants that allowed them to search wherever and whenever they pleased. The rights of the people to be secure in their homes from government officials barging in is not something that was organized before the American Revolution. It is perhaps a unique American right, but it is one that many of us regard as sacrosanct.

The requirement for specificity is especially important with respect to wire tap authority because a wire tap is particularly invasive—no one knows that a government agent is listening to your private conversations. The law has long required that a wire tap warrant be very narrowly and carefully drawn. Current law allows a roving wire tap—that is one that moves from place to place—only where there is an allegation that the suspect is moving from place to place. There are no limitations as to where the person or things are to be seized.

I have objections to these provisions as well. I also opposed some of the provisions of last year's crime bill that I believed amounted to unnecessary and counterproductive Federal intrusion into the war on crime, which is best fought at the State and local level. Because of these objections, I voted against that bill.

But I objected to other provisions. Because of my objections today, I am voting against this one.

I believe that as Americans, we are acting in haste, making law from outrage and not from deliberation. I believe that despite good intentions and provisions of the bill that would provide additional resources to law enforcement personnel fighting terrorists, that we are not passing a thoughtful, meaningful response to a real threat. Instead, we are rewriting habeas corpus law because some proponents of these changes saw an opportunity in this bill to move their agenda. We are opening the door to a greater role for Federal Government take actions that will invade the lives of our constituents without reasonable grounds.

When we act in haste, we multiply our chances of error and I see errors in this bill. I cannot support it.

Mrs. MURRAY. Madam President, I rise today to speak in support of S. 753, the antiterrorism bill.

This bill poses serious dilemmas for me, and for this Congress. It requires us to face some of the real dangers that exist in the modern world, and it motivates us to act in the interest of protecting the people. But it also makes us face the cost of freedoms we enjoy as Americans.

It is disturbing to me when the Congress is faced with a decision to increase protection of the people by chipping away at the edges of freedom. But in this case, the imperative is clear. We have heard many compelling
stories on this floor about the horrors of Oklahoma City, the tragedy of the World Trade Center. These stories are real; they involved real Americans in today’s world. I need not repeat these stories here. Let me simply acknowledge what we all feel: These events have shaken every American to the core of their being. To reduce the likelihood of such events occurring in the future, and to preserve a peaceful existence for Americans, we must act.

We must prevent our law enforcement officials to zero in on terrorist organizations, at home and abroad. This bill does that.

We must make these crimes a high priority within the judicial system, and clearly subject terrorist activities to prosecution. This bill does that.

We must cripple the ability of terrorists to finance their activities in our own backyard. This bill does that.

We must uphold the principle of the Government, including the military where appropriate. This bill does that.

This bill contains many provisions that will improve our ability as a nation to prevent, combat, and prosecute against terrorist activities. As a result of the World Trade Center and Oklahoma City bombings, we owe it to the victims to act. As Senators in an increasingly dangerous world, we owe it to all citizens to protect the quality of life unique to the United States of America. Therefore, I will support S. 735.

Madam President, having said that, I must add a few concerns. I do not think it is ever a good idea to legislate in the heat of the moment. Cases like this are most susceptible to the laws of unintended consequences. As we broaden the reach of law enforcement, and as we broaden the application of penalties, we as elected officials have an equal obligation to keep from unnerving the people we are trying to protect. We have no idea what kind of mistake we are going to make, or whose rights will be infringed, when this bill is implemented. It will be critically important for law enforcement officials of all types to keep in mind the responsibilities to protect the citizens that go along with the kind of broad new powers we are bestowing on them.

Likewise, we have to recognize the dangers of internal hatred and anger. If there is one thing we can conclude from recent tragedies, this is it: We must be committed against extremism of all types. These are forces that may be motivated by legitimate feelings of frustration with the Government. But there are very clear lines that we must not cross. Our system of Government is governed toward discussion and debate; if we lose the ability to air out our differences through honest debate, and if we cannot agree to disagree when we have to, the entire country will suffer. We all have a responsibility to defend and uphold our collective rights to democratic government.

To this end, I feel strongly that all of us—politicians, activists, citizens—have a contribution to make toward maintaining civil discourse. We can improve the environment dramatically by simply toning down the rhetoric. If we are going to protect constitutional democracy and our rights as citizens to express our opinions, we have to learn to respect each other as people.

Finally, Madam President, I would like to add a comment regarding the amendment offered by the ranking member of the Judiciary Committee, Senator Biden. He rightly points out that this legislation taken on an issue that is far too complicated to resolve here: habeas corpus reform. This is the wrong time and the wrong bill on which to attempt to resolve a debate that has raged in this country for years. As I said before, I believe it is unwise to legislate in the heat of the moment. By including the limits on habeas corpus in this bill, the majority is doing just that. I believe the Senate should instead have a thorough, thoughtful debate on habeas corpus, independent of this legislation. It is simply too important to run through the Senate on a bill narrowly targeting antiterrorism activities.

Therefore, I support the Biden amendment. While it is obvious the votes are not there to postpone the debate over habeas corpus to a later time, at least the point has been made on the Senate floor.

Madam President, I hope my remarks are persuasive in pointing out the dilemmas in passing this legislation. While we can take comfort knowing this bill strengthens the hand of law enforcement to aggressively pursue terrorists, none of us should take comfort in what it might mean for innocents caught in the middle as the antiterrorism effort intensifies. I support S. 735 with some reluctance, and sincerely hope that authorities will use their new powers as judiciously as the spirit of freedom implores.

Madam President, on Monday, June 5, the Senate adopted by a vote of 90-0 an amendment by the Senator from California, Senator Feinstein, to require the use of taggants to mark materials used in the construction of explosives. I was unavoidably detained, and therefore not present for that vote. I apologize to the leaders for my absence; had I been present, I would have voted “aye” on the Feinstein amendment. If there is one straightforward way to bind law enforcement investigate bombings, it is requiring the use of taggants.

Mr. WARNER. Madam President, the horrific April 19 bombing of the Alfred P. Murrah Federal Building in Oklahoma City shocked and stunned Americans. Every single one of us has been forced to confront the risks and the vulnerability of our open society. The United States needs a systematic and comprehensive counterterrorism policy to detect, deter, prevent, and punish terrorist acts.

Congress must consider and pass an effective antiterrorism bill; we must do so on a bipartisan basis. The problem is too dangerous to be treated in a partisan manner. We must stand together to protect the citizens of the United States.

One of the greatest fears that we all have for the safety of our citizens is the potential use of mass destruction by terrorist elements. As demonstrated by the recent Tokyo subway tragedy, very limited use of chemical agents can cause widespread death and disaster. We must ensure that our Nation has the ability to draw all available assets and expertise to deal with the potential use of mass destruction by terrorists.

For that reason, I am pleased to join in cosponsoring an amendment to authorize Department of Defense assistance to law enforcement authorities in emergency situations involving biological and chemical weapons. This amendment is patterned on authority which currently exists for the Department of Defense to provide technical assistance to incidents involving nuclear weapons and materiel. The amendment has been carefully drawn to limit the involvement of the military in law enforcement activities. Indeed, we have focused on the critical need to marshall the unique expertise of the military for use in these catastrophic situations.

The legislation pending before the Senate today will lay the foundation for an antiterrorism plan for America. As the Senate considers legislation directed at antiterrorism, I am aware that we will also consider subsequently during this session modified anticrime legislation. I will continue to support measures that will provide local and State officials, and law enforcement personnel, the appropriate resources needed to combat the rising crime rate. This week, the Federal Bureau of Investigation released preliminary crime reports for 1994. The reports showed crime rates dropping from the year before. The crime rate may appear to decrease slightly, but not enough to calm the fears of many citizens. Crime will continue to terrorize Americans until we ensure that our National Guard and our military assist the States with adequate funds and legal tools necessary to make a drastic reduction in the crime rate.

I have no doubt that the General Services Administration has stepped up security at our Federal buildings as a result of the tragic events which occurred in Oklahoma City. The House held hearings on Federal building security shortly after the bombing of the Alfred P. Murrah Federal Building. I was concerned by recent reports which have indicated that memos produced within GSA have indicated internal skepticism about how reductions in the Federal Protective
Service of the GSA could adversely affect the agency’s ability to assess and analyze Federal building security in the District of Columbia, Maryland, and Virginia.

It is my intention to review this matter further.

Madam President, while the Senate debates the legislation before us today, we must all realize that no legislation can make America totally safe. An open, democratic society simply will not allow for total and absolute security for our Nation.

Because of the freedom our society demands, we must be evervigilant concerning possible threats to our citizens. I have always been totally committed to maintaining the readiness of our Armed Forces whenever a threat to our national security becomes imminent. I am also totally committed to maintaining the readiness of our Federal, State, and local law enforcement personnel to confront any domestic threat which may arise anywhere in the United States.

I do have a major concern with this legislation: we must ensure that its provisions do not violate the Constitution or place inappropriate restrictions on the freedoms protected by the first amendment. I will not support provisions which will prohibit free exercise of religion or speech, or which impinge on the freedom of association.

Mr. CRAIG. Madam President, I abhor and condemn terrorism in any form. Our Nation cannot tolerate terrorism—it foreign or domestic—and our Nation’s law enforcement must have the tools it needs to fight this menace.

There are some very important reforms in this bill that would be helpful. They include habeas corpus reform, which is the only change that will really have an impact in the Oklahoma City case. I will vote for this bill in order to send a strong message of support for those reforms to the House and any future House-Senate conference working on this legislation.

However, for the record, my vote is not an endorsement of each and every provision of this bill. I am not convinced that the bill before us today is the best we can do to assist law enforcement in fighting against terrorism, and I would like to discuss some of the concerns I have with the bill.

First and foremost are potential constitutional problems such as those relating to the sections on restricting fundraising, excluding and deporting aliens, the new wiretapping authority we adopted last night, and acquisition of information including consumer records.

In all fairness, there are conflicting opinions even among my colleagues who are lawyers about whether some of these provisions will survive court review. I have been assured that the safeguards contained in the bill are sufficient to overcome potential constitutional problems. For that reason, I have decided not to oppose the entire bill on this basis. However, I remain concerned about these provisions and would hope they can be further improved before the Senate takes action on a final bill.

Another provision of the bill that I think could be improved is the new language relating to tags and explosives. Although I joined a unanimous Senate in voting for changes made on the floor during debate, I am not by any means convinced this is the best approach to this issue. After the Senate acted, I was contacted by several resource-based industries in my State suggesting concerns that had not been raised or reviewed previously. I hope the House and any future conference will take a close look at that section and make improvements that will balance the interests of law enforcement with those of the affected industries.

There are other items in this bill that I question, but those are some of the most important, I do not think we would be sacrificing any tools needed by law enforcement if we were to make improvements in these sections.

I commend the majority leader and Senator Specter for their hard work to deliver a bill that will strengthen the hand of law enforcement in fighting terrorism. I hope the bill will be improved as it moves through the remaining steps of the legislative process, so that the Senate can vote for a truly effective package.

Mr. BIDEN. Madam President, the Oklahoma City bombing and the earlier bombing of the World Trade Center demonstrate clearly that the United States must respond seriously to those—whether foreign or domestic—who seek to make their point through the mass killing of Americans.

These events demand that we examine our current laws and practices to ensure that we are doing everything possible to help law enforcement prevent and fight terrorism (including international terrorism).

First, there are steps we can take and should take.

Let me outline the key terrorism proposals from the President’s bill that are contained in the substitute we will vote on shortly. These provisions include:

- A new offense to assure Federal jurisdiction over all violent acts which are motivated by international terrorism. This provision will cover gaps in current Federal law—for example, a terrorist who commits mass murder on private or State-owned property may now be subject only to State court jurisdiction.
- This offense carries a new death penalty, complementing the terrorism death penalty in last year’s crime bill.
- The approach that is inherently associated with international terrorism, I believe, will have an impact to enhance the Government’s ability to obtain consumer credit reports and hotel/motel and vehicle rental records in foreign intelligence investigations. It does not change the law governing such information for domestic investigations.
- It gives the Government greater ability to include from entering the United States those aliens who are involved in terrorist activities.
- Let me also mention the amendments offered by Democrats to add tough law enforcement provisions to the Republican bill.

Another Lieberman amendment, which was adopted, expands wiretap authority. It gives new authority for multiple-point wiretaps provided to Federal law enforcement. Another Lieberman amendment, which was defeated, with no Republicans voting for it, gives authority for emergency wiretaps—identical to authority currently available for organized crime investigations—in terrorist investigations.

These events demand that we examine our current laws and practices to ensure that we are doing everything possible to help law enforcement prevent and fight terrorism (including international terrorism).

- The Nunn-Thurmond-Biden-Warner amendment, which was adopted, requires taggants. It gives authority to Secretary of the Treasury to require taggants in explosives. Taggants assist law enforcement by providing a means to trace the source of explosives.
- The Kerrey amendment, also adopted, increases funding for Federal antiterrorist enforcement. It adds $262 million for ATF new explosives investigations and for Secret Service security initiatives.

The Boxer amendment, again, adopted, increases penalties for gun and explosives crimes. It extends statute of limitations for National Firearms Act offenses.

A Levin amendment, adopted by the Senate, increases penalties for the use of explosives.

A Feinstein amendment, again, adopted, prohibits the distribution of bombmaking material intended to be used for a crime.

A Leahy amendment, first as adopted, assists victims of terrorist attacks. It provides assistance and compensation for victims of terrorist attacks.

Mr. MCCAIN. Madam President, I support the Feinstein amendment, as adopted, raises special assessment on criminal penalties.

The Specter-Simon-Kennedy amendment, as adopted, deports criminal aliens. It enhances protection of classified information when deporting alien terrorists.

Another Feinstein amendment, also adopted, increases international efforts against terrorism. It prohibits arms sales to countries who are not cooperating fully with U.S. antiterrorist efforts.

Particularly with these tough amendments now added to the bill, this counterterrorism is a big step forward
in giving law enforcement new tools to fight and prevent terrorism. I urge my colleagues to support the bill.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD] is ready to do that. We will have opening statements. I have an amendment that I will offer. I think the distinguished Democratic leader has an amendment he may offer. These amendments may be accepted. But we are trying to find a couple of bona fide amendments that can be offered tonight and voted on in the morning.

If that is the case, if we have a couple, we can debate those amendments tonight and not have any more votes tonight and have those votes in the morning.

I will assume we can find one additional amendment so this will be the last one tonight. Any votes that are ordered tonight will occur probably fairly early in the morning, around 9 o'clock.

Mr. HATCH. Madam President, are the yeas and nays ordered?

The PRESIDING OFFICER. No, they have not been ordered.

Mr. HATCH. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 1199, as amended.

So the amendment (No. 1199), as amended, was passed as follows:

Yeas—91

Sec. 735 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 ‘‘Comprehensive Terrorism Prevention Act of 1995’’.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Title I—Substantive criminal law enhancements

Title II—Combating international terrorism

Title III—Alien removal

Title IV—Control of fundraising for terrorism activities

Title V—Assistance to Federal Law Enforcement Agencies

Title VI—Criminal procedural improvements

Sec. 302. Extradition of aliens.

Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.

Sec. 304. Access to certain confidential immigration and naturalization files through court order.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

Sec. 403. Prohibition on terrorist fundraising.

Sec. 402. Correction to material support provision.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

Sec. 501. Disclosure of certain consumer reports to the Federal Bureau of Investigation for foreign counterintelligence investigations.

Sec. 502. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.

Sec. 503. Increase in maximum rewards for information concerning international terrorism.

Subtitle B—Intelligence and Investigation Enhancements

Sec. 511. Study and report on electronic surveillance.

Sec. 512. Authorization for interceptions of communications in certain terrorism-related offenses.

Sec. 513. Requirement to preserve evidence.

Subtitle C—Additional Funding for Law Enforcement

Sec. 521. Federal Bureau of Investigation assistance to combat terrorism.

Sec. 522. Authorization of additional appropriations for the United States Customs Service.

Sec. 523. Authorization of additional appropriations for the Immigration and Naturalization Service.

Sec. 524. Drug Enforcement Administration.

Sec. 525. Department of Justice.

Sec. 526. Authorization of additional appropriations for the Department of the Treasury.

Sec. 527. Funding sources.

Sec. 528. Deterrent against Terrorist Activity Damaging a Federal Interest Computer.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

Sec. 601. Filing deadlines.

Sec. 602. Appeal.


Sec. 604. Section 2254 amendments.

Sec. 605. Section 2255 amendments.

Sec. 606. Limits on second or successive applications.

Sec. 607. Death penalty litigation procedures.

Sec. 608. Technical amendment.

Subtitle B—Criminal Procedural Improvements

Sec. 621. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.

Sec. 622. Expansion of territorial sea.

Sec. 623. Expansion of weapons of mass destruction statute.

Sec. 624. Addition of terrorism offenses to the RICO statute.

Sec. 625. Addition of terrorism offenses to the money laundering statute.
Sec. 904. Proof of citizenship.
Sec. 901. Prohibition on distribution of in-
Sec. 903. Foreign air travel safety.
Sec. 802. Expansion of scope and jurisdic-
Sec. 707. Effective date.
Sec. 705. Exceptions.
Sec. 703. Requirement of detection agents
for plastic explosives.
Sec. 701. Findings and purposes.
Sec. 601. Findings and purpose.
Sec. 602. Expansion of scope and jurisdic-
tional bases of nuclear mate-
Sec. 501. Title.
Sec. 503. Severability.
Sec. 502. Citation of title.
Sec. 403. Prohibition of funding.
Sec. 402. Authority to provide assistance
and compensation to victims of terror-
rism.
Sec. 401. Title.
Sec. 301. Protection of current or former of-
cials, officers, or employees of the United States.
Sec. 302. Authority to provide assistance and compensation to victims of terror-
rism.
Sec. 303. Funding of compensation and as-
sistance to victims of terror-
mass violence, and crime.
Sec. 304. Crime victims fund amendments.

SEC. 102. ACTS OF TERRORISM TRANSCENDING NATION-AL BOUNDARIES.

(a) REDELINEATION OF TITLE 18, UNITED STATES CODE (RELATING TO TERRORISM).—
(1) Chapter 113B of title 18, United States Code (relating to terrorist attacks and
acts of foreign terrorism) is redesignated as chapter 113C.
(2) The chapter analysis of title 18, United States Code, as redesignated by sub-
section (1), is amended by striking "113B" and inserting "113C".

(b) OFFENSE.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332a the following new section:

§ 2332b. Acts of terrorism transcending na-
tional boundaries

(1) PROHIBITED ACTS.—
(I) Whoever, in a circumstance described in subsection (b), commits an act within the United States that if committed within the special maritime and territorial jurisdiction of the United States would be in violation of section 113(a), (1), (2), (3), (6), or (7), 114, 1111, 1112, 1201, or 1363 shall be punished as pre-
scribed in subsection (c).
(II) Whoever threatens, attempts, or con-
spires to commit an offense under paragraph (1) shall be punished under subsection (c).

(2) JURISDICTIONAL BASES.—
(I) This section applies to conduct de-
scribed in subsection (a) if—
(A) the mail, or any facility utilized in interstate commerce, is used in furtherance of the commission of the offense;
(B) the offense obstructs, delays, or af-
fects interstate or foreign commerce in any way or degree, or would have obstructed, de-
layed, or affected interstate or foreign com-
merce if the offense had been consummated;
(C) the victim or intended victim is the United States, a Government agency, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any de-
partment or agency, of the United States;
(D) the structure, conveyance, or other real or personal property was in whole or in part owned, possessed, used by, or leased
by the United States, to any department or agency thereof;
(E) the offense is committed in the ter-
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"(f) EVIDENCE.—In a prosecution under this section, the United States shall not be re-
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"(g) E XTRATERRITORIAL JURISDICTION.—
There is extraterritorial Federal jurisdiction over—

(1) any offense under subsection (a); and
(2) conduct that, under section 3, renders any person an accused because the fact to an offense under subsection (a).".

"(h) DEFINITIONS.—As used in this sec-
tional boundaries.'".
**SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—** Section 1363 of title 18, United States Code, is amended by striking "any building, structure or vessel, any machinery or building material, any military, naval, or naval stores, munitions of war or any structural aids or appliances for navigation or shipping" and inserting "any structure, conveyance, or other real or personal property".

**SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.—**

(a) In General.—Section 956 of title 18, United States Code, is amended to read as follows:

> "(a) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of whether such other person or persons is located, to commit an act outside the United States or a special maritime and territorial jurisdiction of the United States, shall, if any such other person or persons engages in an act within the jurisdiction of the United States, to injure or defraud the United States, or to defraud any person in the United States of money, property, or anything of value that is damaged or destroyed, shall, if he or any such other person commits an act within the jurisdiction of the United States, to injure or defraud the United States, or to defraud any person in the United States of money, property, or anything of value that is damaged or destroyed, shall be punished as provided in paragraph (2).

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 18, United States Code, is amended by striking the item relating to section 956 and inserting the following:

> "956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country."

**SEC. 104. INCREASED PENALTIES FOR CERTAIN EXPLOSIVES CRIMES.—**

(a) In General.—Title 18, United States Code, is amended—

> (1) in section 114, by striking "maim or disfigure" and inserting "disfigured";

> (2) in section 755, by striking "two years" and inserting "five years";

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46805 of title 18, United States Code, is amended by adding after the existing section

> (a) in subsection (b), by striking "one" and inserting "30"; and

> (b) in subsection (c), by striking "5" and inserting "15".

**SEC. 105. MANDATORY PENALTY FOR TRANSFERRING EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.—**

Section 944 of title 18, United States Code, is amended by striking at the end the following new subsection:

> "(n) Whoever knowingly transfers an explosive material, knowing or having reasonable cause to believe that such explosive material will be used to commit a crime of violence (as defined in section 924(c)(3) or drug trafficking crime (as defined in section 924(c)(2)) shall be imprisoned for not less than 10 years, fined under this title, or both."

**SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLOSIVES.—**

Section 842(h) of title 18, United States Code, is amended to read as follows:

> "(1) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 20 years. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.

> (2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the personal injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 15 years but not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.

> (3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes any public safety officer to be injured while engaging in his official duties, shall be imprisoned for not less than 7 years and not more than 20 years. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.

**SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.—**

Section 944 of title 18, United States Code, is amended by adding at the end the following:

> "(a) P ROHIBITION.ÐNo assistance under any future initiatives to ease sanctions on Libya or other state sponsors of terrorism, including efforts to increase the international infrastructure used by international terrorists, the President shall continue to undertake international terrorism a national security priority; (b) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (c) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (d) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (e) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (f) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (g) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (h) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (i) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (j) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (k) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (l) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (m) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (n) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (o) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (p) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (q) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (r) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (s) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (t) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (u) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (v) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (w) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (x) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (y) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; (z) the Congress should continue to make efforts to counter international terrorism in the United States, and its allies, by eliminating the dangers posed by population growth or pollution; **(A) who intentionally or knowingly violates new subsection: **

> "(2) in subsection (c), by striking "5" and inserting "10"; and

> (3) in subsection (i)Ð

> (B) in the second sentence by striking "10"; and

> (4) in subsection (h)Ð

> (A) by striking "not more than 20 years", fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, and inserting "not more than 40 years", fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed; and

> (B) by striking "not more than 40 years", fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, and inserting "not more than 40 years", fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed;"
"(b) Waiver.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is consistent with the national interests of the United States and, not later than 15 days before obligating funds for such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.

SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.), is amended by adding immediately after section 620 the following new section:

"SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

(a) PROHIBITION.—

"(1) In General.—No assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which is a terrorist government for the purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or secure to the government of any foreign government described in subsection (a) if the President determines that such assistance is consistent with the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.

SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act of 1978 (22 U.S.C. 2301 et seq.) is amended by inserting after section 121 the following new section:

"SEC. 121L. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

(a) In General.—The Secretary of the Treasury shall not, unless the Secretary determines that assistance by any international financial institution to which the United States is a member, or the Securities and Exchange Commission, is consistent with the national interests of the United States and furnishes a report to the appropriate committees of Congress including—

"(1) a statement of the determination;

"(2) a detailed explanation of the assistance to be provided;

"(3) the estimated dollar amount of the assistance; and

"(4) an explanation of how the assistance furthers United States national interests.

SEC. 205. ANTITERRORISM ASSISTANCE.

(a) Foreign Assistance Act.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2345a-2) is amended—

"(1) in subsection (a)(1) by striking "development and implementation of the antiterrorism assistance program under this chapter,";

"(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.

"(3) by striking paragraph (7);

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

"(7) the judgment relates to a claim for money damages brought in a court of a foreign state in the exercise of the judicial power of that state and:

"(A) is for personal injury or death that was caused by an act of torture, extrajudicial killing, hostage taking, or the provision of material support or resources (as defined in section 2340A of title 18, United States Code) for a person who has committed a serious breach of international law or serious violation of human rights; or

"(B) was committed in the exercise of the judicial power of a foreign state and:

"(i) occurred while the individual bringing such claim was a national of the United States; and

"(ii) occurred while the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2277(j)); and

"(5) by adding a new subsection (e) to read as follows:

"(e) For purposes of paragraph (7)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 2340 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

"(2) the term 'hostage taking' has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft.

"(2) Exception to Immunity From Attachment.—

"(a) Foreign States.—Section 1610(a) of title 28, United States Code, is amended—

"(1) by striking "(3)" and inserting "(2)";

"(2) by striking "or" and inserting "and"; and

"(3) by striking "(5)" and inserting "(7)";

"(b) Exception to Immunity From Execution.—Section 1610(b) of such title is amended—

"(1) by striking "for" and inserting "and";

"(2) by striking "of the" and inserting "to the"; and

"(3) by striking "activity in the" and inserting "activity involving the act in the";

"(4) by inserting "or terrorism", "or antiterrorism", and "in";

"(5) by striking "or" and inserting "and"; and

"(6) by striking "and" and inserting "or".

"(C) Jurisdiction for Lawsuits Against Terrorist States.

(a) Exception to Foreign Sovereign Immunity for Certain Cases.—Section 1605 of title 28, United States Code, is amended—

"(1) in subsection (a)—

"(A) by striking the period at the end of paragraph (6) and inserting ", or"; and

"(B) by striking subsection (c), by striking "develop-

"(2) by amending subsection (d) to read as follows:

"(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

"(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.

"(3) by striking paragraph (7);

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

"(7) the judgment relates to a claim for money damages brought in a court of a foreign state in the exercise of the judicial power of that state and:

"(A) is for personal injury or death that was caused by an act of torture, extrajudicial killing, hostage taking, or the provision of material support or resources (as defined in section 2340A of title 18, United States Code) for a person who has committed a serious breach of international law or serious violation of human rights; or

"(B) was committed in the exercise of the judicial power of a foreign state and:

"(i) occurred while the individual bringing such claim was a national of the United States; and

"(ii) occurred while the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2277(j)); and

"(5) by adding a new subsection (e) to read as follows:

"(e) For purposes of paragraph (7)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 2340 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

"(2) the term 'hostage taking' has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft.

"(b) Exception to Immunity From Attachment.—

"(a) Foreign States.—Section 1610(a) of title 28, United States Code, is amended—

"(1) by striking "(3)" and inserting "(2)";

"(2) by striking "or" and inserting "and";

"(3) by striking "(5)" and inserting "(7)";

"(4) by adding a new subsection (e) to read as follows:

"(e) For purposes of paragraph (7)—

"(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 2340 of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note);

"(2) the term 'hostage taking' has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

"(3) the term 'aircraft sabotage' has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft.

"(b) Exception to Immunity From Execution.—Section 1610(b) of such title is amended—

"(1) by striking "for" and inserting "and";

"(2) by striking "of the" and inserting "to the"; and

"(3) by striking "activity in the" and inserting "activity involving the act in the";

"(4) by inserting "or terrorism", "or antiterrorism", and "in";

"(5) by striking "or" and inserting "and"; and

"(6) by striking "and" and inserting "or".
committed on their territory by such individuals;
(3) a detailed assessment of individual country efforts to take effective action against countries named in section 6(f) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(b)), including the status of compliance with international sanctions and the status of bilateral economic relations; and
(4) United States Government efforts to implement this title.

SEC. 208. DEFINITION OF ASSISTANCE.
For purposes of this title:
(1) the term ‘assistance’ means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and
(2) the term ‘assistance’ does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 209. WAIVER AUTHORITY CONCERNING NO-SANCTION.
Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—
(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
(2) by striking ‘‘or’’ at the end of subsection (A); and
(3) by inserting at the end the following paragraph:
‘‘With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of excludable aliens, except in cases of intent to immigrate.’’

SEC. 210. MEMBERSHIP IN A TERRORIST ORGANIZATION AS A BASIS FOR EXCLUSION FROM THE UNITED STATES UNDER THE IMMIGRATION AND NATIONALITY ACT.
Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)) is amended—
(1) in clause (i)—
(A) by striking ‘‘or’’ at the end of subclause (I);
(B) by inserting ‘‘or’’ at the end of subclause (II); and
(C) by inserting after subclause (II) the following new subclause:
‘‘(III) a member of the organization or who actively supports or advocates terrorist activity;’’;
(2) by adding at the end the following new clause:
‘‘(iv) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term ‘terrorist organization’ means an organization that engages in, or has engaged in, terrorist activity as designated by the Secretary of State after consultation with the Secretary of the Treasury.’’.

TITLE III—ALIEN REMOVAL

SEC. 301. ALIEN TERRORIST REMOVAL.
(a) TABLE OF CONTENTS. The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

‘‘TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES’’

‘‘501. Definitions.’’

‘‘502. Applicability.’’

‘‘503. Removal of alien terrorists.’’.
that does not pose a risk to national security.

**(B)** The judge shall approve the summary within 15 days of submission if the judge finds that the Attorney General has not made sufficient effort to inform the alien of the nature of the evidence that such person is an alien as described in section 24(a)(4)(B). If the judge determines that the alien is likely to engage in any terrorism activity after entry in the United States, the judge shall find that the alien is an officer, official, or agent of any foreign organization which involves terrorism activity as defined under section 16 of this title.

**(g) APPEALS.—**(I) The alien may appeal a final determination under subsection (f) to the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court within 30 days after the determination is made. An appeal under this section shall be heard by the Court of Appeals sitting en banc.

**(II)** The judge shall approve an appeal under subsection (d), (e), or (f) to the Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 30 days after the determination is made under any one of the circumstances set forth in paragraphs (1) and (2) of this subsection.

**(III)** If the Department of Justice does not seek review, the alien shall be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

**(h) (A)** If the application for the order is denied by a finding that it is not possible to meet the requirements of this subsection, the judge shall order the alien to be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

**(C)** The Attorney General shall cause to be delivered to the alien a copy of the unclassified summary approved under subparagraph (B).

**SEC. 302. CHANGES TO THE IMMIGRATION AND NATIONALITY ACT TO FACILITATE REMOVAL OF ALIEN TERRORISTS.**

**(a) TERRORISM ACTIVITIES.—**Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read as follows:

``(B) TERRORISM ACTIVITIES.—

**(i) IN GENERAL.**—Any alien who—

**(I)** has engaged in a terrorism activity, or

**(II)** a consular officer or the Attorney General knows, or has reason to believe, is likely to engage in any terrorism activity (as defined in clause (iii)), is excludable. An alien who is an officer, official, representative, or spokesman of any terrorist organization, who assists a terrorist organization by proclamation, or who is an agent of a foreign government as a terrorist organization by proclamation by the President after finding such organization to be detrimental to the interest of the United States, or any personal envoys, agents, secretaries, counselors, or private secretaries of such organization, or its members in the United States, shall be considered, for purposes of this Act, as engaged in terrorism activity.

**(ii) TERRORISM ACTIVITY DEFINED.—**As used in this Act, the term `terrorism activity' means any activity that is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State), and involves or involves as a threat to the national security:

**(I)** the hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle);

**(II)** the seizing or detaining, and threatening to kill, injure, or continue to detain, another individual to compel a third person to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained;

**(III)** a violent attack upon an inter- national representative of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that

**(IV)** evidence has been presented by the foreign government that indicates committed the offenses committed in the United States, and that the offenses committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

**(V)** the offenses charged are not of a political nature.

**(c)** As used in this section, the term `national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."
"(bb) explosive, firearm, or other weapon (other than for mere personal monetary gain), with intent to endanger, directly, or indirectly, the safety of the person or of other individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing."
United States overseas and within our territory;

"(B) the Nation's security interests are gravely affected by the terrorist attacks carried out by the United States or the United States overseas or within our territory, or the terrorist attacks carried out by a United States government agency or government official; and

"(C) United States foreign policy and economic interests are profoundly affected by terrorist attacks overseas directed against foreign governments and their people;

"(D) The issuance of such a designation is required for an effective response to terrorism, as demonstrated by the international and national cooperation in providing universal executive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

"(E) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States or use the United States as a conduit for the receipt of funds raised in other nations; and

"(F) the provision of funds to organizations that engage in terrorism serves to facilitate their terrorist endeavors, regardless of whether the funds, in whole or in part, are intended or claimed to be used for nonviolent ends;

"(G) raising significant funds within the United States or use the United States as a conduit for the receipt of funds raised in other nations; and

"(H) the availability of judicial review.

"(3) This section shall not apply to a designation in whole or in part.

"(4) If the Secretary of State makes a designation under this subsection, the Secretary shall give the organization actual notice of—

"(A) the designation;

"(B) the dates of the designation for the organization's ability to raise funds in the United States; and

"(C) the availability of judicial review.

"(5) The Secretary shall have the burden of proving that the designation is warranted, the danger of unfair prejudice, confusion of the issues, or needlessly presentation of cumulative evidence, or undue delay, or unnecessary presentation of cumulative evidence, or an objection to any trial or hearing that such designation was issued and published in the Federal Register.

"(6) (A) If the Secretary of State, after consultation with the Secretary of the Treasury, by means of directives, regulations, or licenses, any financial institution that knowingly fails to report the existence of such funds shall be subject to a civil penalty of $250 per day for each day the failure continues, or control over such funds; and

"(B) such an organization or its resources from being used for terrorism activities. Such steps may include—

"(i) designating accounts or assets in a financial institution, including a bank, money services business, financial institution or other entity, as an agency of the United States; or

"(ii) imposing sanctions, including blocking the accounts or assets, freezing the accounts or assets, or prohibiting transactions associated with the accounts or assets; or

"(iii) imposing sanctions against the person controlling or managing the accounts or assets, or the person whose possession or control over arose after the designation of the organization or person, within 10 days of such designation.

"(C) (A) The Attorney General shall have the burden of proving that the organization or person designated under subsection (b) has an interest, shall—

"(i) retain possession of or maintain control over such funds; and

"(ii) include—

"(D) Any foreign organization based on finding that—

"(i) the organization or person, within 10 days of such designation, or possession or control over arose after the designation of the organization or person; within 10 days after the designation; and

"(ii) the consequences of the designation may be reinstated by the Secretary for inspection.

"(2) Any financial institution that knowingly fails to report the existence of such funds shall be subject to a civil penalty of $250 per day for each day the failure continues, or control over such funds; and

"(3) The judge shall authorize the introduction in camera and ex parte of any item of evidence that the court finds to be relevant and necessary to the issues, or unless its introduction or consideration would substantially outweigh the danger of unfair prejudice, confusion of the issues, or needlessly presentation of cumulative evidence, or undue delay, or unnecessary presentation of cumulative evidence, or an objection to any trial or hearing that does not pose a risk to national security.

"(4) In reviewing a designation under this subsection, the court shall receive relevant oral or documentary evidence, unless the court finds that the probative value is substantially outweighed by the danger of un-
There is extraterritorial Federal jurisdiction over the financial institution obtained possession of or control over the funds.

(f) INVESTIGATIONS.—Any investigation emanating from a possible violation of this section shall be conducted by the Attorney General, except that investigations relating to—

(I) a financial institution's compliance with the provisions of this section shall be conducted by the Department of the Treasury responsible for civil proceedings authorized by this section. Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary of the Treasury or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(g) PENALTIES.—

(I) Any person who, with knowledge that the donee is a designated entity, violates subsection (d) shall be fined under this title, or imprisoned for not more than ten years, or both.

(II) Any financial institution that knowingly fails to comply with subsection (e), or by reason of which it is subject to subsection (d), shall be subject to a civil penalty of $50,000 per violation, or twice the amount of money of which the financial institution was required to maintain possession or control, whichever is greater.

(h) INJUNCTION.—

(I) Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act which constitutes, or would constitute, a violation of this section, the Attorney General may institute civil action in a district court of the United States to enjoin such violation.

(II) A proceeding under this subsection is subject to the rules of civil procedure, except that, in an indictment returned against the respondent, discovery may be expedited by the court of appeals. Prior to an application for a protective order, the defendant may object to any question or line of inquiry that the organization or its resources are used for terrorism activities shall constitute knowledge of the control group; that the organization or its resources are being used for terrorism activities does not constitute knowledge by the control group unless that person's knowledge is shared by a sufficient number of members of the group so that the group with knowledge has the authority to conduct the affairs of the organization; Section 2339A of title 18, United States Code, including any regulations promulgated thereunder; (B) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing; (C) the term 'national security' means the national defense and foreign relations of the United States; (D) the term 'person' includes an individual, partnership, association, group, corporation, or other organization; (E) the term 'Secretary' means the Secretary of the Treasury; and (F) the term 'United States', when used in a geographical sense, includes all commonwealths, territories, and possessions of the United States.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 133B of title 18, United States Code, is amended by adding at the end the following new item:

2399B. Prosecution for terrorist organizations.

(c) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS.—Section 2399B(k) of title 18, United States Code (relating to classified information in civil proceedings brought by the United States), shall also be applicable to civil proceedings brought by the United States under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVISION.

Section 2399A of title 18, United States Code, is amended to read as follows:

(2399B) Providing material support to terrorists.

(a) DEFINITION.—In this section, 'material support or resources' means currency or
other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosive substances, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

SEC. 501. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

"SEC. 623A. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

(1) Identity of Financial Institutions.—(I) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte directing a consumer reporting agency to furnish information respecting a consumer, consumer reports, records, or information related in an amount equal to the sum of the costs of the action, together with reasonable attorney fees, as determined by the court.

(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

(b) Confidentiality.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any other person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c)."
SEC. 302. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES, AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES.

Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 122—ACCESS TO CERTAIN RECORDS

§ 2720. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities

(a) TERRORISM ABROAD.—Any record shall be accessible to the Federal Bureau of Investigation under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.

Subtitle B—Intelligence and Investigation Enhancements

SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE

(a) Study.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) Report.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall give notice to the respective chairs of the Committees on Appropriations of the Senate and the House of Representatives.

(c) Determination.—A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.

SEC. 512. FEDERAL BUREAU OF INVESTIGATION ASSISTANCE TO COMBAT TERRORISM.

(a) TERRORISM ABROAD.—Title 18, United States Code, is amended—

(1) by redesignating paragraph (p), as so redesignated by section 512(a)(2), the following new subparagraphs:

(6) the violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations); and

(7) any violation of section 46502 of title 40, United States Code; and

SEC. 513. REQUIREMENT TO PRESERVE EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

(f) Requirement To Preserve Evidence.—No provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

Subtitle C—Additional Funding for Law Enforcement

SEC. 521. FEDERAL BUREAU OF INVESTIGATION AND OFFICIALS IN THE DISTRICT OF COLUMBIA.

(a) In General.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) develop digital telephony technology; and

(2) enhance the technical support center and tactical operations.

(b) By the Attorney General, in consultation with units of local government, other States, and the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(1) $100,000,000 for fiscal year 1996;

(2) $225,000,000 for fiscal year 1997;

(3) $258,000,000 for fiscal year 1998;

(4) $190,000,000 for fiscal year 1999; and

(5) $183,000,000 for fiscal year 2000.

(c) Availability of Funds.—Funds made available pursuant to subsection (b), in any fiscal year, shall remain available until expended.

(d) State Grants.—Funds made available for purposes of subsection (a)(6) may be expended—

(1) by the Director of the Federal Bureau of Investigation to expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia; and

(2) by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation to make funds available to the chief executive officer of each State to carry out the activities described in subsection (d); and

(3) for a Command Center.

SEC. 522. FEDERAL BUREAU OF INVESTIGATION REWARD PROGRAM.

(a) In General.—Any funds made available pursuant to subsection (b) shall be available under paragraph (1)(B) in conjunction with units of local government, other States, or any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters; and

(b) Authorization of Appropriations.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation and the Attorney General to support counterterrorism activities—

(1) $15,000,000 for fiscal year 1996;

(2) $20,000,000 for fiscal year 1997;

(3) $25,000,000 for fiscal year 1998; and

(4) $30,000,000 for fiscal year 1999.

(c) Availability of Funds.—Funds made available pursuant to subsection (b), in any fiscal year, shall remain available until expended.
(i) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(ii) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(iii) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(iv) [omission]

(b) Allocation.—(i) Of the total amount appropriated pursuant to subsection (a), the Attorney General shall:

(1) fund a violence crime initiatives;

(2) fund major violators' initiatives; and

(3) enhance or replace infrastructure.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.

(a) Activities of Drug Enforcement Administration.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) hiring additional United States Attorneys, and

(2) provide for increased security at court houses and other facilities housing Federal workers.

(b) Authorization of Additional Appropriations.—There are authorized to be appropriated to the Drug Enforcement Administration—

(1) $60,000,000 for fiscal year 1996;

(2) $70,000,000 for fiscal year 1997;

(3) $80,000,000 for fiscal year 1998;

(4) $90,000,000 for fiscal year 1999; and

(5) $100,000,000 for fiscal year 2000.

(b) Availability of Funds.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 525. DEPARTMENT OF JUSTICE.

(a) In General.—Subject to the availability of appropriations, the Attorney General shall—

(1) hire additional United States Attorneys, and

(2) provide for increased security at court houses and other facilities housing Federal workers.

(b) Authorization of Additional Appropriations.—There are authorized to be appropriated to the Department of Justice, to hire additional United States Attorneys and personnel for the Criminal Division of the Department of Justice and to provide increased security to meet the needs resulting from this Act $20,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(c) Availability of Funds.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 526. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.

(a) In General.—There are authorized to be appropriated to the Department of the Treasury, for the activities of the Bureau of Alcohol, Tobacco and Firearms, to augment counterterrorism efforts—

(1) $20,000,000 for fiscal year 1996;

(2) $20,000,000 for fiscal year 1997;

(3) $20,000,000 for fiscal year 1998;

(4) $20,000,000 for fiscal year 1999; and

(5) $20,000,000 for fiscal year 2000.

(b) In General.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $62,000,000 for fiscal year 1996;

(2) $62,000,000 for fiscal year 1997;

(3) $62,000,000 for fiscal year 1998;

(4) $55,000,000 for fiscal year 1999; and

(5) $50,000,000 for fiscal year 2000.

(b) Availability of Funds.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 527. FUNDING SOURCE.

Notwithstanding any other provision of law, funding for activities provided for in this subtitle may be paid for out of the Violent Crime Reduction Trust Fund.

SEC. 528. DETERRENT AGAINST TERRORIST ACTIVITIES OF FOREIGN FEDERAL INTEREST COMPUTER.

The United States Sentencing Commission shall review existing guideline levels as they apply to any activity described in the United States Code, and report to Congress on its findings as to their deterrent effect within 60 calendar days. Furthermore, the Commission shall promulgate guideline amendments that will ensure that individuals convicted under sections 18 and 1939A of title 18, United States Code, are incarcerated for not less than 6 months.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

SEC. 601. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

(3) The certificate of appealability under Section 2253 of title 28, United States Code, are incarcerated for not less than 6 months.
SEC. 606. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) Conforming Amendment to Section 2254(a).—Section 2244(a) of title 28, United States Code, is amended by striking "and the petition" and all that follows through "by such inquiry." and inserting "except as provided in section 2255.".

(b) Limits on Second or Successive Applications.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

"(1) A claim presented on a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

"(ii) a factual predicate that could not have been discovered previously through the exercise of due diligence; and

"(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the applicant guilty of the underlying offense.";

"(3) A motion in the court of appeals for an order authorizing the district court to consider the application shall be determined by a three-judge panel of the court of appeals.

"(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

"(4) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

"(5) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

"(6) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section."

SEC. 606. DEATH PENALTY LITIGATION PROCEDURES.

(a) Addition of Chapter to Title 28, United States Code.—Title 28, United States
§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

(b) This chapter is applicable if a State establishes by rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort, the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

(1) appointing one or more counsel to represent the prisoner upon an initial finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

(2) hearing, if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences;

(3) appointment of counsel upon a finding that the prisoner is not indigent.

(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable under section 2263 concerning representation in the unitary review proceedings, the reference in section 2262(a) to `an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be understood as `the denial of appointment of counsel for that prisoner.'

(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2261(c) unless the court finds that preclude the appointment of different counsel, on the court’s own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings under section 2261(c) concerning the prisoner.

(b) A stay of execution granted pursuant to subsection (a) shall expire if—

(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

(2) before a court of competent jurisdiction, in the proceeding, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254;

(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court on an application for a writ of habeas corpus under section 2241.

§ 2263. Filing of habeas corpus application; time requirements; tolling rules; successive petitions

(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence or direct review or the expiration of the time for seeking such review.

(b) The time requirements established by subsection (a) shall be tolled—

(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other State final appellate court in its determination of the petition;

(2) from the date on which the first petition for writ of habeas corpus or other collateral relief is filed until the final State court disposition of such petition; and

(3) during an additional period not to exceed 30 days—

(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

§ 2264. Scope of Federal review; district court adjudications

(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes; provided, however, that the court shall not review claims that have been raised and decided on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes if the prisoner is indigent and accepted the offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning the appointment or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceeding shall be provided to the prisoner at the trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

(b) To qualify under this section, a unitary review procedure must offer counsel periodically following the trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning the appointment or denial of appointment of counsel for that purpose.

(c) If one of the conditions set forth in subsection (b) has occurred, no Federal court thereafter shall have authority to enter a stay of execution or delay the expiration of the time required in section 2263.

§ 2265. Application to State unitary review procedure

For purposes of this section, a ‘unitary review’ procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of the court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel for the prisoner. The mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel shall be understood as referring to including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

§ 2266. Limitation periods for determining applications and motions

(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be governed by the limitations period that would have applied under section 2261(c) if the application or motion had been filed in the appropriate district court.

(b) A district court shall afford the parties at least 120 days in which to complete all pleadings, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

(c) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (a), the rendering of a determination of an application or motion for a period of time if the court issues a written order making a finding, and stating the reasons for the finding,
that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

(ii) Whether the failure to allow a delay in a case, that taken as a whole, is not so unusual or so complex as described in subclause (I), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

(iii) Whether the failure to allow a delay in a case, that taken as a whole, is not so unusual or so complex as described in subclause (I), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

(iv) The court shall transmit a copy of any order issued under clause (I) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

(2) The time limitations under paragraph (1) shall apply to:

(A) an initial application for a writ of habeas corpus;

(B) any second or successive application for a writ of habeas corpus; and

(C) any determination of an application for a writ of habeas corpus following a remand or rehearing en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.

(6) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases............. 226L."

(7) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall become effective on or after the date of enactment of this Act.

SEC. 608. TECHNICAL AMENDMENT.

Section 48(b) of the Controlled Substances Act (21 U.S.C. 851(b)) is amended by adding at the end the following new subchapter (e), by striking the first sentence and inserting the following:

"If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.

SEC. 612. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OFFERED IN SECTION 48(b) OF TITLE 28, UNITED STATES CODE.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(B)(iii) In paragraph (1), by striking "and later found in the United States";

(2) by amending paragraph (2) to read as follows:--

"(1) The courts of the United States have jurisdiction over the offense in paragraph (1) if—

"(a) a national of the United States was aboard the aircraft;

"(b) an offender is a national of the United States; or

"(c) an offender is afterwards found in the United States;

(3) by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in title 8 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking "(b) Whoever" and inserting "(b)(1) Whoever";

(2) by redesigning paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking "", if the offender is later found in the United States,""; and

(4) by adding at the end the following new paragraphs:

"(2) The courts of the United States have jurisdiction over the offense described in this subsection if—

"(a) a national of the United States was on board, or would have been on board, the aircraft;

"(b) an offender is a national of the United States;

"(C) an offender is afterwards found in the United States.

"(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in title 8 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."
(e) Threats Against Internationally Protected Persons.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting "national of the United States," and—

(2) in subsection (d), by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States;"

(f) Kidnapping of Internationally Protected Persons.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States;"

and

(2) by adding at the end the following: "For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."

(g) Violence at International Airports.—Section 37(b)(2) of title 18, United States Code, is amended to read as follows:

"(2) the prohibited activity takes place outside the United States; and—

(A) the offender is later found in the United States; or

(B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))."

(h) National of the United States Defined.—Section 178 of title 18, United States Code, is amended—

(1) by striking the "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ";"; and

(3) by adding at the end the following paragraph:

"(5) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."

(i) Territorial Sea Extending to Twelve Miles Included in Special Maritime and Territorial Jurisdiction.—The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, for purposes of criminal jurisdiction is part of the United States and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

(j) Assimilated Crimes in Extended Territorial Sea.—Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or insular possession of the United States;"

(2) by adding at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Commonwealth, territory, or district, such waters (including submerged lands beneath the territorial sea, under the competent jurisdiction of the United States, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of this section (a) to lie within the territorial sea of such State, Commonwealth, territory, or district if such waters lie within the boundaries of such State, Commonwealth, territory, or district; and (b) to be part of the territorial sea of the United States.

SEC. 623. EXPANSION OF WEAPONS OF MASS DESTRUCTION PROHIBITION.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "threatens," before "attempts";

(B) in paragraph (2), by striking "; or"; and—

(C) by redesigning paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following: "(3) against a victim, or intended victim, that is the United States Government, a member of the uniformed services, or any official, employee, or agent of the legislative, executive, or judicial branches, or any department or agency, of the United States; and-

(E) in paragraph (4), as redesignated, by inserting before the comma at the end the following: "; or is within the United States and is used in any activity affecting interstate or foreign commerce;"

(2) by redesigning subsection (b) as subsection (c);

(3) by adding immediately after subsection (a) the following new subsection:

"(c) Whenever such use affect interstate or foreign commerce, such use would have affected interstate or foreign commerce if such use occurred;"

(4) by redesigning paragraph (3) as paragraph (4); and

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

"(2) by redesigning subsection (c) as subsection (b)."

SEC. 624. ADDITION OF TERRORISM OFFENSES TO THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;" and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, intimidating, or retaliating against a Federal official by threatening or injuring a family member),"; and

(B) by inserting after "section 215" the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country);";

(C) by inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),"; and

(D) by inserting after "section 891-894 (relating to extort tire credit transactions)," the following: "section 1111 (relating to the transmission of gambling information)," the following: "section 1114 (relating to murder of United States law enforcement officials), section 1202 (relating to illegal use of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),";

(F) by inserting after "section 1344 (relating to financial institution fraud)," the following: "section 1361 (relating to willful injury of government property within the special maritime and territorial jurisdiction),";

(G) by inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)," the following: "section 1751 (relating to Presidential assassination),";

(H) by inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," the following: "section 1958 (relating to violence against marine navigation), section 2281 (relating to violence against maritime fixed platforms),";

and

(i) by inserting after "section 2232 (relating to trafficking in certain motor vehicles or motor vehicle parts)," the following: "section 2232 (relating to use of weapons of mass destruction), section 2233 (relating to acts of terrorism transcending national boundaries), section 2234 (relating to providing material support to terrorists),";

(2) by striking "or" before "(E);" and

(3) by inserting before the semicolon at the end the following: "; or (F) section 4650 of title 49, United States Code";

SEC. 625. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

"(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;" and

(2) in subparagraph (D)—

(A) by inserting after "an offense under" the following: "section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, intimidating, or retaliating against a Federal official by threatening or injuring a family member),"; and

(B) by inserting after "section 215" the following: "section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country);";

(C) by inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),";
(E) by inserting after “section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), the following: section 1111 (relating to murder or manslaughter), section 1113 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officers, officials, or citizens), and section 1117 (relating to murder of Federal officials); and
(F) by inserting after “section 1203 (relating to hostage taking)” the following: “section 1361 (relating to willful injury of Government property or facilities, or injury to or destruction of property within the special maritime and territorial jurisdiction);”;
(G) by inserting after “section 1706 (relating to murder or manslaughter)”, “section 1751 (relating to Presidential assassination);”;
(H) by inserting after “2114 (relating to bank and postal robbery and theft)” the following: “section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime navigation),”
(i) by striking “of this title” and inserting the following: “section 2332 (relating to terrorist acts abroad against United States nationals), section 844(e) of title 18, United States Code, as amended by inserting “or conspires” after “attempts”.
(j) by inserting after “section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries),” “section 2332c (relating to international terrorist acts transcending national boundaries)”; and
(k) in subsection (b) of section 1111, “section 1112; and
(l) by striking “murder” and inserting “murder or conspires”.

SEC. 626. PROTECTION OF CURRENT OR FORMER FEDERAL OFFICERS, EMPLOYEES, OR OFFICERS OF THE UNITED STATES.

(a) Amendment To Include Assaults, Murders, and Threats Against Families of Federal Officials.—Section 115(a)(2) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”, “or threatens to assault, kidnap, or murder, or conspires” after “has placed,” “is committed by” after “attempted murder,” and “or conspires to commit” after “committing”.

(b) Murder or Attempts To Murder Current or Former Federal Officers or Employees.—Section 1114 of title 18, United States Code, is amended to read as follows:

§ 1114. Protection of officers and employees of the United States.

(1) No person shall kill or attempted to kill a current or former officer or employee of the United States or its instrumentalities, or an immediate family member of such officer or employee, or any person assisting such an officer or employee in the performance of official duties, during or on account of the performance of such duties or the provision of such assistance, shall be punished—

‘‘(1) in the case of murder, as provided under section 1111;

‘‘(2) in the case of manslaughter, as provided under section 1112; and

‘‘(3) in the case of murder or manslaughter as provided in section 1113, not more than 20 years for each attempt.

(c) Amendment To Clarify The Meaning Of The Term Deadly Or Dangerous Weapon In The Prohibition On Assault On Federal Officers.—Section 1115(b) of title 18, United States Code, is amended by inserting after “deadly or dangerous weapon” the following: ‘‘(including a weapon intended to cause death or danger but that fails to do so by reason of a defective or missing component)’’.

SEC. 627. ADDITION OF CONSPIRACY TO TERRORIST ATTACKS.

(a) Destruction of Aircraft or Aircraft Facilities.—(1) Section 32(a)(7) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(2) Section 32(b)(D) of title 18, United States Code, as redesignated by section 721(b)(2), is amended by inserting “or conspires” after “attempts”.

(b) Violence at International Airports.—Section 37(a) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(c) Influencing, Impeding, or Retaliating Against a Family Threatening or Injuring a Family Member.—(1) Section 115(a)(1)(A) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(2) Section 115(a)(2) of title 18, United States Code, as amended by section 729, is further amended by inserting “or conspires” after “attempts”.

(3) Section 115(b)(2) of title 18, United States Code, as amended by section 729, is amended by striking both “attempts” and inserting “or conspires” after “attempts”.

(d) Violence Against Maritime Navigators.—Section 2281(a)(1)(F) of title 18, United States Code, as amended by section 729, is amended by inserting “or conspires” after “attempts”.

(e) Violation of Section 115.—Section 115(c) of title 18, United States Code, is amended by inserting “or conspires” after “attempts”.

(f) Violence Against Maritime Fixed Platforms.—Section 2281(a)(2) of title 18, United States Code, as amended by section 729, is amended by inserting “or conspires” after “attempts”.

(g) Aircraft Piracy.—Section 46502 of title 49, United States Code, as amended by section 729, is amended by inserting “or conspires” after “attempts”.

(h) Violence Against Fixed Platforms.—Section 2281(a)(3) of title 18, United States Code, as amended by section 729, is amended by inserting “or conspires” after “attempts”.

(i) Clarification of Maritime Violence Jurisdiction.—Section 844(e) of title 18, United States Code, as amended by section 729, is amended—

(1) in clause (ii), by striking “and the activity is not prohibited as a crime by the State in which the vessel takes place”;

(2) in clause (iii), by striking “the activity takes place on a ship flying the flag of a foreign country or outside the United States,”.

SEC. 628. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended—

(1) by striking “(e) Whoever” and inserting “(e) Whoever and”

(2) by adding at the end the following new paragraph:

“(2) Whoever willfully makes any threat, or maliciously conveys false information for the purpose of detection, done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) Purpose.—‘‘The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purposes of Detection, done at Montreal on 1 March 1991.

SEC. 702. DEFINITIONS.

(1) Plastic explosives are explosives introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

‘‘(1) Ethylene glycol dinitrate (EGDN), C$_7$H$_{12}$N$_2$O$_5$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

‘‘(2) 2,3-Dimethyl-2,4-dinitrobutane (DMNB), C$_{7}$H$_{11}$N$_2$O$_5$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

‘‘(3) Para-Mononitrotoluene (p-MNT), C$_{8}$H$_{7}$NO$_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

‘‘(4) Ortho-Mononitrotoluene (o-MNT), C$_{8}$H$_{7}$NO$_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

‘‘(5) any other substance in the concentration categories set forth by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

‘‘(g) ‘Plastic explosive’ means an explosive material in flexible or elastic sheet form formulated with one or more explosives which in their pure form have a vapor pressure less than 10$^{-2}$ Pa at a temperature of 29°C, is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.’’

SEC. 703. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding after subsection (k) the following new subsections:

‘‘(k) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

‘‘(l) It shall be unlawful for any person to import or bring into the United States, or knowingly cause to be imported or brought into the United States, plastic explosive that does not contain a detection agent.”
“(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported into, or manufactured in, the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 3 years after the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, subsequent to the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

“(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

“(2) This subsection does not apply to—

“(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of the Comprehensive Terrorism Prevention Act of 1995 by any person during a period not exceeding 3 years after the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by the United States.

“(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 3 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

“(1) in the last sentence before subsection “the phrase” subsection (m) or (n) of section 842 or “;

“(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to do so; and

“(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost-effective to require it.

“In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within two months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

“(b) There are authorized to be appropriated, for the study and recommendations contained in paragraph (a) such sums as may be necessary.

“(c) Section 842 of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

“(1) It shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a detection agent. This subsection shall be construed to permit the Attorney General pursuant to regulations, knowing or having reasonable cause to believe that the explosive material does not contain the required chemical element.

“(2) For purposes of this subsection, explosive material does not include smokeless powder, black powder manufactured after January 1, 1990, as determined by the Secretary of the Treasury, or the exportation from the United States, or the importation or bringing into the United States, of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by any person during a period not exceeding 3 years after the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by the United States.

“(a) The Secretary of the Treasury shall maintain and certify a list of manufacturers, importers, and users of explosive materials manufactured in or imported into the United States, and which pertain to safety; and

“(b) to the extent necessary.

“(c) The Secretary may by regulations provide for the study and recommendations concerning the following:

“(1) The Secretary shall conduct a study and make recommendations concerning—

“(i) training in explosives detection or testing of explosives detection equipment; or

“(ii) forensic science purposes; or

“(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to do so; and

“(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost-effective to require it.

“In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within two months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

“(b) There are authorized to be appropriated, for the study and recommendations contained in paragraph (a) such sums as may be necessary.

“(c) Section 842 of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:
Union, Central Europe, and to a lesser extent in the Middle European countries; (8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials; (9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials; (10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies; (11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage such business ventures, and to further the foreign relations and commerce of the United States; (12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal act occur outside the territory of the United States, and are primarily directed toward foreign nationals; and (13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies the necessary tools and fullest possible basis allowed under the Constitution to combat the threat of nuclear contamination and proliferation that may result from illegal possession or use of radioactive materials.

SEC. 802. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 871 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “nuclear material” each place it appears and inserting “nuclear material or nuclear byproduct material”;

(B) in paragraph (1)—

(i) in subparagraph (A), by striking “in this" and inserting “the environment after “property”;

(ii) by amending subparagraph (B) to read as follows:

“(B)(i) circumstances exist that are likely to cause serious bodily injury to any person or substantial damage to property or the environment, or such circumstances have been represented to the defendant to exist;” and

(C) in paragraph (2), by inserting “or the environment" after “property";

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

“(2)(I) circumstances exist that are likely to cause serious bodily injury to any person or substantial damage to property or the environment, or such circumstances have been represented to the defendant to exist;” and

(ii) by inserting “the environment” after “property”; and

(B) in paragraph (3)—

(i) by inserting “or the environment” after “property”; and

(ii) by inserting “in subsection (j)“ after “environment".

(c) DEFENSE FOR PROGRESSIVE MUNITIONS.

(1) In general.—The President may exempt from the prohibition set forth in subsection (a) provisions that are necessary for the prevention of chemical, biological, or nuclear weapons proliferation.

(2) Regulations.—Notwithstanding any other provision of law, the President shall by regulation prescribe such rules and regulations as are necessary to give effect to section 871 of this title.

SEC. 803. FOREIGN AIR TRAVEL SAFETY.

Section 44905 of title 49, United States Code, is amended to read as follows:

“§ 44905. Safety of air carriers

(a) In general.—The Administrator of the Federal Aviation Agency shall, in accordance with subsection (b), establish regulations to ensure that the air carrier a level of protection identical to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.”

SEC. 804. PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, for the evidence to prove United States citizenship.

SEC. 805. COOPERATION OF FERTILIZER RESEARCH CENTERS.

In conducting any portion of the study relating to the regulation and use of fertilizer as a precursor or precursor materials, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers and include their opinions and findings in the report required under subsection (c).

SEC. 806. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 303(a)(2) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking “$500” and inserting “not less than $100”; and

(B) in subparagraph (B), by striking “$200” and inserting “not less than $400”.

SEC. 903. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTI-TERRORISM EFFORTS.

Notwithstanding any other provision of law, the President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.

SEC. 904. AUTHORITY TO REQUEST MILITARY ASSISTANCE IN RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

“MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of the United States to a Federal building referred to in subsection (a) shall be deemed to be a reference to the “Cartney Koch McRaven Child Development Center.”

SEC. 905. FOREIGN AIR TRAVEL SAFETY.

Notwithstanding any other provision of law, the President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.

SEC. 906. AUTHORITY TO REQUEST MILITARY ASSISTANCE IN RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.
Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide assistance in support of Department of Justice activities relating to the enforcement of this section. The Attorney General may delegate the Secretary's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of the Secretary."

(8) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection only to an Under Secretary or Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of the Secretary."

Department of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary or Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary."

(c)(I) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials and other civilian sources of expertise, both within and outside of the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President shall submit to the Congress—

(A)九十 days after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraphs (1) and (3) three years after the date of enactment of this Act, a report containing the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (I).

(G) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following—

"(A) That poses a serious threat to the interests of the United States; and

(B) in which—

(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection. The Attorney General may delegate the authority of the Secretary of Defense under this subsection only to an Under Secretary or Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary."

(b) USE OF WEAPONS OF MASS DESTRUCTION.—The chapter 113B of title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following—

"(A) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

(1) against a national of the United States while such national is outside of the United States;

(2) against any person within the United States; or

(3) against any property that is owned, leased, or otherwise possessed by or any department or agency of the United States, whether the property is within or outside of the United States, shall be imprisoned for any term of years or for life, and, in both results, shall be punished by death or imprisoned for any term of years or for life.

(b) DEFINITIONS.—For purposes of this section—

(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

(II) ENFORCEMENT.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section. The Attorney General may request such assistance only if the Attorney General determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

(a) that poses a serious threat to the interests of the United States; and

(b) in which—

(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10, United States Code.

(II) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting 'with the authority of the person who' who: section 909. REVISION TO EXISTING AUTHORITY FOR MULTIPOLGT WIRETAPS.

(a) Section 2518(11)(b)(ii) of title 18, United States Code, is amended by inserting 'with the authority of the person who'}
SEC. 910. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE UNITED STATES PARK POLICE.

(a) In general.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $1,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) Availability of funds.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 911. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE ADMIN-ISTRATIVE OFFICE OF THE UNITED STATES COURTS.

(a) In general.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the Administrative Office of the United States Courts, to help meet the increased needs of the Administrative Office of the United States Courts, $4,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) Availability of funds.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 912. AUTHORIZATION OF ADDITIONAL AP-PROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) In general.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service, $10,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) Availability of funds.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 913. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such Act to any person or circumstance shall not be affected thereby.

TITLE X—VICTIMS OF TERRORISM ACT

SEC. 1001. TITLE.

This title may be cited as the " Victims of Terrorism Act of 1994 ."

SEC. 1002. AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.

The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

"(a) Victims of Acts of Terrorism Outside the United States.—The Director may make supplemental grants to States for eligible crime victims compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorism and domestic terrorism occurring outside the United States and may provide funding to the United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief."

"(b) Victims of Domestic Terrorism.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorism and domestic terrorism occurring within the United States and may provide funding to the United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief."

"SEC. 1003. FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.

Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

"(d)(4) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1402(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year required to serve the emergency. Such reserve shall not exceed $50,000,000.

"(b) The emergency reserve may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed."
Senator Biden, the ranking member of the Judiciary Committee, for their skill and resolve in moving this important and complex measure through the Senate.

It is proper for the Senate, at the request of Senator Biden, to take this legislative action to put in place safeguards to ensure, to the extent we can, that terrorism does not occur in the future. It is my hope that this legislation will provide one more avenue toward the national healing that is needed in this country. Because it has not one of the most senseless and disturbing acts in the history of man.

I have joined with all my colleagues to condemn this act in the harshest terms. However, despite my abhorrence of this horrible crime, I am unable to support this legislation. As many of my colleagues are aware, I am a long-time opponent of capital punishment. This legislation, under section 2322b, on page 7 of the bill, provides for the imposition of death penalty in the following manner:

(1) Whoever violates this section shall, in addition to the punishment provided for any other crime charged in the indictment, be punished by death.

(A) if death results to any person, by death, or by life imprisonment for any term of years or for life;

Madam President, I could support this provision if the clause “by death” were amended to “by death or life imprisonment.” Death, as a barbaric penalty, certainly one that should be abhorrent to a society such as our own.

I have marveled at the strides the South Africans have made over the past decade. It was not too many years ago that the United States put great pressure on the Government of South Africa to improve their horrible human rights record. While this new decision is being met with the expected cries of opposition, it now appears to me that the South Africans are setting an example for us on human rights.

I merely make note of this enlightenment in South Africa as this body continues down the road of support for capital punishment. It is my hope that some day my colleagues will realize this is a failed, primitive and sickening policy. I regret that, on that basis, I am unable to support S. 735.

Mr. MOYNIHAN. Madam President, I am deeply concerned that the Senate has chosen in this legislation to radically alter the ancient writ of habeas corpus an subcijndium. Four separate federal law, legislation, would have the effect of the bill’s extreme habeas corpus provisions were rejected today.

It is troubling that the Senate has undertaken to revise the Great Writ of Liberty in a law designed as a response to the Oklahoma City bombing. Habeas corpus reform has very little to do with terrorism. The Oklahoma City bombing was a Federal crime and will be tried in Federal courts. The controversy over capital punishment is escalating liti- gation by State court prisoners who believe they were wrongly convicted in State courts. According to the Emer- gency Committee to Save Habeas Cor- pus, a group of 100 of the Nation’s most distinguished attorneys, scholars, and civic leaders, “Cutting back the enforcement of constitutional liberties for people unlawfully held in State cus- tody is neither necessary to habeas reform nor relevant to terrorism.”

The Habeas Corpus Act of 1867 per- mitted State prisoners convicted in State courts to challenge the constitu- tionality of their imprisonment in Fed- eral district court. This is a right we have honored in the United States for well over a century.

The legislation before us will require our Federal courts to defer to State court decisions— even if a State court decision is wrong. The bill requires deference by the Fed- eral courts unless a State court’s deci- sion is unreasonably wrong. This is a standard that will effectively preclude Federal review of habeas corpus cases.

This Senator understands the need for habeas corpus reform, and I would support legislation to impose reason- able limitations on appeals. But this bill goes far too far. It will in many cases trammel the State courts—not the Federal courts established under article III of the U.S. Constitution— into the arbiters of Federal constitu- tionality.

This legislation will eviscerate the writ of habeas corpus, that thing of which this Senator in good con- science must oppose. Mr. President, I ask unanimous consent that a letter from the Emergency Committee to Save Habeas Corpus, and the list of its members, be printed in the Record. There being no objection, the letter was ordered to be printed in the Record, as follows:

EMERGENCY COMMITTEE TO SAVE HABEAS CORPUS, Washington, DC, June 1, 1995.

Hon. Daniel Patrick Moynihan, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: We understand that the Senate may act next week on the habeas corpus provisions in Senator Dole’s proposal. This legislation, by its provi- sions is a requirement that federal courts must defer to state courts incorrectly applying federal constitutional law, unless it can be shown that the state court's decision is “reasonably incorrect.” This is a variation of past proposals to strip the federal courts of the power to enforce the Constitution when the state court's interpretation of it, though clearly wrong, had been issued after a “full and fair” hearing.

The Emergency Committee was formed in 1991, to fight this extreme proposal. Our membership consists of both supporters and opponents of the death penalty, Republicans and Democrats, united in the belief that the federal habeas corpus process can be dra- matically streamlined without jeopardizing its constitutional core. At a time when pro- posals to strip the federal courts of the name of their jurisdiction, and the name of their security being being widely viewed with suspicion, we believe it is vital to en- sure that habeas corpus—the means by which all civil liberties are enforced—is not substantively diminished.

The habeas corpus reform bill President Clinton proposed in 1993, drafted in close co- operation with the nation’s distinguished attorneys and state attorneys general, appropriately recognizes this point. It would cod- ify the long-standing principal of independ- ent federal review of constitutional ques- tions, and specifically reject the “full and fair” deference standard.

Independent federal review of state court judgments has existed since the founding of the Republic, whether through writ of error or writ of habeas corpus. It has a proud his- tory of guarding against injustices born of prejudice and bias. It is a right of the innocent from imprisonment or execu- tion, and in the process, ensuring the rights of all law-abiding citizens. Independent fed- eral review was endorsed by the committee chaired by J ustice Powell on which all subse- quent reform proposals have been based, and the Supreme Court itself specifically consid- ered but declined to require deference to the states, in Wright v. West in 1992.

We must emphasize that this issue of def- erence to state rulings has absolutely no bearing on the swift processing of terrorism offenses in the federal system. For federal inmates, the pending habeas reform legisla- tion does not touch upon the procedural reforms but appropriately avoids any curtailment of the federal courts’ power to decide federal constitutional issues. This same framework of reform will produce equally dramatic re- sults in state cases. Cutting back the en- forcement of constitutional liberties for peo- ple unlawfully held in state custody is nei- ther necessary to habeas reform nor relevant to terrorism.

We are confident that the worthwhile goal of streamlining the review of criminal cases can be accomplished without diminishing constitutional liberties. Please support the continuation of independent federal review of federal constitutional claims through ha- beas corpus.

Sincerely, BENJAMIN CIVILETTI.
CONGRESSIONAL RECORD — SENATE

S 7879

J une 7, 1995

STATEMENTS ON PROPOSALS REQUIRING FED-
ERAL COURTS IN HABEAS CORPUS CASES TO DE-
FER TO STATE COURTS ON FEDERAL CON-
STITUTIONAL QUESTIONS

Capitol cases should be subject to one fair and complete course of collateral review through the state and federal system ** *. Where the death penalty is involved, fairness means a searching and impartial review of the propriety of the sentence—Justice Lewis F. Powell, Jr., presenting the 1989 report of the Ad Hoc Group on Federal Habeas Corpus in Capital Cases, chaired by him and appointed by Chief Justice William Rehnquist.

The federal courts should continue to review de novo mixed and pure questions of federal law. Congress should codify this rev-

view standard ** *. Senator Dole’s bill containing the “full and fair” deference requirement would rather straightforwardly elimi-

nate federal habeas jurisdiction over most constitutional claims by state inmates—150 former state and federal prosecutors, in a De-

cember 7, 1993 letter to judiciary Committee

Chairman Biden and Brooks.

Racial distinctions are evident in every as-

pect of the deaths process that leads to execution ** *. [We] fervently and respect-

fully urge a steadfast review by federal judi-


The state court cannot have the last say when it, though on fair consideration and what procedurally may be deemed fairness, may have misconceived a federal constitu-

tional right—Justice Felix Frankfurter, for the Court, in Brown v. Allen, 344 U.S. 443, 500 (1953).

[There is no case in which] a state court’s incorrect legal determination has ever been allowed to stand because it was reasonable. We have always held that federal courts, even on habeas, have an independent obliga-

tion to say what the law is—Justice Sandra Day O’Connor, concurring in Wright v. West, 113 S.Ct. 2482 (1993), citing 29 Supreme Court

Committee.

Representative Emeritus, American Jewish

Leadership Conference, U.S. House Judiciary

Committee.


Nicholas DeB. Katzenbach, Former Attorney General of the United States.

Elliott L. Richardson, Former Attorney General of the United States.

Chairmen


Allen E. Broussard, Former Justice, California Supreme Court.

John Buchanan, Former Member of Congress, Alabama.

Haywood Burns, Dean, City University of New York Law School.

Guido Calabresi, Dean, Yale Law School.

Juliuss Chambers, Director-Counsel, NAACP Legal Defense and Educational Fund.

L. Stanley Chaumin, Jr., Former President, American Bar Association.

Dick Clark, Former United States Senator, Iowa.

W.J. Michael Cody, Former Attorney General, Tennessee.

William T. Coleman, Jr., Former U.S. Sec-

retary of Transportation.

Joseph Curran, Attorney General, Maryland.

John J. Curtin, Jr., Former President, American Bar Association.

Lloyd N. Cutler, Former Counsel to the President.

Talbot D’Alemberite, Former President, American Bar Association.

Samuel Dash, Professor, Georgetown Law School; Former Chief Counsel, Senate Watergate Committee; Former District Attorney of Philadelphia.

John A. Dixon, Jr., Former Chief Justice, Louisiana Supreme Court.

John Douglas, Former Assistant Attorney General of the United States.

Father Robert Drinan, Former Member of Congress, Massachusetts.

Thomas Eagleton, Former U.S. Senator, Missouri.

Raymond Ehrlich, Former Chief Justice, Florida Supreme Court.


John Hope Franklin, Historian.

Donald Fraser, Mayor of Minneapolis; Former Member of Congress, Minnesota.

Stanley H. Fuld, Former Chief Judge, New York Court of Appeals.


Joseph L. Girrarrusso, Former Superintendent, New Orleans Police Department.

John J. Gibbons, Former Chief Judge, United States Court of Appeals for the Third Circuit.

William A. Grimes, Former Justice, New Hampshire Supreme Court.

Joseph R. Grodin, Former Justice, California Supreme Court.

Gerald Gunther, Professor, Stanford Law School.

William J. Guste, Former Attorney General, Louisiana.

Reverend Theodore Hesburgh, C.S.C., President Emeritus, University of Notre Dame.

L. Eades Hogue, Former Trial Attorney, Criminal Division, U.S. Department of Justice.

Elizabeth Holtzman, New York City Comptroller; Former Member of Congress, New York.

Shirley Hufstedler, Former Judge, United States Court of Appeals for the Ninth Circuit, Former U.S. Secretary of Education.

Richard J. Hughes, Former Governor and Supreme Court Chief Justice, New Jersey (deceased).

Charles J. Hynes, District Attorney for Kings County (Brooklyn), New York.

Thomas Johnson, Former County Attorney, Nebraska (deceased).

Richard J. Hughes, Former Governor and Supreme Court Chief Justice, New Jersey (deceased).

Robert W. Kastenmeier, former Member of Congress, Wisconsin.

William W. Kilgarrin, former Justice, Supreme Court of Texas.

Coretta Scott King, President, Martin Luther King Center.

Lane Kirkland, President, AFL-CIO.

Richard H. Kuh, former Manhattan Dis-

trict Attorney.

Walter Mondale, Former Chief Justice, Rhode Island Supreme Court.

Phillip C. Zijaczek, Permanent Professor, University of Chicago Law School.

Philip Lacovara, former Deputy Solicitor General of the United States.

Shelby Lanier, Jr., Chairman, National Black Police Association.

William Leech, former Attorney General, Tennessee.

George N. Leighton, former U.S. District Judge, Illinois.

Arthur Liman, former Chief Counsel, U.S. Senate Iran/Contra Committee.

Hans Linde, former Justice, Oregon Supreme Court.

Robert MacCrone, former President, American Bar Association.

Charles McC. Mathias, former U.S. Sen-

ator, Maryland.

Darrell McGraw, Attorney General, West Virginia.

Robert S. McNamara, former U.S. Sec-

retary of Defense; former President, World Bank.

Jim Mattox, former Attorney General and Member of Congress, Texas.

Harry McPherson, former Counsel to the President.

Walter F. Mondale, former U.S. Vice Presi-

dent; former U.S. Senator and Attorney General, Minnesota.

James Neal, former Chief Watergate Special Prosecutor; former United States Attorney.


John H. Pickering, Attorney, Jack Pope, former Chief Justice, Texas Supreme Court.

Edward E. Pringle, former Chief Justice, Colorado Supreme Court.

Thomas Ralsbalk, former Member of Congress, Illinois.

Joseph Rauh, Attorney (deceased).

Robert Raven, former President, American Bar Association.

Alain Shenon, former Justice, California Supreme Court.

Leroy C. Richie, Vice President, General Counsel, Chrysler Corporation.

Peter W. Rodino, Jr., former Chairman, U.S. House Judiciary Committee.

Stephen Sachs, former Attorney General and former United States Attorney, Maryland.

Carl Sagan, Astronomer.

Whitney North Seymour, Jr., former United States Attorney, New York.

James Shannon, former Attorney General, Massachusetts.

Robert L. Shevin, former Attorney General, Florida.

Seymour Simon, former Justice, Illinois Supreme Court.

Chesterfield Smith, former President, American Bar Association.

Nicholas Spaeth, former Attorney General, North Dakota.

Robert Spire, former Attorney General, Nebraska (deceased).

Geoffrey Stone, Dean, University of Chicago Law School.

Richard Sundberg, former Chief Justice, Florida Supreme Court.


Telford Taylor, Jr., Professor, Columbia Law School; former Prosecutor, Nuremberg War Crimes Tribunal.

James Tierney, former Attorney General, Maine.

Joseph D. Tydings, former U.S. Senator and United States Attorney, Maryland.
President Clinton’s Veto of the Rescissions Bill

Mr. KENNEDY. Madam President, I commend President Clinton for his veto of the rescissions bill this afternoon. Once again, the President has made clear his strong commitment to education and to the students and working families of the Nation.

By vetoing this bill, the President has said “no” to the elimination of school reform grants to 2,000 schools in 47 States.

He has said “no” to the reduction in reading and math assistance for 135,000 pupils.

He has said “no” to the elimination of community service support for 15,000 young men and women ready, willing, and able to serve their communities and earn money for their education.

He has said “no” to the elimination of opportunities for thousands of young high school students to participate in school-to-work programs.

He has said “no” to ending the promising start we have made on putting modern technology in schools.

He has said “no” to deep cuts like this that it would take for the rich.

The battle has now been squarely joined against drastic anti-education Republican budget proposals that would mean the largest education cuts in the Nation’s history.

These Republican budgets are indefensible—they would cut 33 percent of the Federal investment in education by the year 2002, and slash over $30 billion in Federal aid to college students.

Every student, every parent, every American understands that education is the indispensable foundation of a better life for themselves and their children. Deep Republican cuts in education are a betrayal of the hopes and dreams of families for their children. They undermine the Nation’s future strength. Our schools, colleges, and students deserve a helping Federal hand—not the back of Republican hands.

This veto is right, and I am confident it will be sustained by the Congress.

Administration Policy on Bosnia

Mr. DOLE. Madam President, it is indeed ironic that the Clinton administration—whose policy on Bosnia needs to be checked hourly—is on the attack against those in Congress like myself who have consistently argued for a policy that candidate Clinton advocated. Maybe administration officials are tired of attacking each other in the press and have decided to take their frustration out on the Congress.

The administration arguments against withdrawing U.N. protection forces and lifting the arms embargo are neither based on fact nor on American experience.

First we have a statement from the Secretary of Defense today that withdrawing U.N. forces would lead to a humanitarian disaster. I do not know if the Pentagon has been keeping up with the news over the last few months, but the situation in Bosnia is and has been a humanitarian disaster for the last couple of years, despite the presence of 22,000 U.N. troops. The U.N. mission in Bosnia has failed. Bandages like the quick reaction force will not change that fact.

Secretary Perry also told the Armed Services Committee today that the casualty rate in Bosnia dramatically dropped, which he attributed to the presence of U.N. forces. As the recent hostage taking has painfully demonstrated, the U.N. forces cannot even protect themselves let alone the Bosnians. And I say this understanding the bravery of each of the individuals who are there. They are in a very, very difficult situation. They cannot protect themselves. They are placed there by their governments.

Furthermore, the heaviest Bosnian casualties were in areas where U.N. forces were either not deployed or deployed too late—in northern and eastern Bosnia.

So it seems to me that the real reason casualties dropped is because the Bosnians, over time, have acquired more weapons and have been able to better defend themselves. That is why the casualty rate has gone down.

The second argument made by the administration is that the lifting of the arms embargo would Americanize the war and make the United States responsible for events in Bosnia.

Let us not fool ourselves—America is responsible now. We already have a responsibility. America is responsible because it has not been a leader, rather it has merely followed the Europeans’ failed approach.

As for the accusation that lifting the arms embargo would “Americanize” the conflict, it seems to me that the United States has plenty of experience from Central America to Afghanistan in providing military assistance without being drawn into a quagmire with American troops on the ground. The real recipe for getting bogged down is to send United States ground troops into Bosnia without a mission, which is why the resolution I intend to submit would authorize, with strict conditions, the use of United States ground forces for the clearly stated purpose of withdrawing U.N. protection forces from Bosnia—not for peacekeeping, not for reconfiguration, not for strengthening, or any other proposed deployments supported by the Clinton administration.

Furthermore, Bosnian officials have repeatedly time and time again that they do not want United States ground troops. Just a couple days ago, in response to news that a European quick reaction force would be created, Bosnian Prime Minister Haris Silajdzic said “please until the Bosnians. We do not want your boys to die for us”—British boys, French boys, or American boys.

Finally, when those of us who advocate lifting the arms embargo—and I am talking about Republicans and Democrats; this has never been a partisan issue on this floor, it has been supported by many Republicans and a great number of Republicans—point out that other countries would also participate in arming the Bosnians, we are told this would allow Iran to arm the Bosnians. The fact is the arms embargo has guaranteed that Iran is a key supplier of arms to Bosnia and administration officials have actually used that fact to argue that there is no need to lift the arms embargo.

What other choices do the Bosnians have? They are going to find weapons where they can find weapons.

From statements made by State Department officials to the press, one gets the impression that Iran is the Clinton administration’s preferred provider of weapons to the Bosnians. If the administration has a problem with Iran arming Bosnia, it should be prepared to do something about it.

We can do something about it. It would not take very long.

If the arms embargo is lifted, America could not be the only country to provide assistance. Countries like Turkey, Malaysia, Saudi Arabia, Kuwait, and Pakistan would offer financial and military assistance. In addition, former Warsaw Pact countries would be free to sell their vast arsenal of Soviet-style weapons that have been designated for export pursuant to the Conventional Forces in Europe Treaty. Since the Bosnians presently use Soviet-style equipment, acquiring former Soviet bloc equipment would minimize the amount of training they would require. Furthermore, any training, whether by United States military advisers or other country military advisers, could
be conducted outside of Bosnia—in Croatia or Slovenia, for example.

Madam President, administration officials should quit fighting amongst themselves and begin real consultations with the Congress, consultations based on the facts and not on wild speculations or unrealistic scenarios. It is time to take sides—with the victims of this aggression. It is also high time for America to exercise leadership and end its participation in this international failure.

VEETO OF RESCISSIONS BILL

Mr. DOLE. Madam President, I will just say that on the rescissions veto by the President today, it is highly regrettable President Clinton chose a bill cutting spending for the first veto. The $16.4 billion rescissions bill would have provided for $9 billion—$9 billion, a lot of money in real savings—an important downpayment in getting our country’s financial house in order.

The President made a serious mistake in judgment in vetoing this measure. It would have provided funding to the Federal Emergency Management Agency for disaster relief, to Oklahoma for reconstruction, and debt relief for Jordan to support the peace process, money for California.

Speaker GINGRICH and I have previously said we met the administration more than halfway. The President asked for $9 billion in real savings—$9 billion, a lot of money—$9 billion, a lot of money. We left AIDS funding, breast cancer screening, childhood immunization, Head Start, and other programs untouched, and still we came up with $9 billion in real savings.

We, in the Congress, held up our end of the bargain, but President Clinton missed a valuable opportunity—a golden opportunity—to join us cutting spending.

Now, with three-quarters of the fiscal year almost gone, we are losing the opportunity to enact real savings this year. In the face of the budget deficit that mortgages our children’s future, we in the Congress will proceed to pass a budget that puts us on the path to balance by the year 2002. We owe it to our children, and we owe it to our grandchildren.

For the sake of generations to come, it is time for the President to stop being an obstacle in the road and join us in our responsibility to secure our Nation’s economic future.

THE TELECOMMUNICATIONS COMPETITION AND Deregulation ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 45, S. 652, the telecommunications bill.

The PRESIDING OFFICER (Mr. BENNETT). The bill will be stated by title. The legislative clerk read as follows:

A bill (S. 652) to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRESSLER. Mr. President, I rise to begin Senate floor consideration of S. 652—the comprehensive communications bill which the Committee on Commerce, Science, and Transportation overwhelmingly approved late last month on a vote of 17 to 2. The Telecommunications Competition and Deregulation Act of 1995.

The future of America’s economy and society is inextricably linked to the universe of telecommunications and computer technology. Telecommunications and computer technology is a potent force for progress and freedom. More powerful than Gutenberg’s invention of the printing press five centuries ago, or Bell’s telephone and Marconi’s radio in the last century.

This force has helped us reach today’s historic turning point in America.

The telecommunications and computer technology of 21st-Century America will be hair thin strands of glass and fiber below; the magical cranking of stratospheric spectrum above; and the orbit of satellites 23,000 miles beyond. With personal computers interconnected, telephones untethered, television and radios reinvented, and other devices yet to be invented bringing digital information to life, the telecommunications and computer technology unleashed by S. 652 will forever change our economy and society.

At stake is our ability to compete and win in an international information marketplace estimated to be over $3 trillion by the close of the decade. The information industry already constitutes one-seventh of our economy, and is growing.

As chairman of the Committee on Commerce, Science and Transportation, the core of my agenda is to promote creativity in telecommunications and computer technology by rolling back the cost and reach of government. Costly big-government laws designed for another era restrain telecommunications and computer technology from realizing its full potential. My top priority this year is to modernize and liberalize communications law through passage of the bill before us today, S. 652: Telecommunications Competition and Deregulation Act of 1995.

A. THE ADVENT OF TELECOMMUNICATIONS REGULATIONS

Most telecommunications policy and regulation in America is based upon the New Deal era Communications Act of 1934. The 1934 Act incorporated the premise that telephone services were a natural monopoly, whereby only a single firm could provide better services at a lower cost than a number of competitors. The natural monopoly control over spectrum-based service was justified on a scarcity theory. Neither theory for big government regulation holds true today, if it ever did.

The 1934 Act was intended to ensure that AT&T and other monopoly telephone companies did not abuse their monopoly power. However, regulatory protection from competition also ensured that AT&T would remain a government-sanctioned monopoly. In exchange for this government-sanctioned monopoly, AT&T was to provide universal service. AT&T retained its government-sanctioned monopoly until antitrust enforcement broke up the Bell System and transferred the monopoly over local services to the Bell Operating Companies.

The Communications Act has become the cornerstone of communications law in the United States. The 1934 Act established the Federal Communications Commission, and granted it regulatory authority over communications by wire, radio, telephone, and cable within the United States. The Act also charged the Federal Communications Commission with the responsibility of maintaining, for all the people of the United States, a rapid, efficient, Nationwide and worldwide wire and radio communications service with adequate facilities and reasonable charges.

Prior to 1934, communications regulation had come under the jurisdiction of three separate Federal agencies. Radio stations were licensed and regulated by the Federal Radio Commission; the Interstate Commerce Commission; and the General Post Office. The Federal Radio Commission had certain jurisdiction over the companies that provided these services. As the number of communications providers in the United States grew, Congress determined that a commission with unified jurisdiction would serve the American people more effectively.

The 1934 Communications Act combined the powers that the Interstate Commerce Commission and the Federal Radio Commission then exercised over communications under a single, independent Federal agency.

The Communications Act of 1934 was based, in part, on the Interstate Commerce Act of 1888. For example, the requirement for approval of construction or extension of lines for railroads was taken directly from the ICC Act. Prior to 1934, wire communications were regulated by the same set of laws that regulated the railroads. Radio communications were regulated under the 1927 Federal Radio Act. The Federal Communications Commission was created to oversee both the wireline communications and radio communications.
The telecommunications industry today is a dynamic and innovative industry, with new technology being introduced on daily basis. The telecommunications industry, however, is regulated under a set of laws that are antiquated and no longer designed to deal with the challenges of today’s industry. Telecommunications laws and regulations are not able to adequately take into account the advent of telecommunications competition, and, indeed, have slowed the introduction of new competition into many segments of the industry. These laws did not contemplate the development of fiber optics, the microchip, digital compression, and the explosion of wireless services. It is time to revise and amend the 1934 act to fit the new and future competitive telecommunications industry.

B. THE MODIFICATION OF FINAL JUDGMENT

Since 1984, the Bell operating companies have been restricted from entering various lines of businesses as a result of the Consent Decree. The MFJ, the predecessor of AT&T, the United States versus Western Electric.

The consent decree, commonly referred to as the modification of final judgment, or the MFJ, places the U.S. District Court of Columbia and Judge Harold Greene as the administrator of the decree, and establishes a procedure by which the Bell operating companies can obtain waivers from the decree’s restrictions.

Recent years have seen a proliferation of legislative and judicial action to change the provisions of the original consent decree that divested American Telephone and Telegraph of its local exchange service and created the regional Bell operating companies. Currently prohibited from providing long distance service, manufacturing telecommunications equipment, and, up until July 1991, providing information services, the Bell operating companies and manufacturers of long-lived, high-advocated open entry into these new lines of business, contending that such action would invigorate the telecommunications marketplace.

In opposition, certain consumer organizations, electronic publishers, long distance carriers, the Justice Department, and other industry groups over the past few years have opposed entry on the grounds that the courts should administer an antitrust consent decree and that the Bell operating companies face little or no competition in their core business of providing local telephone service, they should not be permitted to enter competitive lines of business.

During the past 10 years a number of waivers have been granted, but the process has slowed in recent years. More fundamentally, the judicial process is necessarily limited; the district courts constitutional role is simply to apply the law. It is not to administer the law; it is not to make informed policy decisions about how communications law and the communications and computer industry should develop.

Moreover, given the vulnerability of the telephone industry to selective, cherry-picking competition, it is likely that the limited nature of today’s competition will have a significant effect on the industry’s revenues in general, and on local telephone rates in particular.

Consequently, although the consent decree served a useful purpose initially, it no longer serves the public interest at this dynamic time in the evaluation and administration of the information industry. In place of a process that subjects the communications industry to the terms of a consent decree entered 12 years ago and administered by a single district court, the Congress will reassert its proper policy role and administer a new Federal policy designed to promote competition, innovation, and protect consumers.

Prior to the implementation of the MFJ in 1984, as noted previously, AT&T was the monopoly telecommunications provider in the United States. AT&T’s Long Lines Department provided long distance telephone service to virtually everyone in the country. AT&T maintained ownership of the 22 Bell operating companies, which provided local telephone service on a monopoly basis to approximately 85 percent of the population.

In addition, AT&T owned Western Electric, which manufactured almost all the equipment needed for the operation of the telephone network. AT&T also owned Bell Telephone Laboratories, Bell Labs, which conducted the most extensive research involving high technologies and telecommunications of any industrial research center in the world.

The roots of the MFJ go back over 100 years. In 1882, Bell Telephone, the predecessor of AT&T, designated Western Electric Co. as the exclusive manufacturer of its patented telecommunications equipment. As early as 1900’s Bell Telephone maintained a majority interest in Western Electric; by 1925 it had 100 percent ownership of the company.

By that same year, Bell Telephone established Bell Telephone Laboratories to conduct its research and development. The Bell system’s rapid expansion triggered interest from the Department of Justice and the Interstate Commerce Commission—which then had jurisdiction over the telephone service—for possible antitrust violations.

Following other antitrust action, in 1974, the Department of Justice filed an antitrust suit against AT&T. The suit alleged that AT&T misused its Bell system monopoly of the local exchange network to restrict competition in the manufacturing of telecommunications equipment, and in the market for interchange service through refusal to provide the competitors with interconnection to the local networks and, therefore, access to end customers. After years of litigation, the case was settled in 1982 with entry of a modification of final judgment by Judge Harold Greene, which was negotiated by AT&T and the Justice Department.

The debate about the proper role of the Bell operating companies in the telecommunications industry has often pitted the interests of which government bodies should be establishing national telecommunications policy. Courts make rulings, as they should, solely on the narrow questions confronting them. Consequently, courts do not and cannot ensure that broader concerns about sound economic goals are fully considered.

As a result of these concerns, which have been fueled by a period of globalization and intense international competition in the telecommunications industry, I believe, and the committee believes that we in Congress as the expert in the oversight of the telecommunications industry, should have authority to manage these issues in order to develop telecommunications policy in a coordinated manner.

At this juncture in the evolution of the communications industry the Congress should be the locus of authority on questions involving telecommunications competition and consumer protection. We have the ability to see a more complete spectrum of issues, as compared to the narrow view of discrete issues which a court and the Department of Justice necessarily takes in the context of litigation. Moreover, we can consider broad policy goals in establishing and administering telecommunications policy.

C. REGULATORY LAG

While America is still the world’s leader in information technology, we are no longer in the position of being unchallenged. Historically we were an economic and technological Gulliver standing astride a world of competitive Lilliputians. But that’s just not true anymore. America—especially we in the American legislative and regulatory system—must respond and respond now.

At a minimum, government should try to avoid doing harm. Unfortunately, government and regulators have a rather sorry history of slowing the introduction of new technologies and competition. The examples of this regulatory lag are numerous and all too common. Regulatory lag means we don’t get investment stimulus that competition and new technologies spur and, more importantly, the public is denied new service and product options.

1. Competition in customer premises equipment:

Competition and open entry first came to telecommunications with respect to customer premises equipment (CPE). This competition, however, was initially resisted by the FCC. For many years, AT&T prohibited customers or anyone else from connecting any equipment to its telephone network or to telephones themselves that AT&T did not supply. Bell tariffs forbade all foreign attachments—meaning equipment
not provided by Bell itself. Unfortunately, regulators endorsed this anti-competitive practice for almost 70 years.

Through prodding from the Federal courts, the commission eventually allowed devices deemed not injurious to the telephone network to be connected to the network. This was only after the courts conferred on subscribers the right to use their telephones in a way that had private benefits without being publicly detrimental.

It took the Commission more than a decade to extend the new law to include equipment that was connected electronically, not just physically, to the network. The Commission limited restrictions on interconnection to protecting the network from harm. The details of equipment interconnection were not fully implemented until the commission adopted part 68 of its rules in 1975, nearly 20 years after the original court determination so that carriers themselves would be free to compete on equal terms in the open market.

2. Competition in long distance services:
The commission was equally slow in authorizing interexchange—or long distance—competition. In the 1940s, long distance service was provided exclusively over wires, and the same basic economics that seemed to preclude competition in local service applied equally to long distance service. The development of microwave and satellite technologies radically changed that picture, making competition both practical and inevitable. The first few, faltering steps in the direction of a competitive marketplace, were taken by the commission in 1959 but it wasn’t until 1980 that the commission formally adopted an open entry policy for all interstate services.

Competition in the interchange market developed slowly as the commission gradually and incrementally responded to changes in market pressures, technology, and consumer demands. The new technologies allowed decentralized long-distance service. Microwave relay technology, developed by Bell Laboratories during World War II, prompted the beginning of IXC competition by offering a viable, less expensive alternative to AT&T’s existing wireline facilities for transmitting long distance communications.

The commission first permitted entry of non-AT&T services for provision of private services. In 1959, the FCC, finding a need for private services and foreseeing no risk of harm to established services, authorized certain private companies to provide microwave services and to establish private microwave networks for their own internal use. Although described as a narrow, limited decision, the Federal courts were later to interpret it as a broad decision to authorize to establish private microwave long-distance networks. It also brought pressure for entry into other fields.

MCI applied to the FCC for authority to provide private, non-switched communications service between St. Louis and Chicago. This service still did not involve interconnection with AT&T’s networks. The commission approved MCI’s limited point-to-point system, saying it was designed to meet the interoffice and interplant communications needs of small businesses. Again, however, the decision was narrow.

The commission was concerned about permitting unregulated carriers to engage in creamskimming, and it generally adhered strongly to the philosophy that the public network should remain a regulated monopoly. Nonetheless, it prompted a deluge of applications seeking authorization of similar microwave facilities, reflecting a public demand for competitive alternatives.

A few years later, the commission formalized a policy of allowing entry of new common carriers, or “Specialized Common Carrier” (SCC), field to provide alternatives to certain interstate transmission services traditionally offered only by the telephone company. The commission did not, however, define the scope of services it was opening up to competition, a matter that would prove troublesome as pressures for increased competition rose.

Although each time emphasizing the limited nature of its decision, the commission had, over the course of 2 decades, continued to approve the entry of new providers of telephone services, albeit at times reluctantly and with prodding by the courts, and only in provision of private line services.

When it came to permitting direct competition with AT&T’s public switched long distance service, the Commission’s reluctance hardened. MCI had eventually obtained approval for its private line offerings, but when it later proposed new switched services in direct competition with AT&T’s MTS services, the FCC refused approval.

In doing so, the Commission reiterated that its Specialized Common Carrier decision was meant to allow entry only into private line service and not into direct competition with the public network. The Court of Appeals, however, reversed the commission’s failure to approve MCI’s proposed offering, rejecting the commission’s argument that its Specialized Common Carrier decision authorized only private line services.

After Execunet I, the commission still refused to order AT&T to interconnect with MCI. The Court of Appeals, in Execunet II, then explicitly reversed the commission’s decision, basing that Specialized Common Carrier was a broad decision to permit competition in the long distance market and that such competition necessarily required AT&T to provide physical interconnection to the public network.

The Execunet decisions opened virtually all interstate IXC markets to competition. In response to this new judicially imposed reality, the FCC lowered entry barriers, eliminated rules prohibiting resale and sharing of bulk-rate circuits, and directed AT&T to permit the resale and sharing of these circuits by competitors.

During this same era, the commission approved over-the-counter packet-switched communications network offerings that introduced value-added networks which resold data processing functions through basic private line circuits, and unlimited resale and shared use of private line services and facilities. Tariff restrictions against the resale and shared use of public switched long distance services were removed in 1980. Since this time, the FCC has strongly supported the growth of competition.

The resulting competition has had well documented public benefits of great scale and scope. 3. Enhanced Services:
The MFJ Consent Decree’s information services restriction required the Bell Companies to obtain FCC approval for the provision of voice answering services, electronic mail, videotex, electronic versions of Yellow Pages directories, 911 emergency service, and directory assistance services provided to customers of nonaffiliated independent telephone companies.

The restriction on the provision of voice mail services was lifted in the late 1980’s. In the first 2 years of RBOC participation, the voice mail equipment market grew threefold and prices declined dramatically. Between 1988 (when the RBOCs were permitted entry) and 1989, the market for voice mail services grew by 40 percent, with total revenues rising from $452 million to $655 million.

Prices have also fallen. For example, telephone companies today charge as little as $5 per month for its residential voice messaging service. Similar services in 1987 cost 2 to 10 times more. Output has risen. The U.S. market for voice mail and voice response equipment increased from $300 million in 1988 to over $900 million in 1989. The number of voice message mailboxes increased from 5.3 million in 1987 to 7.7 million in 1989 and 6.6 million in 1999.

4. Spectrum Allocation:
The introduction of both FM radio and television was significantly delayed by years of FCC equivocation over which bands would be assigned to which uses. Equally egregious delays preceded the introduction of cellular telephone service.

FM Radio. FM radio technology was invented in 1933, but did not receive widespread use until the 1960s. Lack of spectrum support was a key factor. The lack of popularity. One glaring example occurred in 1945. By 1945, 500,000 FM receivers had been built, but were all rendered useless when the FCC decided to...
move FM channels to a different spectrum band. FM languished for so long that the inventor of FM eventually committed suicide in despair.

TV. The modern television was developed in the 1930s and exhibited by RCA in 1939, but it took 2 more years to adopt initial standards. It was then discovered that channel allocation was inadequate, and the FCC froze all applications for TV licenses for 4 years, until 1952. In the year after the freeze alone, the number of stations tripled. It took another 2 years before regulations for UHF/VHF frequencies were finalized.

Cellular. In 1947 Bell Labs developed the concept of cellular communications and by 1962 AT&T had developed an experimental cellular system. It took another 15 years for regulation to catch up with the new technology; in 1977 the FCC finally granted Illinois Bell's application to construct a developmental cellular system in Chicago. The service areas for the Bell systems are the boundaries of cellular service areas. The delay cost the cellular industry an estimated $86 billion.

5. Out of Region Competition by Bell Companies:
The Department of Justice, with the concurrence of Judge Greene, originally held that the MFJ consent decree forbade the RBOCs from providing services outside their own regions. The D.C. Circuit however overruled them both and found that the BOCs are not restricted to providing service only within their home territories; they are free to offer intralATA services anywhere in the country. The RBOCs now compete heavily against one another in cellular service. The provision of other local services, however, is impeded by the interchange restriction, which the Department and the decree court have so far refused to lift even outside the service areas of the individual RBOCs.

6. Bell Company Manufacturing:
In June 1991, outages in 5 states and the District of Columbia forced Bell Atlantic and other Bell companies to work closely with a switch manufacturer to determine the cause of the outages and prevent their recurrence. The Department of Justice told Bell Atlantic that, notwithstanding the emergency, Bell Atlantic could not work with the manufacturer without a waiver of the decree's manufacturing restriction. On July 9, 1991, Judge Greene ordered a hearing with Bell Atlantic, the Department of Justice, AT&T, and MCI and granted the waiver on July 10, 1991.

7. Cable Networks:
The FCC—at the behest of broadcasters—crippled and almost killed cable television, by means of a number of regulatory restrictions such anti-siphoning rules. The commission's stated justification for restricting cable was that it did not want to jeopardize the basic structure of over-the-air television.

8. Video Dialtone:
By defining video dialtone service as common carriage, not broadcast, the FCC has successfully preempted a raft of State cable regulation and franchise fees. It has also subjected these services to a raft of regulations. Telephone companies and cable operators have been asked to provide a basic platform that delivers video programming and basic adjunct services to end users, under Federal, common-carrier tariff.

Video dialtone providers must offer sufficient capacity to serve multiple video programmers; they must make provision for increased programmer demand for transmission services over time; and they must offer their basic platform services on a nondiscriminatory basis. The dial tone advertiser is misleading; the video connections are strictly between the telco central office and customers. But the number of programs offered from a video dialtone server can be expanded indefinitely. The commission is plainly more like telephone companies than cable.

9. Direct Broadcast Satellite:
When the FCC first considered licensing Direct Broadcast Satellite service (the NAB's proposed National Association of Broadcasters raised the specter of siphoning. DBS would result in the loss of service to minorities, rural areas, and special audiences by siphoning programming, fragmenting advertising, and advertising revenue. It would rob free local television service of advertising revenues. UHF stations would be especially threatened. The cable television industry joined in the assault on DBS by demanding a program, and the service has only recently become available.

10. Computer and Software:
AT&T—which invented the transistor in the 1950s—developed some of the most powerful computers—was barred for years (by the 1956 anti-trust consent decree) from competing in the computer market against IBM. The upshot was that IBM completely dominated computing for many years. AT&T had also developed the Unix operating system around which the Internet was built—it couldn't commercialize that aggressively either. Now Microsoft is being accused of monopolizing the personal computer market with the MS-DOS and Windows alternatives.

11. Delay in RBOC Information and Inter-LATA Services Relief:
In 1987, the Justice Department recommended that the waiver for a temporary information services restriction on the RBOCs be removed. This was not opposed by AT&T. In September of 1987, Judge Greene permitted the RBOCs to enter non-telecommunications businesses without obtaining a waiver, but did not lift the information services ban.

On April 3, 1990, the U.S. Court of Appeals for the District of Columbia re-manded Judge Greene's decision to continue the ban on RBOC information services. Eventually, on July 25, 1991, Judge Greene relented and permitted RBOCs to provide information services. RBOCs were finally granted the right to provide information services more than 2 years after the Justice Department recommended that the restriction be removed.

There have been numerous examples of egregious delays in granting even non-controversial decrees. For example, Bell Atlantic sought a waiver in 1985 to allow it to serve Cecil County, Maryland as part of its Philadelphia cellular system. Bell Atlantic submitted another waiver to provide cellular service to 3 New Jersey counties through its Philadelphia-Wilmington system on October 24, 1996.

These waivers were necessary to the provision of uninterrupted cellular service between Washington and New York. Judge Greene finally granted the waiver on July 25, 1991, almost two-and-a-half years after it was filed and the Cecil County waiver was not approved until 1991, nearly 5 years after it was first sought.

Today there have filed more than 200 MFJ waivers that Judge Greene has ruled on. These waiver requests first go to the Department of Justice, and then move to Judge Greene. Unfortunately, the waiver process is also very time consuming. The average age of an RBOC waiver request pending before the Department of Justice is about 2½ years old.

Once the Justice Department passes the waiver on to Judge Greene, it takes approximately 2 years before Judge Greene rules on it. This has made the average waiver process more than 4½ years to work its way through the system.

D. THE NEW COMPETITIVE LANDSCAPE

The competitive landscape is changing. If Congress does not act to overhaul the telecommunications legal landscape, consumers will once again be denied benefits of competition and new technology. Wireless services have exploded since the Bell System breakup. Wireless counted less than 10,000 customers at that time. Today, there are more than 25 million cellular subscribers. Additionally, companies just spent more than $7.7 billion for the major trading area PCS licenses. There is obviously a market for more wireless communications. Cable has more than doubled its subscriber base since the MFJ.

For local telephone services, States such as New York, Illinois, and California, have been leading the way in opening the local market to competition. Competitive access providers did not even exist at the time of the MFJ. Today, CAP's are in 72 cities, and have built 133 competing networks. Rapid changes in technology have opened the new amateur monopoly Congress based the 1934 act on. Competition is still slow to fully develop in some areas, and in some markets.
History teaches us that, under existing law, the FCC and the courts have not been able to respond to market and technology changes in an expeditious manner. This delay prevents the consumer from gaining the benefits of competition, such as lower rates, better service, and deployment of new and better technologies.

The courts, FCC and Justice Department have been micro-managing the growth of competition in the telecommunication industry. The courts, for example, have been opposing the in-market cable-telco prohibition and entry barriers into the local telephone market. This is one of the principal reasons why competition is growing so rapidly. The major cable players in the UK are, in fact, American telco and cable companies. Prices for telephony provided over cable lines are 10 to 15 percent lower than that provided over British Telecoms network.

In the United States by contrast, the combination of the 1984 cable-telco prohibition and entry barriers into the local telephone market prevent such competition from developing.

In Japan the government is providing interest free loans to cover 30 percent of the investment for Japan's broadband optical fiber network. Also in Japan, the government at both the Federal and State level visits endless regulatory authority in this area, and pass legislation that will open the entire telecommunications industry to full competition. Without legislation, it may be years, or decades, before America sees the benefits of a truly open and competitive telecommunications industry.

Meanwhile our foreign competitors are moving ahead aggressively. In Great Britain, cable-telco competition is growing in importance. In 1984, only 10 percent of homes had television and radio, 94 percent had telephone service. In 1993, nearly 90 percent of homes in the United Kingdom have television, radio, and telephone service. In addition, the Financial Times stated in March 1995 that the best selling domestic telephone in the UK is a color telephone.

In Japan the government is providing interest free loans to cover 30 percent of the investment for Japan's broadband optical fiber network. Also in Japan, the government at both the Federal and State level visits endless regulatory authority in this area, and pass legislation that will open the entire telecommunications industry to full competition. Without legislation, it may be years, or decades, before America sees the benefits of a truly open and competitive telecommunications industry.

Meanwhile our foreign competitors are moving ahead aggressively. In Great Britain, cable-telco competition is growing in importance. In 1984, only 10 percent of homes had television and radio, 94 percent had telephone service. In 1993, nearly 90 percent of homes in the United Kingdom have television, radio, and telephone service. In addition, the Financial Times stated in March 1995 that the best selling domestic telephone in the UK is a color telephone.

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service advanced as rapidly as the personal computer industry, that call would cost less than 9 cents.

Third. Lessons learned:

Yet as the United States stands at this crossroads—the dawn of a new era in high technology, entertainment, information and telecommunications—America continues to operate under an antiquated regulatory regime. Our current regulatory scheme in America simply does not take many dramatic technological changes into account.

Progress is being stymied by a morass of regulatory barriers which balkanize the telecommunications industry into protective enclaves. We need to devise a new national policy framework—a new regulatory paradigm for telecommunications—which accommodates and accelerates technological change and innovation.

The very same digitization phenomenon supports the prospect of competition by telephone companies and against telephone companies, by cable companies and against cable companies, by cable companies and against long distance companies. Incumbents on opposite sides of the traditional regulatory apartheid scheme have quite different views about which kind of competition should come first. If Congress can come to grips with digitization and convergence, the private sector cannot be expected to wait. Indeed, the multifaceted deals and alliances of the last several years indicates that industry is not waiting.

Look at a short list of some of these deals:

US West/Time Warner. The world's largest entertainment company, and second ranking cable company, teaming up with the RBOC for the western United States.

AT&T/McCaw. The biggest long distance and equipment maker joining with the biggest cellular carrier. That came on the heels of AT&T acquiring one of the biggest computer companies—NCR.

Sprint/Cable Alliance. The third largest long distance company—and only company with local, long distance and wireless capability—joining cable's TCI, Comcast, Cox, and Continental to form an alliance to provide a nationwide wireless communications service—and the prospect for joining Sprint's broadband long distance lines with cable's high capacity local facilities.

Microsoft. There has been an almost endless series of strategic alliances being struck between Microsoft, the world's largest computer software company, and companies in numerous information and telecommunications businesses for the purpose of delivering interactive services.

HDTV Grand Alliance. The companies teaming up to bring HDTV to America includes AT&T—the largest telecom equipment maker—General Instrument—the largest cable TV equipment maker—and Phillips—the world's largest TV set maker.

In addition, layered on top of these and many other deals and alliances is the globalization phenomenon—a break down of geographic barriers; all the RBOC's have foreign investments; British Telecom and MCI in partnership; Sprint planning the same with Deutsche Telekom; AT&T also working with Singapore Telecom, Cable & Wireless's Hong Kong Telephone, and the Netherlands' Telecom.

We can no longer keep trying to fit everything into the old traditional regulatory boxes—unless we want to incur unacceptable economic costs, competitiveness losses, and deny American consumers access to the latest products and services.

Since becoming chairman of the committee I have been actively working with leaders in the telecommunications and information industry to reform this outmoded and antiquated, regulatory apartheid system in order to maintain America's competitive edge and national security. We need reform for telecommunications and entertainment services available for America.

It is time for American policymakers to meet this new challenge much the way an earlier generation responded to the threat of Sputnik. The response must be rooted in the American tradition of free enterprise, deregulation, competition, and open markets—to let technology follow or create new markets, rather than Government mind and stunting developments in telecommunications and information technology.

By reforming U.S. telecommunications policy we in Congress have an unparalleled opportunity to unleash a digital, multimedia technology revolution in America. By freeing American technological know-how, we can provide Americans with immediate access to and manipulation of a bounty of entertainment, educational, and health care applications and services.

Passing S. 652, The Telecommunications Competition and Deregulation Act of 1995, will have profound implications for America's economic and social welfare well into the 21st Century.

First. Universal telephone service:

The bill requires that a Bell company use a separate subsidiary to provide certain information services, equipment manufacturing, in-region interLATA services authorized by the FCC and to contribute to the support of universal service. A State may add to the definition for its local needs.

Second. Local telephone competition:

The Telecommunications Competition and Deregulation Act of 1995 reforms the regulatory process to allow competition for local telephone service by cable companies, long distance companies, electric companies, and other entities.

Upon enactment the legislation prevents all State and local barriers to competing with the telephone companies. In addition it requires local exchange carriers [LEC's] having market power to negotiate, in good faith, interconnection agreements for access to unbundled network features and functions at reasonable and non-discriminatory rates. This would allow other parties to provide competitive local telephone service through interconnection with the LEC's facilities.

The bill establishes minimum standards relating to types of interconnection that a LEC with market power must agree to provide if requested, including: unbundled access to network functions and services, unbundled access to facilities and information, necessary for transmission, routing, and interoperability of both carriers' networks, interconnection at any technologically feasible point, access to poles, ducts, conduits and rights-of-way, telephone number portability, and local dialing parity.

As an assurance that the parties negotiate in good faith, either party may ask the State to arbitrate any differences, and the State must review and approve any interconnection agreement.

The bill requires that a Bell company use a separate subsidiary to provide certain information services, equipment manufacturing, in-region interLATA services authorized by the FCC and to contribute to the support of universal service. The bill also requires that a Bell company may not market a subsidiary's service until the Bell company is authorized by the FCC to provide in-region interLATA services.
S. 652 also ensures that regulations applicable to the telecommunications industry remain current and necessary in light of changes in the industry. First, the legislation permits the FCC to forbear from regulating carriers where forbearance is determined to be in the public interest. This will allow the FCC to reduce the regulatory burdens on a carrier when competition develops, or when the FCC determines that relaxed regulation is in the public interest. Second, the bill requires a Federal-State joint board to periodically review the universal service policies. Third, the FCC, with respect to its regulations under the 1934 act, and a Federal-State joint board with respect to State regulations, are required in odd-numbered years beginning in 1997 to review all regulations issued under the act or State laws applicable to telecommunications services. The FCC and joint board are to determine whether any such regulation is no longer in the public interest as a result of competition. The FCC may modify the foreign ownership restrictions of section 310 of the 1934 act, if the FCC determines that the applicable foreign government provides equivalent market opportunities to U.S. citizens and entities.

The bill also requires that equipment manufacturers and telecommunications service providers ensure that telecommunications equipment and services are accessible and usable by individuals with disabilities, if readily achievable, a standard found in the Americans with Disabilities Act.

Third, long distance relief for the Bell companies:

The Telecommunications Competition and Deregulation Act of 1995 establishes a process under which the regional Bell companies may apply to the FCC to operate in the long distance or interLATA market. Since the 1984 breakup of AT&T, the Bell companies have been prohibited from providing services between geographical areas known as LATAs, [Local Access and Transport Areas]. The legislation reassigned congressional authority over Bell company provision of long distance and restores the FCC authority to set communications policy over these issues. The Attorney General has a consulting role.

The reported bill requires Bell local companies and other LEC’s having market power to open and unbundle their local networks, to increase the likelihood that competition will develop for local telephone service. It also sets forth a competitive checklist of unbundling and interconnection requirements.

If a Bell company satisfies the competitive checklist, the FCC is authorized to permit the Bell company to provide interLATA services originating in areas wired as a result of the public local telephone service, if the FCC also finds that Bell company provision of such interLATA service is in the public interest. Out-of-region interLATA services may be provided by Bell companies upon enactment.

S. 652 allows the Bell companies to provide interLATA services in connection with the provision of certain other services immediately, with safeguards requiring the Bell companies do not use this authority to provide otherwise prohibited interLATA services. For example the reported bill requires a Bell company to lease facilities from existing long distance companies if it uses interLATA service in the provision of certain other services and certain information services.

Fourth, manufacturing authority for the Bell companies:

The judicial consent decree that governed the breakup of AT&T in 1984, the MFJ, also prohibited the Bell companies from manufacturing telephone equipment. The AT&T breakup itself, the globalization of the communications equipment market, the concentration of equipment suppliers, the increasing foreign penetration of the U.S. market, and the continued dispersion of the domestic market have greatly diminished any potential market power of the Bell companies over the equipment market. The bill permits a Bell company to engage in manufacturing of telecommunications equipment where the FCC authorizes the Bell company to provide interLATA services. A Bell company can engage in equipment research and design activities upon enactment.

In conducting its manufacturing activities, a Bell company must comply with the following safeguards:

A separate manufacturing affiliate,
Requirements for establishing standards and certifying equipment,
Protection of telephone companies—a Bell manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price delivery, terms, or conditions.
Fifth, cable competition, video dialtone and direct-to-home satellite services:

The bill permits telephone companies to compete against local cable companies upon enactment, although until 1 year after enactment the FCC would be required to approve Bell company plans to construct facilities for common carrier video dialtone services. The bill also removes at enactment all State or local barriers to cable companies providing telecommunications services, without additional franchise requirements.

The reported bill does not require telephone companies to obtain a local franchise for video services as long as they employ a video dialtone system that is both used on a common carrier basis, that is, open to all programmers. If a telephone company provides service over a cable system—that is, a system not open to all programmers—the telephone company will be treated as a cable operator under title VI of the 1994 act.

Whether a telephone company uses a video dialtone network or a cable system, it must continue to comply with the same must-carry requirements for local broadcast stations that currently apply to cable companies. A separate subsidiary is not required for a Bell company carrying or providing video programming, provided the company provides nondiscriminatory access and does not cross-subsidize its video operations.

The bill maintains rate regulation for the basic tier of programming where the cable operator does not face effective competition—defined as the provision of video services by a local telephone company or 15 percent penetration by another multichannel video provider. The bill minimizes regulation of expanded tier services.

Specifically the bill eliminates the ability of a single subscriber to initiate at the FCC a rate complaint proceeding concerning expanded tier services. In addition, the FCC may not find rates for expanded tier service unreasonable, and subject to regulation, if the rates substantially exceed the national average rates for comparable cable programming services.

States may impose sales taxes on direct-to-home satellite services that provide services to subscribers in the State. The right of State and local authorities to impose other taxes on direct-to-home satellite services is limited by the bill.

Sixth, entry by registered utilities into telecommunications:

Under current law, gas and electric utility holding companies that are not registered may provide telecommunications services to consumers. There does not appear to be sufficient justification to continue to preclude registered utility holding companies from providing this same service.

The bill provides that affiliates of registered public utility holding companies may engage in the provision of telecommunications services, notwithstanding the Public Utility Holding Company Act of 1935. The affiliate engaged in providing telecommunications must keep separate books and records, and the States are authorized to require independent auditors on an annual basis.

Seventh, alarm services:

The bill prohibits a Bell company from providing alarm monitoring services. Beginning 3 years after enactment, a Bell company may provide such services if it has received authorization from the FCC to provide in-region interLATA service. The bill requires the FCC to establish rules governing Bell company provision of alarm monitoring services. A Bell company that is in the alarm service business as of December 31, 1994 is allowed to continue providing that service, as long as certain conditions are met.
Eighth: Spectrum flexibility and regulatory reform for broadcasters:

If the FCC permits a broadcast television licensee to provide advanced television services, the bill requires the FCC to adopt rules to permit such broadcasters flexibility to use the advanced television spectrum for auxiliary and supplementary services, if the licensee provides to the public at least one free advanced television program service. The FCC is authorized to collect an annual fee from the broadcaster if the broadcaster offers auxiliary or supplementary services for a fee to subscribers.

A single broadcast licensee is permitted to reach 35 percent of the national audience, up from the current 25 percent. Moreover, the FCC is required to review all of its ownership rules biennially. Broadcast license terms are lengthened for television licenses from 5 to 10 years and for radio licenses from 7 to 10 years. Finally, new broadcast license renewal procedures are established.

Ninth. Obscenity and other wrongful uses of telecommunications:

The decency provisions in the report modernize the protections in the 1964 Act against obscene, lewd, indecent, and harassing use of a telephone. The decency provisions increase the penalties for obscene, harassing, and wrongful utilization of telecommunications facilities, protect families from uninvited cable programming which is unsuitable for children, and give cable operators authority to refuse to transmit programs or portions of programs on public or leased access channels which contain obscenity, indecency, or nudity.

The bill provides defenses to companies that merely provide transmission services, navigational tools for the broadcast audience, up from the current 25 percent. Moreover, the FCC is required to review all of its ownership rules biennially. Broadcast license terms are lengthened for television licenses from 5 to 10 years and for radio licenses from 7 to 10 years. Finally, new broadcast license renewal procedures are established.

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G. The deregulatory nature of S. 652

Ronald Reagan once joked—in the midst of a debate over the budget—that the only reason Our Lord was able to create the World in 6 days was that he didn’t have to contend with the embedded base. I have been wrestling with the communications issues since I came to Congress. We all have. This has become the congressional equivalent of Chairman Mao’s famous “Long March.”

Nothing in the field is easy. We are dealing with basic services—telephone, TV, and cable TV—that touch virtually every American family. We are dealing with massive investment—more than half a trillion dollars—and deal with industries which provide almost two million American jobs. We are dealing with high-tech enterprises that are critical to the future of the American economy, and our global competitiveness.

The stakes are high for everyone. And it is the sheer number of issues and concerns that accounts for the complexity of any legislation.

First, let me speak briefly about some of the major steps forward which are envisioned in this bill.

When the former head of the National Telecommunications & Information Administration testified before the Senate, he commented, “Everything in the world is compared to what.”

Well, virtually all of the bills which the Senate or the House has dealt with over the past generation took the concept of regulated monopoly as a given. Whether we are talking about Congressman Lionel Van Deerlin’s bill, H.R. 1315 in the House in the 1970’s; or Senator Packwood’s effort back in 1981—S. 886. All of these bills assumed that monopoly, or something like the poor, would always be with us.

Second. A paradigm shift:

My bill changes that. Instead of conceding that concern, this bill:

Removes the traditional barriers to competition in all communications markets—local exchange, long distance, wireless, cable, and manufacturing.

It establishes a process that will require continuing justification for rules and regulations each 2 years. Every 2 years, in other words, all the rules and regulations will be on the table. If they don’t make sense, there is a process established to terminate them.

It restores full responsibility to Congress and the FCC for regulating communications. Under the bill that the House passed last spring, for example, you would have still had a substantial, continuing involvement in communications policy on the part of the Justice Department and the Federal courts.

This bill brings the troops home.

Third. Genuinely deregulatory:

I understand the concerns that some of my colleagues have raised. Senator McCain has raised the question of whether this bill is deregulatory enough. Senator Packwood has asked if we could not speed up the transition to full, uncomplicated competition. These are valid concerns.

But let me highlight some of the regulatory steps which this bill makes possible now.

First, it will make it possible for the FCC immediately to forebear from economically regulating each and every competitive long-distance operator. The Federal courts have ruled that the FCC cannot deregulate. This bill solves that problem and makes deregulation legal and desirable.

Second, this bill envisions removing a whole chunk of unnecessary cable television programming from the FCC. We leave the power to control basic service charges, until local video markets are more competitive. But the authority to regulate the nonbasic services, the expanded tiers, is peeled back. That represents a major step toward deregulation and more reliance on competitive markets.

Third, this bill contains a competitive checklist for determining Bell Co. interests and potential markets like long distance and manufacturing. After Bell companies satisfy all the requirements, the FCC must, in effect, certify compliance by making a public interest determination.

Fifth. Safeguarding core values:

This bill essentially seeks to change that focus. We assumed that cable television might become an effective competitor to local phone companies, for instance, so we sought to get rid of any regulations that were used to block that. We also assumed that local phone companies might be effective cable competitors, so we tried to get rid of restrictions on that kind of competition.

In the case of broadcasting, we recognized that this important industry is going to need much more flexibility to compete effectively in tomorrow’s multichannel world. So, we will allow broadcasters to offer more than just pictures and sound as well as multiple channels of pictures and sound, if they so choose. Under this bill, they will have the flexibility they need to compete in evolving markets.

Fifth, Safeguarding core values:

This bill is aggressively deregulatory. It seeks to achieve genuine, long-term reductions in the level and intensity of Federal, State and local governmental involvement in telecommunications.

But this bill is also responsibly deregulatory. When it comes to maintaining universal access to telecommunications services, for instance, it does that. It establishes a process that will make sure that rural and
This bill also recognizes the fact that deregulation is always a gradual, transitional process—and that Congress has the responsibility to stay involved.

All that good legislation is only one facet of the overall deregulatory process. Other requirements are careful scrutiny of budgets, of appointments to the FCC and other agencies, and effective Congressional oversight. No one should try to fool themselves into thinking that we can get away on the cheap. We can't.

If we are serious about deregulating this marketplace and—more importantly—expanding the range of competitive choices available to the American public, Congress is going to have to stay a central player.

Seventh. Summary of affirmative aspects:

Let me summarize, then, what I see as very positive, affirmative aspects of this bill:

First, it dispenses with the old government-sanctioned monopoly model and replaces it with a process of open access which will lead to more competition across-the-board, in every part of the communications business. It flattens all regulatory barriers to market entry in all telecommunications markets. The more open access takes hold, the less other government intervention is needed to protect competition. Open access is the principle establishing a fair method to move local phone monopolies and the oligopolistic long distance industry into full competition with one another. Completion of the steps on the pro-competitive checklist will both the long distance firms and the local telephone companies confidence that neither side is gaming the system.

Second, it eliminates a number of unnecessary rules and regulations now—by giving the FCC the discretion to forebear from regulating competitive communications services, by removing unneeded, high-tier, cable price controls.

Third, it establishes a process for continuing anti-to-basement review of all regulations on a 2 year cycle.

Fourth, it seeks to create an environment that is more conducive to more new services and more competitors—by allowing broadcasters and cable operators, for instance, greater competitive flexibility, and giving local and long distance phone companies more chances to compete as well.

Fifth, it terminates the involvement of the FCC in the making of national telecommunications policy.

Sixth, the bill emphasizes effective competition while also safeguarding core values, such as universal service access and limitations on indecency; and, finally, it maintains the responsibility of Congress to continue to work through the budget, oversight, and confirmation processes to move this critical sector toward full competition and deregulation.

H. BENEFITS OF S. 652

In General. Competition and deregulation in telecommunications as a result of the Pressler Bill means:

1. Lower prices for local, cellular, and long distance phone services, and lower cable television prices, too.

2. More and less costly business and consumer electronics to make U.S. business more competitive and American citizens better informed.

3. Expanded access to services, as business is spurred to bring new technology to the marketplace faster. In addition to more choices for long distance, cellular, broadcast, and other services where competition already exists, competition and choice in local phone and cable services will be introduced.

4. High technology jobs with a future for more Americans, economic growth, and continued U.S. leadership in this critical field. The President's Council of Economic Advisors estimates that deregulating telecommunications laws will create 1.4 million new jobs in the services sector of the economy alone by the year 2003. In a Bell Company-funded study, WEFA concluded that telecommunications deregulation would cause the U.S. economy to grow 0.5 percent faster on average over the next 10 years, creating 3.4 million new jobs by the year 2005, and generating a cumulative increase of $1.8 trillion in real GDP. Finally, George Gilder has estimated $2 trillion in additional economic activity with the Pressler Bill.

5. More exports of high-value products, and greater success on the part of U.S.-based telecommunications equipment manufacturers. And, more $10.25 billion, and services $3.5 billion, as they leverage their domestic gains to make more sales overseas.

6. More Networks and Channels. In the early 1970s, there were three national TV networks and virtually no cable channels. Today, there are 6 national TV networks, plus 10,000 cable TV systems serving 65 percent of American homes—99 percent have the cable option—with DBS now offering digital service to millions more. The average American family now has access to some 30 video channel choices. Much more is on the way if the Pressler Bill is enacted into law.

7. More News and Public Affairs. Cable deregulation—spurred by satellite communications deregulation—made more news and public affairs programming available. CNN, C-SPAN, and ESPN are prime examples. Local all news channels and local C-SPAN-oriented programming is on its way if deregulation occurs.

8. More Jobs. Relaxing broadcast rules and regulations—spurred by the growth of cable TV—made it possible for some 300 new TV and 2,000 new radio outlets to emerge. This created 10,000 new jobs in broadcasting.

9. Small town and rural America parity. Satellites and cable TV service means small town and rural Americans command the same media choices only big city residents once enjoyed. This democratization has spurred public awareness of national and international events—as well as encouraged fuller participation in public and political process.

10. Political shift. Satellites, cable, talk radio, and C-SPAN, which were a specific result of deregulation and competition in telecommunications, were important ingredients to last year's landmark national political shift. Further decentralization of media control through deregulation will accelerate this democratization phenomenon.

11. In telephone service. Competition and deregulation in the telephone business means:

Lower prices. Deregulation of phone equipment resulting in faster deployment of advanced equipment has made it possible to reduce local phone rates by 44 percent since 1987. Lower long distance competition has meant nearly $20 billion in price cuts since 1987. Virtually all Americans now have far more choices in phone equipment and local long distance service—and with the Pressler Bill will see choices in local phone services.

New options. Sixty million American families now have cordless phones. Twenty-five million now have cellular phones. Fifty million have answering machines. Twenty million have pagers. Deregulation has allowed technology to evolve to meet the demands of an increasingly mobile society.

12. Women feel safer and more secure.

Twice as many women now have cellular phones and pagers. Women feel safer and more secure. They have made it possible to drive safely under even the most severe weather conditions, because now help can be called.

13. Computer services. Competition and deregulation in telecommunications will speed the deployment of the so-called information superhighway. Currently, 40 percent of American homes have a personal computer. Computers are ubiquitous for American businesses. There is one school computer for every nine students. Competition and deregulation will mean new communications
facilities that will magnify the power of these computers.

International competitiveness. Telecommunications is a prime leverage technology. Competition and deregulation expands business access to this new technology, which makes existing businesses more competitive globally. Deregulation also spurs U.S. production and export of high-value-added products like computers, advanced telephone switches, mobile radios, and fiber optics. Each dollar invested in telecommunications results in $3 of economic growth.

For agriculture. For agriculture, competition and deregulation in communications means:

Efficiency. Farms today are the most technology-intensive small businesses. American farmers will be able to harness computer, communications, and satellite technology to stay the world’s most efficient lowest cost food producers.

Integration with the national community. Communications advances help integrate the farm community with Americans nationwide. Farm families will have the same news, public affairs, and entertainment choices nearly any American does.

Distance learning/telemedicine. Schools in small town and rural areas will be able to offer the same schooling options as those in the suburbs and major cities. Telemedicine systems will lower the cost of health care available in small town and rural America, especially for the home bound elderly in our society.

More jobs. Deregulation means more modern communications systems as costs drop for small town and rural areas which, in turn, help these areas attract and retain businesses and jobs. Communications deregulation in Nebraska meant thousands of new jobs for the State. Deregulation in North Dakota and one—one of the country’s biggest travel agencies now operate out of Linder and employs several hundred local people.

For Government. For Government agencies, competition and deregulation in telecommunications means:

Better service. With voice mail, smart phone services—for example, to renew your library book, press 1, facsimile, and electronic mail, Federal, State and local agencies will be able to provide faster service at lower cost.

Reduced costs. Technology through deregulation and competition also helps Government curb costs. Taxpayers thus get better service without having to pay more. The right-sizing of Government agencies is made possible. Responsible. Using all the latest communications technologies, Government offices will be able to greatly expand their constituent services, including here on Capitol Hill.

For business. For business, competition and deregulation in telecommunications means:

No geographical disadvantage. The ability to locate businesses away from center cities, and to allow many workers, especially working mothers, to telecommute thus reducing urban traffic congestion, pollution problems, and easing child care problems.

Expanding markets. Fax, 800-numbers, toll-free, and Federal Express have made it possible for even the smallest companies today to compete on a state-wide, regional, national, and even international scale.

Working smarter. Satellite networks, computer networks, mobile terminals, cash registers—and computerized inventory systems often linked directly to suppliers make it possible for U.S. retailers and other businesses to stay very competitive without being overstocked or understocked. Technology which will be made more available through deregulation has also allowed stores to operate in once remote areas.

Wal-Mart has become America largest retailer, despite its largely rural origins, chiefly because the company was able to harness the cost in contemporary communications.

For educators. For educators, competition and deregulation in telecommunications means:

Greater parity. Students in small town and rural America, and in inner cities, will be able to access the same information and instructional resources only wealthy suburban districts have. Advanced math, science, and foreign language courses that previously are available through telecommunications. This reduces the pressures to close or consolidate small town and rural schools and other institutions, which helps communities maintain their unique local character.

Lower costs. Competition lowers the cost of telecommunications equipment and services. This makes it possible for schools to adopt communications techniques without needing to expand budgets and local taxes.

For law enforcement. For law enforcement, competition and deregulation in telecommunications means:

Efficiencies. Communications equipment prices will continue to fall. Police will be able to afford to buy on board computers, advanced radiocommunications, and other high-tech systems. This magnifies the effectiveness of law enforcement budgets.

Better coordination. Advanced communications and computer technology will result in far better coordination among Federal, State, and local law enforcement agencies. Nationwide criminal records, drunk driving, stolen car, and other checks can be undertaken quickly and cheaply. This means lawbreakers will face a higher risk of apprehension, which means a stronger deterrent against crime.

Personal security. Advanced computer and communications technology places personal security systems within reach of more and more American families. Easier access to cellular phones will help Americans stay safer and feel more secure. At the same time, these telecommunications and information technologies help police, fire department and emergency medical services drastically reduce response times. In the case of emergency medical services far better on-the-spot service will be provided.

For South Dakota and other small city and rural areas:

The bill is designed to rapidly accelerate private sector development of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.

Recent series of television commercials have shown people sending faxes from the beach, having meetings via computer with people in a foreign country, using their computer to search for theater tickets and a host of other services that soon will be available. My bill would make those services available even sooner by removing restrictive regulations.

A person living in Brandon could work at a job in Minneapolis or Chicago, students in Lemmon would be able to take classes from teachers in Omaha and doctors in Freeman could consult with specialists at the Mayo Clinic. Telecommunications can bring new economic growth, education, health care and other opportunities to South Dakota.

Competition in the information and communications industries means more choices for people in South Dakota. It will also mean lower costs and a greater array of services and technologies. For instance, competing for customers will compel companies to offer more advanced services like caller ID or local connections to on-line services such as Prodigy and America On-Line.

It hasn’t been that long since Mass Bell was everyone’s source of local phone service, long-distance, and all phone equipment. Now there are over 400 long-distance companies and people can buy phone equipment at any department or discount store. Under my bill, eventually people would be able to choose from more than one local phone service or cable television operator.

This new competition also should lead to economic development opportunities in South Dakota. People will be able to locate businesses in towns like Groton and Humboldt and serve customers in Hong Kong or New York City. We are entering an exciting era. I want to spur growth and bring new opportunities to South Dakota and everywhere in America.

S. 652 is legislation providing for the most comprehensive deregulation in the history of the telecommunications industry.

Enacting this bill means ending regulatory apartheid. Under the Communications Act of 1934 and the Federal judiciary's Modification of Final judgment, sectors of the communications industry are forcibly separated and
segregated. This created Government-imposed and sanctioned monopoly models for the telecommunications sector.

S. 652 tears down all the segregation barriers to competition and ends the monopoly model for telecommunications. It opens up unprecedented new freedom for access, affordability, flexibility, and creativity in telecommunications and information products and services.

Passing S. 652 will hasten the arrival of a powerful network of two-way broadband communications links for homes, schools, and small and large businesses. For my home State of South Dakota, and other States away from the big population centers, this reform bill will make the Internet and other computer communications more easily accessible and affordable.

Local phone companies, long-distance phone companies, cable TV systems, broadcasters, wireless and satellite communications entities, and electric utility companies will all gain freedom to compete with one another in the communications business.

S. 652 is not only a deregulation bill, it is a reform bill. There is an important distinction. The 1984 Cable Act; for instance, deregulated rates for the cable industry but explicitly kept intact the barriers keeping telephone, electric companies, broadcasters, and others from competing for cable TV service. Keeping the monopoly model in place while lifting the lid on prices led directly to a backlash and deregulation in the Cable Act of 1992.

This reform law will open the door for billions of dollars of new investment and growth. The United States is the world leader in telecommunications products, software, and services. Still, we labor under self-defeating limits on our ability to grow at home and compete abroad. Most foreign countries retaliate for the strict U.S. limits on foreign investment. This keeps us out of markets where we would have the natural competitive advantage and leaves them open to our competitors. Telecommunications innovation and productivity are flourishing in such countries as the United Kingdom, which has eliminated many barriers to foreign investment. The new legislation will lift limits on foreign investment in U.S. common carrier enterprises on a fair, reciprocal basis.

To maintain our world leadership position we need new legislation. S. 652 will improve international competitiveness markedly by expanding exports. In 1994, according to the Department of Commerce, telecommunications services—local exchange, long distance, international, cellular and mobile radio, satellite, and data communications—accounted for $3.3 billion in exports. Telecommunications equipment—switching and transmission equipment; telephones; facsimile machines; and radio and TV broadcasting equipment, fixed and mobile radio systems; cellular radio telephones; radio transmitters, transceivers and receivers; fiber optics equipment; satellite communications systems; closed-circuit and cable TV equipment—accounted for $10.25 billion in exports. Finally, other telecommunications equipment accounted for $29.2 billion in exports. With this new legislation, telecommunications and computer equipment and services will be America's No. 1 export sector.

S. 652 will spur economic growth, create jobs, and significantly increase productivity. As noted earlier, each dollar invested in telecommunications results in 3 dollars' worth of economic growth. The Clinton/Gore administration estimates that with telecommunications deregulation the telecommunications and information sector of the economy would double its share of the GDP by 2003 and employment would rise from 3.6 million today to 5 million by 2003. The WEFA Group, in a Bell Company funded study, stated that with telecommunications deregulation 3.4 million new jobs would be created in the next 10 years. In addition, the GDP would be approximately $300 billion higher, and consumers would save approximately $550 billion. Finally, George Michael testified before the Senate Commerce Committee that if telecommunications deregulation were to happen, it would actually bring down the cost of providing service. Keeping the monopoly model in place while lifting the lid on prices led directly to a backlash and deregulation in the Cable Act of 1992.

S. 652 will also assist in delivering better quality of life through more efficient provision of educational, health care and other social services. Distance learning and telemedicine applications are especially important in rural and small city areas of America. With the advent of digital wireless telecommunications, the cost of providing service will be lowered tenfold thus closing the gap between the costs of serving urban and rural areas.

If we in Congress do our job right, by passing this legislation, we have the potential to be America's new high-tech pioneers—an opportunity to explore the new American frontier of high-tech telecommunications and computers that will be unleashing through bold free enterprise, de-regulatory, pro-competitive, open entry policies. By taking a balanced approach which does not favor any industry segment over any other, we will first stimulate economic growth, job, and capital investment; second, help American competitiveness; third, minimize transitional inequities and dislocations; and fourth, actually do something very good for universal service.

Mr. President, on March 28, the Committee on Commerce, Science, and Transportation voted 17 to 2 to report S. 652, the Telecommunications Competition and Deregulation Act of 1995. Telecommunications policy usually rates attention on the business pages, not as a front-page story. Still, for the average American family, legislation to reform regulations of our telephone, cable, and broadcasting industries is surely one of the most important matters the 104th Congress will consider.

OPEN, DELIBERATE PROCESS

Mr. President, this reform legislation was years in the making. It is the handiwork of numerous Senators from both parties, who shared a common recognition that our laws are out of date and anticompetitive.

The recent hearing process which informed the Commerce Committee and led to development of S. 652 began in February 1994. During the Commerce Committee held 14 days of hearings on telecommunications reform. The committee heard testimony from 109 witnesses during this process. The overwhelming message we received was that Americans want an urgent action to open up our Nation's telecommunications markets.

At the beginning of the 104th Congress, on January 31 of this year, I circulated a discussion draft of a telecommunications deregulation bill which reflected ideas put forward by the Republican members of the Commerce Committee. I invited the comments of ranking Democratic member Hollings and other Democratic members. In just 2 weeks time, Senator Hollings presented a comprehensive response. He has been a tremendous ally in this effort, as have many of my colleagues on the committee.

Senator Hollings and I and Democratic and Republican members of the committee, together with the majority and minority leaders, then engaged in an open, deliberate, productive process of discussion and negotiation.

Mr. President, it is accurate to say that staff from both parties have worked night after night, weekend after weekend, with scarcely any respite, since before Christmas on this bill.

Mr. President, just as it won overwhelming bipartisan support in committee, S. 652 deserves passage by a strong bipartisan vote here on the floor of the Senate.

When I travel around my State of South Dakota and see the craving for distance learning, for telemedicine, for better access to the Internet and the other networks taking shape to improve our productivity and quality of life, it helps me understand the need for this legislation, the need to work and fight for this reform.

Mr. President, the obstacles for progress in telecommunications are not technical. They are political. We have it in our power to tear those obstacles down. S. 652 does a substantial part of the job of tearing them all down.

RESTORING CONGRESSIONAL RESPONSIBILITY

S. 652 returns responsibility for telecommunications policy to Congress after years of micromanagement by the courts. This bill will terminate judicial control of telecommunications policy, in particular, Federal Judge Harold
Greene's "Modification of Final Judgment" regime which has governed the telephone business since the breakup of AT&T in 1984.

When the courts control policy, they are restricted to narrow considerations. On the other hand, they are free to build a regulatory setting that captures the whole range of economic and social implications in establishing a national policy framework. S. 652 provides such an approach to telecommunications reform.

Piecemeal decision-making by the courts severely delays productive economic activity. The average waiver process before the Department of J ustice and the court takes an average of 4½ to 5 years to complete. Such delays cause uncertainty in markets and significantly reduce investment in telecommunications, an increasingly vital sector of our economy.

PROFOUNDLY PRO-CONSUMER

Our electronic media are in a creative tumult known as the digital revolution. Industry technology is erasing old distinctions between cable TV, telephone service, broadcasting, audio and video recording, and interactive personal computers. In many instances, the only thing standing in the way of consumers and business is enjoying cheaper, faster, more flexible telecommunications services are outdated laws and regulations.

Mr. President, S. 652 is profoundly pro-consumer. The bill breaks up monopoly. This is pro-consumer. The bill sweeps away burdensome regulations. This will lower consumer costs—that's pro-consumer.

The bill opens up world investment markets for the U.S. telecommunications business. The impact will be more jobs, new services, lower costs—that's pro-consumer.

Mr. President, American consumers and businesses want to enjoy the full benefits of the digital revolution. They want more services, more openings, and lower prices. They want wide-open competition.

It is possible for Americans to have all of these. The obstacles in their way are not technical. We have the most powerful economy, the most advanced technological base in the world. The obstacles are political.

The information industry already constitutes one-seventh of the U.S. economy. Worldwide, the information marketplace is projected to exceed $3 trillion by the close of the decade. Today's Federal laws prevent different media from competing in one another's markets, although they have the technical ability to do so.

The regional Bell operating companies are protected with monopoly status in the local residential phone service markets. But they are barred from manufacturing phone equipment, offering long-distance service, or competing in a cable video market. Cable companies, although technically capable, are forbidden to offer competing phone service.

The status quo preserves monopolies and keeps American consumers from access to an array of products and service options. The existing system of law, regulation, and court decrees, holds back the American telecommunications industry from its full potential to compete.

S. 652 would change all this. It would bring about the most fundamental overhaul of communications policy in more than 60 years. It will break up the monopolies and increase competition. S. 652 eliminates regulations barring local telephone companies' entry into cable service and cable's entry into the local phone business.

It allows electric utilities to offer service in both the phone and cable markets, and provides fair, effective, and rapid means to make certain that local Bell companies abandon all vestiges of monopoly. Then it allows those companies into the long-distance and phone equipment manufacturing markets.

This bill ends decades of protectionism in the telephone investment markets. This will help assure access to capital to build the Nation's next generation informational networking. On a retail basis, it will give Americans more freedom to profit by making major investments in the telecommunications projects of growing markets abroad. For households and business in my home State of South Dakota and Nation, S. 652 means lower prices for local, cellular, and long-distance phone service and lower cable television prices.

The new competition also will spur companies to bring new technology and services to the marketplace faster.

Phone customers would be assured the same number of digits and the same listing in directory assistance and the white pages, whether they choose the local Bell company or a new piggyback provider. More phone numbers will be portable. A customer will keep the same number even if he or she moves among phone companies to get better prices.

S. 652 promotes competition in cable markets where protecting consumers from surges in rates. The outcome, I fully expect for consumers, perhaps as soon as a year from enactment of the bill, is plentiful competition and low rates without Federal controls.

Freeing the marketplace is creative and it is pro-consumer. There was heavy skepticism 15 years ago about deregulating natural gas prices, but look at the results. I remember I was in the House of Representatives in those days and everybody said if we deregulate natural gas prices are going to soar. They did not. They went down. Natural gas prices are lower than ever.

Now consider how dramatically the differences in pro-consumer advances have been between the unregulated part of the information sector—personal computers—compared with the heavily-regulated telephone sector.

The personal computer success story is especially important in my State of South Dakota. Because a firm that was a tiny start-up in South Dakota a few years ago, Gateway 2000, is now a major player in personal computer manufacturing. It is on the leading edge in the software and hardware that are so important in the information sector.

Computer industry entrepreneurs were free to gamble on the personal computer. No Federal or State regulator told them what they could and could not build. The decisions they had to meet, what markets to target. Market competition was fierce. Technological progress was breathtaking.

By 1999, the upstart personal computer industry was selling $5,000 a computer with as much processing power as a $250,000 minicomputer of the mid-1980's, more than that of a million-dollar mainframe of the 1970's. Now personal computers with more than twice the processing power are available for $1,500.

The upshot, in terms of price and power, is that today's computer systems have over 200 times the value of systems in 1994. Even with the historic breakup of the AT&T long-distance monopoly, the telephone business has remained heavily regulated, and consumers have gained value. In 1994, a 10-minute call from New York to Los Angeles cost $6. Today it cost $2.50. It should cost less, and will cost less.

If competition and technological advances have developed in the long-distance market, as they had in the computer market over the same period, that same phone call would cost less than 3 cents today, rather than $2.50. Three cents.

The regulatory status quo needs shaking up. That is what S. 652 would do. It would do less for big existing companies than for the businesses and services that are still waiting to be created, and many of those will be small businesses. Most important, it would help bring about an explosion of new job opportunities and services for the American people.

Let me take just a moment to describe in detail the key reforms in S. 652. First, universal telephone service, the need to preserve widely available and reasonably priced services is a fundamental concern addressed in S. 652. The bill preserves universal service, improves it, and makes it cost less.

It requires all telecommunications carriers to contribute to the support of universal service. Only telecommunication carriers designated by the FCC or a State as "essential telecommunications carriers" are eligible to receive support payments. The bill directs the Federal-State joint board, a proceeding to recommend rules to implement universal service and to establish a minimum definition of universal service. A State may add to the definition for its local needs.

Mr. President, to smaller cities and rural communities and others who depend upon universal service nothing is
changed. They continue to enjoy affordable access to phone service as before. The most important impact of S. 652 is structural and management reform in universal service that will save the American taxpayers $3 billion over the next 5 years. I think that is important to say. The universal service of this will cost less in these years.

For local telephone competition, S. 652 gives a green light to local telephone competition. The bill breaks up the old monopoly system for local phone service. Federal barriers to competition will be removed, and all State and local barriers will be preempted. Cable companies, long-distance companies, electric companies, and other entities will gain a chance to offer lower prices and better service for local phone service.

Upon enactment, the legislation preempts all State and local barriers to competing with the telephone company in the area. In addition, it requires local exchange carriers having market power to negotiate, in good faith, interconnection agreements for access to unbundled network features and functionalities that reasonable and nondiscriminatory rates.

This allows other parties to provide competitive service through interconnection with the LEC's facilities. The bill establishes minimum standards related to types of interconnection agreements that an LEC must negotiate with a carrier, if requested, including the following: Unbundled access to network functions and services, unbundled access to facilities and information necessary for transmission, routing, and interoperability of both carriers' networks; interconnection at any technological feasible point; access of polls, ducts, conduits, and rights of way; telephone number portability; and local dialing parity.

As an assurance that the parties negotiate in good faith, either party may ask the State to arbitrate any differences, and the State must review and approve any interconnection agreement.

There is long distance and manufacturing relief for the Bell companies. The Telecommunications Competition and Deregulation Act of 1995 establishes a process under which the regional Bell companies may apply to the FCC to enter the long-distance market. If the FCC grants approval, the AT&T, the Bell companies have been prohibited from providing long-distance service. S. 652 reasserts congressional authority over Bell company provision of long distance and restores the FCC's authority to set communications prices under those issues. The Attorney General has a consulting role.

The bill requires Bell local companies and other LEC's with marketing power to open and unbundled their local networks to increase the likelihood that competition will develop for local telephone service. It sets forth a competitive checklist of unbundling and interconnection requirements. If a Bell company satisfies the checklist, the FCC is authorized to permit the Bell company to long-distance service if this is found to be in the public interest.

Once a Bell company has met the checklist, it will also be allowed to enter the markets for manufacturing phone equipment.

In conducting its manufacturing activities, a Bell company must comply with the following safeguards:

- A separate manufacturing affiliate;
- Requirements for establishing standards and certifying equipment;
- Protections for small telephone companies. A Bell manufacturing affiliate must make its equipment available to other telephone companies without discrimination or self-preference as to price, delivery, terms, or conditions.

This bill also opens international investment markets.

S. 652 lifts limits on foreign ownership of U.S. common carriers. The bill establishes a reciprocity formula whereby a foreign national or foreign-owned company would be able to invest more than the current 25 percent limit in a U.S. telephone company if American companies were to invest more than comparable opportunities. This would allow increased investment in and by the U.S. telecommunications industry, which enjoys worldwide comparative advantage.

Finally, in the area of cable competition, the bill permits telephone companies to compete against local cable companies upon enactment, although until 1 year after enactment the FCC would be required to approve Bell company plans to construct facilities for common carrier "video dialtone" operations. The bill also removes at enactment all State or local barriers to cable companies providing telecommunications services, without additional franchise requirements.

The bill establishes rate regulation for the basic tier of programming where the cable operator does not face "effective competition," defined as the provision of video services by a local telephone company or 15 percent penetration by another multichannel video provider. The bill minimizes regulation of expanded tier services. Specifically the bill eliminates the ability of a single subscriber to initiate at the FCC a rate complaint proceeding concerning expanded tier services. In addition, the FCC may only find rates for expanded tier services unreasonable, and subject to regulation, if the rates substantially exceed the national average rates for comparable cable programming services.

In the area of spectrum flexibility and regulatory reform for broadcasters, if the FCC permits a broadcast television licensee to provide advanced television services, the bill requires the FCC to adopt rules to permit such broadcasters flexibility to use the advanced television spectrum for ancillary and supplementary services, if the licensee provides to the public at least one free advanced television program service. The FCC is authorized to collect an annual fee from the broadcaster if the broadcaster offers ancillary or supplementary services for a fee to subscribers.

If the broadcast license is permitted to reach 35 percent of the national audience, up from the current 25 percent. Moreover, the FCC is required to review all of its ownership rules biennially. Broadcast license terms are lengthened for television licenses from 5 to 10 years and for radio licenses from 7 to 10 years. Finally, new broadcast license renewal procedures are established.

Entry by registered utilities into telecommunications is allowed.

Under current law, gas and electric utility holding companies that are not registered may provide telecommunications services to consumers. There does not appear to be sufficient justification to continue to preclude registered utility holding companies from providing this same competition. The bill provides that affiliates of registered public utility holding companies may engage in the provision of telecommunications services, notwithstanding the Public Utility Holding Company Act of 1995. The affiliate engaged in providing telecommunications must keep separate books and records, and the States are authorized to require independent audits on an annual basis.

ALARM SERVICES

Beginning 3 years after enactment, a Bell company may provide such services if it has received authorization from the FCC to provide in-region LATA service. The bill requires the FCC to establish rules governing Bell company provision of alarm monitoring services. A Bell company that was in the alarm service business as of December 31, 1994 is allowed to continue providing that service, as long as certain conditions are met.

Finally, continuous review and reduction of regulation.

The bill also ensures that regulations applicable to the telecommunications industry remain current and necessary in light of changes in the industry. First, the legislation permits the FCC to forbear from regulating carriers when forbearance is in the public interest. This will allow the FCC to reduce the regulatory burdens on a carrier when competition develops, or when the FCC determines that relaxed regulation is in the public interest.

Second, the bill requires a Federal-State Joint Board to periodically review the universal service policies.

Third, the FCC, with respect to its regulations under the 1994 act, and a Federal-State Joint Board with respect to State regulations, are required in odd-numbered years beginning in 1997 to review all regulatory issues under the act or State laws applicable to telecommunications services. The FCC and Joint Board are to determine whether any such regulation is no longer in the
public interest as a result of competition. In short, Mr. President, this bill promotes deregulation as far as it logically should go. It provides a kind of "sunset" process for all regulations which the bill does not abolish immediately.

I welcome the coming debate and vote on S. 652. I urge my colleagues to reassert congressional responsibility for telecommunications policy.

Let me begin with the summary and conclusion. Mr. President, what we are trying to do here is to get everyone into everyone else's business. The economic apartheid that has been a part of telecommunications since the act of 1934 should be brought to an end.

I believe the passage of this bill would be like the Oklahoma land rush, the going off of the gun, because presently a lot of investment in the United States is paralyzed because we do not have a roadmap for the next 5, 10, or 15 years until we get into the wireless age.

What is happening is that many of our companies are investing in Europe or abroad because they are prohibited from manufacturing or doing something here. As a result, American jobs are being lost.

This particular bill, if we can pass it, will provide a roadmap which businessmen and investors will be able to invest in and make an explosion of new devices, an explosion of new jobs, and will help our country a great deal.

I think it will help consumers by lowering prices and providing more devices, and it will also help labor by providing more jobs of the type that we need in our country.

I wish to pay tribute again to Senator Hollings and his staff and all the Senators on the committee who have worked so hard—and Senators in this Chamber. I have spoken to all 100 Senators on this bill and it has been a long time getting it up. I hope we can proceed through today and tomorrow.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as the communications bill, S. 652, comes up for consideration, my first urge is one of gratitude. I want to thank the majority leader and minority leader for their leadership in calling up this bill and, particularly, I want to give particular thanks to the chairman of our committee who has been outstanding in working all day long in getting this bill to the floor.

Senator LOTT on the majority side and Senator INOUYE, who was the chairman of our Communications Subcommittee, now the ranking member, have been working around the clock. Of course, particular thanks goes, again, for our staff members. I thank the chairman's staff,ADDY Link, Katie King, and Donald McLellan. On my staff, particular gratitude must go to Kevin Curtin, John Windhausen, and Kevin Joseph for all their efforts.

We do not extend such thanks casually. This effort started in the fall of 1993 and every Friday morning we would meet with the Bell companies, the regional Bell operating companies. Every Tuesday morning the staffs would meet again with the competing companies and other industry interests.

We have continued those meetings right up to this afternoon. We have been working, meeting, reconciling, trying our dead-level best to bring a complicated measure up to the modern age of telecommunications.

To this Senator, they have all done an outstanding job. So it is not a casual "thanks," but it is one that is very genuine and sincere. We thank them all for their cooperation and understanding.

As this bill is called up, it is good to note and emphasize that the Commerce Committee reported it by a vote of 17 to 2 on March 23. It is a product of months of consideration and discussion by the committee and by Senators all involved.

In the last Congress, Senators INOUYE, Danforth, and I sponsored S. 1822, which was approved at that time by the Commerce Committee to that effect.

The committee held 31 hours of testimony, 11 days of hearings, and heard from 86-plus witnesses. In this Congress, the committee on S. 652 has held 3 days of hearings on telecommunications reform, heard from a number of witnesses representing a broad variety of interests.

S. 652 achieves a very, very important objective. Most important of all the objectives was the requirement of universal telephone service that would be available and affordable and continued to be outstanding. We have the finest communications services in the world.

This Senator went through the experience of airline deregulation. And truth is truth, and facts are facts. Do not come and tell me how airline deregulation is working. All of the airlines have just about gone broke. And I can tell you from paying just to fly from Charleston to Washington and Washington to Charleston and back, it is just an inordinate 600 and some odd dollars. What has happened is 85 percent of America is subsidizing some 15 percent for the long haul. They talk about et forces, market forces. We had a good arrangement on the regulated airline service, and we have come full circle now with regulating foreign airlines and KLM taking over Northwest, British Air coming in on USAir, and all the rest laying saved while we proudly stand up as politicians blowing hot and hard how wonderful airline deregulation is working. That is hokey.

I wanted to make sure that we did not miss in this particular bill this particular on with the wonderful telecommunications service that we have had. This bill promotes competition in the telecommunications market and restores regulatory authority over the industry to the Federal Communications Commission. That administrative entity has also been outstanding in their rendering of decisions and moving forward as best they could with the technological developments and the competition of the communications and regular telephonic service and long distance evolved into a heck of a monopoly that we could not deregulate. I was on the teams that worked all during the 1970's and 1980's. Finally, the Department of Justice had to bust it up. We found out that they were so strong politically and financially that they could cancel out any and everybody. Senator DOLE on the majority side, this Senator on the minority side, all during the 1980's tried to get it back to the FCC, and we were blocked. This Senate passed the manufacturing bill to allow the Bell companies to get into manufacturing, passed by a vote of 74, bipartisan, and it was blasted over on the House side.

So the difficulty has really been in trying to get it from Judge Greene back into the administrative body where the people's decisions and policies are made by the Congress, administered by the Federal Communications Commission, but blocked by the industry itself time and time again.

Let me also mention Judge Greene who has done an outstanding job. I want to note, just an inordinate kudos in the way he has handled this, almost a one-man administrative responsibility for over 10 years now in his deliberate approach to the needs of the public by maintaining at the same time universal service.

The basic thrust of this bill is clear. Competition is the best regulator of the marketplace. But until that competition exists, until the markets are open, a monopoly provided by the government must not be able to exploit the monopoly to the consumers' disadvantage. Competitors are ready and willing to enter the new markets as soon as they are opened. Competition is spurred by S. 652's provisions, specifying criteria for entry into the various markets.

For example, on a broad scale, cable companies will provide telephone service; telephone companies will offer video services, as pointed out by our distinguished chairman; and telephone companies will, in addition, provide to the consumers the continued universal service; the consumers will be able to purchase local telephone service from several competitors; electric utility companies will offer telecommunications services; the regional Bell operating companies will engage in manufacturing activities. All of these participants will foster competition with each other in one way or another.

Of course, long distance will enter the local exchange, and as the local exchange is opened, the regional Bell operating companies will enter into long
distance. So we are really moving very expeditiously into the competitive market.

We should not attempt to micromanage the marketplace. Rather, we must set the rules in a way that neutralizes the RBOC’s inherent market power so that robust and fair competition can ensue. This is Congress’s responsibility.

So this bill transfers jurisdiction over the modified final judgment from the Federal Communications Commission. Judge Greene, as I mentioned, has been overseeing that modified final judgment in an outstanding fashion. He was doing yeoman’s work in attempting to ensure that monopolies do not abuse that market power. Now it is time for the Congress to reassert its responsibilities in this area.

Let me address some of the specific areas of importance. The need to protect advanced universal service is one fundamental concern of the committee in reporting S. 652. Universal service must be guaranteed, the world’s best telephone system must continue to grow and develop, and we must ensure the widest availability of telephone service. Under this bill, all telecommunications carriers must contribute to their universal service fund. A Federal-State joint board will define universal service. This definition will evolve. It is a flexible requirement—a requirement I should say, rather, of flexibility so that the definition will evolve over time as technologies change so that consumers have access to the best possible services.

Special provisions in the legislation address universal service in rural areas to guarantee that harm to universal service is avoided there. One of the most contentious issues in this whole discussion has been when the regional Bell operating companies should be allowed to enter the long distance market.

Under section VII(C) of the modified final judgment consented to buy all the RBOC’s and attested to in the hearings that we have had on this bill, as a group the test has been whether the RBOC’s seeking entry into long distance could have a substantial possibility of impeding competition in that long distance market which it seeks to enter.

Last year, S. 1822 contained a requirement that the Department of Justice utilize this test in considering any application for the regional Bell operating companies’ entry into long distance. In addition, the FCC was to utilize a public interest test for considering any such application. This was an approach to which the regional Bell operating companies agreed during the last Congress. This year, earlier draft provisions, however, set a date certain for entry by the RBOC’s into the long distance market.

So after all the hearings and much discussion and negotiation, we determined that this self-defeating approach of a calendar ruling there would be no consideration of the competitive circumstances in the marketplace. So S. 652 specifies that the FCC may approve any application to provide long distance if it finds, one, that the RBOC has fully implemented the unbundling features specified in the competitive checklist in the new section 255 of the Federal Communications Act of 1993; two, the RBOC will provide long distance using a separate subsidiary; and, three, application is consistent with the public interest, convenience, and necessity.

Mr. President, when I mentioned that section 255 is a new section under the Communications Act, I should say of 1994. It is good to point out that we have used the original Communications Act of 1934, as amended, for the simple reason that over the 60 plus years we now have a complex body of law, special rulings, interpretations of legal expressions and requirements by the courts, and modified the job of trying to bring competition to a regulatory structure based on a monopoly and open up the marketplace.

I remember in an earlier debate we had that year, but that 60,000 lawyers are registered to practice before the District of Columbia bar, 59,000 of whom are probably members of the federal communications bar. That is why you will see every effort to change every little word and analyze every phrase including every possible word in the bill. If you penalize them and put them into an uncompetitive position, then, of course, your rates are bound to go up.

So S. 652 is a balanced bill. The public interest test is fundamental to my support for the legislation. In making this public interest evaluation, the FCC is instructed to consult with the Department of Justice which may furnish the Federal Communications Commission with advice on the application using whatever standard it finds appropriate. I would hope that the court would find under the Clayton and Sherman Acts and also section VIII(C) under the Modified Final Judgment.

Mr. President, this is a great leap from the actual and demonstrable competition test originally proposed in S. 1822 from the last Congress. While I would prefer a more active Department of Justice role, and an explicit reference in the statute to the section VIII(C) test, I support the provisions of S. 652 because it would allow the full litigant role of the Department of Justice views prior to making any decision. The Department of Justice may well decide to base its decision on whether there is a substantial possibility that the regional Bell operating company will impede competition through use of its monopoly power or any other standard under the antitrust law. The report accompanying this bill makes it clear.

I might emphasize at this particular point that leadership that already this year has been given by the antitrust division, by the Department of Justice and the outstanding director, Assistant Attorney General, Ms. Anne Bingaman. She has obtained what we as politicians have been trying to get together, and that is about a month ago on national TV there appeared the regional Bell operating company, Ameritech, the long distance company AT&T, the Department of Justice and the Consumer Federation of America, all four entities important to the entire process agreeing on the steps of unbundling, dialing parity, access, interconnection, all of these things all ironed out that in the technological world of communications we have debated back and forth for many years. They have gotten together. They are going into Grand Rapids and Chicago, and, of course, the RBOC is getting into long distance.

And so while we politicians on the floor of the Senate will be debating in the next few days, no doubt it should be mentioned that the Department of Justice, under the leadership of Ms. Anne Bingaman, has already gotten the parties together. I am convinced that their consent decree now before Judge Greene will be affirmed.

S. 652 requires that an RBOC must provide long distance using a subsidiary separate from itself to avoid any cross-subsidization between local and long-distance rates. These and other safeguards in the bill should prevent against RBOC abuses in the long-distance market.

The committee-approved bill also includes some deregulation rates for cable television. The Democratic proposal at the beginning of the year did not suggest any such deregulation because from 1986 to 1997 cable rates had risen three times faster than the rate of inflation, so that the Congress back in 1992 overwhelmingly imposed rate regulation and new service standards on the cable operators.

We passed the 1992 Cable Act largely in response to the complaints from consumers that rates had soared beyond reason and service was poor. The bill actually became law with the bipartisan vote to override President Bush’s veto.

Now, since the 1992 act was adopted, the cable industry has experienced significant growth. Subscription is up, stock values in cable companies have risen dramatically, and debt financing by the cable industry rose in 1994 by almost 30%. But the report of the Consumer Federation of America estimates that $3 billion has been saved for American consumers through the rate regulation that has been put into
place. Yet some in the industry maintain that cable regulation produces uncertainty in financial markets and that cable operators will need to be able to respond to new competitors through additional revenues.

S. 652 makes no changes to the standard of regulation for the upper tiers of cable programming. It makes no changes in the regulation of the basic tier. Under the bill, a rate for the upper tier cannot be found to be unreasonable unless it substantially exceeds the national average price for comparable cable programming.

This standard will allow cable operators greater regulatory flexibility for the upper tiers. The bill retains the FCC's authority to regulate excessive rates charged to the upper tiers.

In addition, the bill changes the definition of effective competition in the 1992 act to allow cable rates to be deregulated as soon as the telephone company begins to offer competing cable services on the franchised-way. Once consumers have a choice among entities offering cable service, the need for regulation no longer exists.

S. 652 increases the ability of any entity including television networks to own television stations. The bill retains the FCC's authority to regulate excessive rates charged to the upper tiers.

Any modification in the national ownership cap is important because of localism concerns. Local television stations provide vitally important services in our communities. Because local programming informs our citizens about local disasters, brings news of local events, and provides other community-building benefits, we cannot afford to undermine this valuable local resource.

Earlier drafts of the legislation would have eliminated many of the FCC regulatory limits on the broadcast industry. By contrast, S. 1922, as approved by the Commerce Committee last year, required the FCC to conduct a proceeding to review the desirability of changing these rules. I think the bill with which we are dealing in the franchise way, the FCC rules allow an entity to own broadcast stations that reach no more than 25 percent of the Nation's population. This limit was imposed out of concern that broadcast stations would be owned by a few individuals, and that concentration would not be beneficial to our local communities or yield the benefits that result from the expression of diverse points of view. S. 652 would increase that level to 35 percent.

So there seems to be a broad agreement across both parties and many political philosophies that there should be a large degree of deregulation as a part of any bill, based on the proposition that we cannot tell how much the technology will change in the next 6 months, much less the next 10 years, and that we should accommodate it without constantly trying to regulate it through some form of statutory language. That is the philosophy of this bill, a philosophy of competition rather than of regulated monopoly.

Finally, Mr. President, it should be recognized that in each long set of hearings in the Senate Commerce Committee over a year or more, each tentative set of conclusions on the part of the two Senators, and others, by the time those conclusions had been reached, the technology has gone beyond those conclusions.

So there seems to be a broad agreement across both parties and many political philosophies that there should be a large degree of deregulation as a part of any bill, based on the proposition that we cannot tell how much the technology will change in the next 6 months, much less the next 10 years, and that we should accommodate it without constantly trying to regulate it through some form of statutory language. That is the philosophy of this bill, a philosophy of competition rather than of regulated monopoly, and it has been a difficult process and it is likely to be a difficult process for the next 3 or 4 days.

So rather than repeat anything that the two leaders in this debate have said, I would simply like to say from the perspective of this Senator, as a member of the Commerce Committee, there have been three guiding principles in dealing with the many conflicts among groups who would like to provide communication services, and those three guiding principles, of course, deregulation, competition and the interests of the consumers, the users of these various services.

Mr. President, there are a number of areas covered by this bill in which those three interests lead to the same conclusion: Deregulation will promote competition, competition will promote the consumer interest.

Those parts of the bill probably will not be the subject of much discussion during the course of this debate. They have been worked out. But the three considerations are at least slightly different and move in slightly different
Now, the new companies, the entrepreneurs, those who are just beginning in the field, or wish to get in the field, simply want it opened up. They want to be able to compete, where today they cannot. Few of them are large enough to demand some kind of special privilege, either. And we need to encourage both.

We need to encourage the continued investment in this new technology. It is not in the nature of the communications industry, which still includes huge regulated monopolies, a total and complete deregulation at least carries with it the risk not of competition but of an unregulated monopoly substituting itself for a regulated one. And there must be a degree of caution in the speed and the completeness of any kind of deregulation.

Almost always, it seems to me, Mr. President, that those so-called consumer representatives rarely represent the actual consumer interest. And there seems to be a feeling, that incredibly many of the so-called organized consumer groups have little faith in competition and in the free market and believe in various forms of state socialism and want in many respects to regulate. I believe, Mr. President, that those so-called consumer representatives rarely represent the actual consumer interest. But, as we go through this debate over particular proposed amendments during the next week, it seems to me we all have to attempt to judge them on the basis of those three principles: Are they deregulatory in nature in a constructive fashion that is consistent with the march of new technology? Do they promote competition? And are they in the consumer interest?

Mr. President, there is only one other major point that I want to make at this time, and that is that of all the proposals with which I have had to deal in my career in the Senate, this is perhaps the most important for the future of our economy. Perhaps as much as 20 percent of our economy is connected with communications in some respect or another. And, of course, the lobbying, the attempt to influence all of us on the part of people who are in the communications business or wish to be in the communications business is fierce, is overwhelming in nature. And at the same time, the number of these people, our constituents, who are not in the business, are almost totally silent.

I have hardly gotten a handful of telephone calls or letters from ordinary citizens about this bill. It is too big. It is too complicated. It is about the future. It is very difficult to come up with an intelligent opinion off the top of one’s head on some of the particular controversial areas in it. And so it is up to us to weigh the consumer interest as we work our way through this legislation, along with those features that will lead to competition, generally speaking, through deregulation.

My observation is that the large companies and groups which are already in the communications business do sincerely favor competition. But, generally speaking, they would like to create a competitive atmosphere in which they are at least even, and perhaps ahead of any new entrant. And so the mythical even playing field is something to which all give lip-service but each defines in a different fashion.
have grown as much in 14 years as the entire telephone industry did in 100.

It is not too difficult to figure out that the computer industry benefitted from fierce competition and minimal government regulation. Phone companies are not so fortunate.

Cable TV also exploded after it was deregulated in 1984. At that time, its revenues were $7.8 billion and it employed 67,381 persons. Fast forward to 1992. Revenues tripled and employment numbers are now 105,120. While those numbers are also good, I would suggest that the cable TV industry would have done much better if it had faced competition. More importantly, I would also suggest that there would not have been the abuses which prompted Congress to enact re-regulation in 1992. I say we allow the real technical experts to decide. And I am not talking about government bureaucrats. Instead, we should look to the experts in the field, the entrepreneurs, the engineers, telecommunications workers. It seems to me that they will do a far better job for our country if big government leaves them alone.

I, for one, cannot allow government to become the biggest player in the telecommunications industry. Too much is at stake. It is nonsense to gamble away America's ability to compete, and win, around the world. And it is nonsense to gamble away the goodwill that the information age will bring.

To get there, I have worked with the committee to develop a comprehensive deregulatory amendment that touches all sectors of the communications industry. It is my understanding that the managers are not quite ready to accept it now. I have a list describing each provision that I will insert in the RECORD at the end of my remarks, but for now, I will just highlight a few of the provisions.

First, deregulate small cable TV systems. This has bipartisan support. Although views differ on deregulating the entire cable TV industry, most of us can agree that rural and small systems need rate relief in order to survive. This provision gets it done.

Second, force the Federal Communications Commission to eliminate outdated regulations, and do so in a timely and intelligent manner, not in a way that it would act on requests that it forbear on regulations. Under this amendment, the Commission must respond within 90-days—60 more can be added if the issue requires additional scrutiny. Most importantly, it must provide a written determination to justify its actions.

Third, eliminate the number of TV stations any one entity can own. Currently, the limit is capped at 12. This amendment removes that cap. I want to point out, however, that this amendment does not. I repeat, does not increase the percentage of national viewership beyond the 35 percent that is included in the chairman's mark.

The amendment also eliminates the number of radio stations one can own, unless the Commission finds that issuing or transferring a license will harm competition.

The measure also privatizes or eliminates a number of FCC functions. The Commission deserves credit for making these suggestions that comprise this provision. In other words they came from the FCC.

I could go on at length, but I believe I have given my colleagues a flavor of what this amendment is about. I know the managers and members of their staffs are well acquainted with it.

This amendment does represent the hard work of many Members, obviously Members on both sides of the aisle. Senator Burns has been working on this for a couple years, Senator Craig, Senator Packwood, Senator McCain on our side, just to name a few, and, of course, Senator Pressler and Senator Hollings.

It does not matter how long we work on it, if we cannot get it accepted, it does not make any difference. We hope at the appropriate time that it can be accepted. I hope that we will continue on the procompetitive, deregulatory course that we have taken in a bipartisan way, and in only that way will we ensure that today is beginning a new renaissance for America.

Mr. President, I ask that a summary of the deregulation package be printed in the RECORD following my statement. There being no objection, the material was ordered to be printed in the RECORD, as follows:

**SUMMARY OF DEREGULATION PACKAGE**

- Transfers judge Green's MF (consent decree) to the FCC.
- Eliminates GTE's consent decree.
- Adopts definition to restrict expansion of universal service so that it does not spiral out of control.
- Greater deregulation for small cable TV. As the bill stands now, small cable can't take advantage of any rate deregulation because of the way their systems are set-up. To take care of them, the deregulatory amendment would completely eliminate rate regulation for cable operators who serve less than 35,000 in one franchise area, and do not serve more than 1% of all subscribers nationwide (650,000 subscribers). Obviously, this is a pretty broad definition of a "small" cable company.
- Increase the Commission's ability to forbear on regulation.
- Establish a petition driven process to force the complete elimination of a regulation within 90 days. If the Commission does not act, or extend period by an additional 60 days, the petition shall be deemed granted. If petition is rejected, it must be with a written explanation. In short, it will force the Commission to justify any and all of its regulations.
- Eliminate the number of TV stations any one entity can own.
- Force the Commission to change its rules so that any entity can own up to 39% of Americans with TV broadcast systems (the current cap is at 25%).
- Eliminate the number of radio stations any one entity can own, unless it would harm competition.
- Have FCC consider eliminating rate regulation in long distance market.
- Regulatory relief. Speed up FCC action for phone companies by making any revised charge that reduces rates effective 7 days after it is filed with commission. Rate increases will be effective 15 days after submission. To block such changes, FCC must justify its actions.
- Eliminate arcane requirement that phone companies must file any line extension with Commission. As it stands now, companies have to get the commission to approve any line extension which often takes more than a year.
- Phone companies will only have to file cost allocation manuals on a yearly basis.
- Eliminate the following audit functions: Repeal setting of Depreciation rates; Have Commission subcontract out its audit functions; Simplify coordination between Feds and states; Privatize Inspection of Domestic ship and aircraft radios without license; Eliminate FCC jurisdiction over government owned radio stations. Eliminate burdensome paperwork involved in Amateur Radio examination. Streamline non-broadcast radio licenses renewals.
- **AMENDMENT NO. 1255**

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows: The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1255.

Mr. DOLE. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows: (c) **TRANSFER OF MF.**—After the date of enactment of this Act, the District of Columbia shall administer any provision of the Modification of Final Judgment not overruled under or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) **GTE CONSENT DECREE.**—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp. (No. 6-83-CIV-1280 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.
On page 40, line 9, strike "to enable them" and insert "which are determined by the Commission to be essential in order for Americans to access information involving the political, economic, social, and cultural development of the United States and to ensure the national security, the defense of the United States, or the conduct of its foreign affairs with respect to the Nation, or to protect or promote the public health or welfare."

On page 41, beginning on line 11, strike "of the Commission from modifying its rules concerning the following:

(b) Greater Deregulation for Smaller Cable Operators—Section 623 (47 U.S.C. 540) is amended by adding at the end thereof the following:

(m) Special Rules for Small Companies.

(1) In General.—Subsection (a), (b), or (c) does not apply to a small cable operator with respect to—

(A) basic cable programming services, or

(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994.

In any franchise area in which that operator serves 35,000 or fewer subscribers.

(2) Definition of Small Cable Operator.—For purposes of this subsection, the term "small cable operator" means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and does not maintain an affiliation with or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier.

On page 70, line 22, strike "(b)" and insert "(c)".

On page 71, line 3, strike "(c)" and insert "(d)".

On page 79, strike lines 7 through 11 and insert the following:

(5) Modification of Construction Permit Requirements—Section 307(e) (47 U.S.C. 307(e)) is amended by adding at the end thereof the following:

(a) The Commission may waive the requirement for an engineering employee conducting and inspection or certification, regulation, or practice shall be deemed lawful and shall be effective 7 days after publication in the Federal Register, unless prior to that date the Commission has given notice of an opportunity for public hearing, and a record of the hearing is made available, and a statement of the Commission's conclusions and orders.

(2) Limitation on Silent Station Authorization.—Section 312 (47 U.S.C. 312) is amended—

(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period that the station was licensed to broadcast signals for under section 315, the Commission shall enter an order lifting the silence requirement for the station.

(3) Limitation on Silent Station Authorization—Section 325 (47 U.S.C. 325) is amended by adding at the end thereof the following:

(e) The Commission may enter into contracts with the Panama Canal Company, the United States Maritime Administration, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, the Department of the Interior, the Department of the Navy, the Department of the Army, the Department of Defense, the Department of Energy, the Department of Transportation, and other public or private organizations and agencies, or enter into agreements with or otherwise make available to those organizations and agencies, with respect to the facilities, services, and programs of the Federal Communications Commission, for the purpose of the performance of functions and duties of the Commission, or of any agency of the United States to assist such organizations and agencies, and for any purpose related to the performance of the functions of the Commission, or of the agencies, and shall include any telecommunications service carriers from some or all of the rediscerned as "dominant carriers" and to consider excluding all interexchange telecommunications carriers from some or all of the requirements with respect to such classification to the extent that such carriers provide interexchange telecommunications service.

On page 116, line 3, strike "(b)" and insert "(c)".

On page 117, line 1, strike "(c)" and insert "(d)".

On page 117, line 22, strike "regulations," and insert "regulations; elimination of unnecessary regulations and functions."

On page 118, between lines 20 and 21, insert the following:


(5) Privatization of Ship Radio Inspections.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following:

(a) In accordance with such other provisions of law as apply to government contracts, the Commission may enter into contracts with the Panama Canal Company, the United States Maritime Administration, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, the Department of the Interior, the Department of the Navy, the Department of the Army, the Department of Defense, the Department of Energy, the Department of Transportation, and other public or private organizations and agencies, or enter into agreements with or otherwise make available to those organizations and agencies, with respect to the facilities, services, and programs of the Federal Communications Commission, for the purpose of the performance of functions and duties of the Commission, or of any agency of the United States to assist such organizations and agencies, and for any purpose related to the performance of the functions of the Commission, or of the agencies, and shall include any telecommunications service.
Mr. DOLE. I think the managers may be ready to accept it by tomorrow morning.

Mr. HOLLINGS. If the Senator will yield. That is correct. In fact, about 2 hours ago we had it worked out, but there is one circumstance on side that we have yet to clear. The distinguished minority leader has another amendment that he wanted to present at the same time, and I think we can work that out.

That is the idea, to temporarily lay it aside and move on.

Mr. KERREY. I will not object, but I will inform the manager of this bill that I will not give unanimous consent to this being accepted until I have read it and signed off on it.

Mr. DOLE. I have obviously no problem with that. In fact, I can give the Senator from Nebraska a summary of it, too. I thank my colleague.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. PRESSLER. I thought we had this agreed to this afternoon, but I guess the minority leader has something he would like to add or change. But I would like to inquire of the majority leader if we cannot get agreement tonight.

Shall we make this one of the votes at 8:30 or 9 o'clock in the morning? Mr. DOLE. If it is acceptable, I do not need a vote. I do not want to penalize anybody.

Mr. KERREY. Is the Senator asking to set a time for a vote?

Mr. DOLE. Not on this amendment. I will wait until the Senator from Nebraska indicates he has had a chance to look at it.

Mr. STEVENS. Mr. President, I do think that everyone should be aware that the bill we are considering is larger in its impact on the national economy than the health care reform measure we considered last year.

This bill, it seems to me, in a far-reaching way, will impact more than one-third of the economy of the United States.

It is a bill that is designed to transition from the 1934 Communications Act to a period sometime, hopefully, around the turn of the century when we will have deregulated telecommunications because of the competition that we this bill will instill and guarantee.

Now, the bill will put the communications policy of the United States back where it belongs, in the hands of the elected representatives and the President, and will take it out of the courts. By setting rules for entry into long distance by the Bell operating companies, I think we bring to a close an over-30-year policy-making period by the U.S. courts.

This bill will open the local telephone market to competition. It will bring competition and new services to all parts of the United States.

It is not a permanent piece of legislation, in my judgment. This is not a bill that will replace, totally, the 1934 act. It does, however, by deregulating the industry with appropriate safeguards, set the stage for a new era in the United States.

I want to call the attention of the Senate to a provision that is very meaningful to my area, the universal service provision. This is a concept that has been used through the rate pool, brought telephone service to all parts of this Nation, including remote villages in Alaska and throughout the Nation wherever you are.

The concept is preserved in this bill in a new manner. It opens up the local market to competition while still preserving the concept of universal service. It does so by taking advantage of new technologies which are intended to reduce the cost of all services, including universal service.

In fact, I find it interesting that the Congressional Budget Office has said that this bill will reduce the cost of universal service from the existing system by at least $3 billion over the next 5 years.

Now, tumbling technology, as I call it, makes terrestrial distances irrelevant. By using modern technologies, the people in Egiagik and Unalakleet and Shishmaref, places many people have never heard of, can be involved in stock markets in New York, explore the Library of Congress, and be connected with overseas sources of information. Allowing cable companies to provide phone and phone companies to provide cable, this bill will spur competition and reduce costs to the Nation.

There are so many new technologies coming along. Mr. President, it is mind-boggling. There are many provisions in this bill that are aimed at deregulating the industry so those new technologies may compete.

It is my hope that the Senate will recognize this bill for what it is. It is a credit, as the distinguished leader has said, to Senator Pressler, the chairman of our committee, and to Senator HOLLINGS, the former chairman of our committee. It is a bill of monstrous scope that has substantial bipartisan support.

Had we a similar approach to the problems of health care reform in the last Congress, we would have had that problem at least partially solved.

To the credit of these two Senators, this is not a bill that attempts to solve all of the problems of the telecommunications industry for the future. It is a bill that opens the door to the future and, in my judgment, it is one that is absolutely essential be passed.

I am told that George Gilder of the Discovery Institute in Seattle, whom I consider to be one of the real thinkers of this country, has told us that not only will this bill won the United States $2 trillion in lost opportunities in the next 5 years alone.

I happen to pay attention to Mr. Gilder because he wrote an article the
other day which answered some remarks that I made about universal service. I do feel in the days ahead the thinking that this man is doing will have a great deal to do with guiding the Nation into that ultimate system that our service system contained in this bill would result in a reduction of $3 billion over the next 5 years into this system, which was the interstate rate pool, that concept alone is going to catch us by surprise if we do not know what is happening. But at least we know it will happen. We are not trying to regulate that by this bill. We are not trying to prevent it by this bill. We are opening the door so new competitive aspects will come into our communications policy in the United States.

This morning I introduced a bill that I said I would offer as an amendment to this bill if the opportunity presented itself. I offered it now with the two managers of the bill, I would like to offer now an amendment.

First let me describe what it is. It is an amendment that will expand the FCC’s authority to use auctions to design for the use of radio spectrum. The members of our committee will know that for two Congresses I argued that we should implement auctions to replace the old lottery system that was giving windfall profits to many others denying others access to opportunities that would start new businesses.

Under the old system, the lotteries, there was no commitment to use this spectrum but it was held as sort of an item that other people might bid on when they were willing to pay enough money to the person who was lucky enough to win the lottery. The person who got the license had no intent to use it. Now, with a bidding process, competitive bidding, we have brought the use of the spectrum to the point where people who want it pay what is necessary to get its use.

The Congressional Budget Office, as I said before, has estimated that the amendment I offer will raise $4.5 billion in the next 5 years. That is necessary for a strange reason. The Congressional Budget Office also estimated that the universal service provisions in this bill will require private industry and private purchasers to pay $1.7 billion over the next 5 years into this system, which was the interstate rate pool and now will become the fund for the payment of the universal service provisions of this bill.

I remind the Senate that the universal service system contained in this bill would result in a reduction of $3 billion from what continuation of the existing system will cost in the next 5 years. But notwithstanding that this bill will reduce the costs of the existing system now, in order to avoid a Budget Act point of order on technical grounds, must offset the finding of the Congressional Budget Office that this requirement of the private sector to pay $7.1 billion into the pool—less than before but they still must pay it in—that this private payment must be offset under our congressional budget process.

That sort of boggles my mind too, Mr. President, but it is a requirement and I respect the Budget Act concept. Therefore I offer this amendment. It will extend the auction authority until the year 2000. That is all that is necessary. Because it is contained in the Budget Act, it extends 5 years. It will bring in a minimum estimate, as I said, of $4.5 billion.

We have already received, under the auction amendment that I offered 2 years ago, approximately $10 billion. It was new money, the kind of money that was never received by the Government before.

Under my amendment tonight, the FCC would have the authority to use the auction to give the best use of the spectrum that will become available. I believe, again, that is the best way to deal with the future.

My amendment does not change the basic safeguards Congress put in the previous auction legislation after I offered it several years ago. The expanded authority will apply only to new license applications. It will not apply to renewals. And the FCC may still not consider potential revenue in meandering broadcast licenses as a replacement for their existing broadcast licenses.

This means that market mechanisms will help determine who can make the most efficient use of spectrum that will become available. I believe, again, that is the best way to deal with the future.

The bill I introduced this morning, which is the same as this amendment, would also provide authority for Federal agencies to accept reimbursement from private parties for the cost of relocating to a new frequency. This will allow private industry to pay to move Government users off valuable frequencies by relocating the Government station to a less valuable frequency at no cost to the taxpayer, but an increase to the businesses.

The amendment builds on what has been a very successful beginning. Since the existing spectrum auction authority was enacted in 1993, as I have said, the FCC has raised in excess of $9 billion, almost $10 billion now, from the Federal Telecommunications auctions. I do hope the Senate will support the amendment.

I ask unanimous consent that Senator Dole’s amendment be set aside for the time being and I be allowed to submit the amendment.

Mr. KERREY. Reserving the right to object.
(A) 50 megahertz has already been reallocated for exclusive non-governmental use.
(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use.
(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use.
(D) 10 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use.
(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004.

...
other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

Mr. PRESSLER. Mr. President, this second-degree amendment would add a new subsection to the underlying amendment. It would allow the Senate to direct the FCC to allocate a 50 megahertz block of spectrum in the 4 gigahertz band for use by broadcast auxiliary services within 1 year of the enactment of the bill. In addition, this amendment would require that all broadcast auxiliary service licensees currently using a 50 megahertz block of spectrum in the 2 gigahertz band relocate their activities to the 4 gigahertz band within 7 years of the date this bill is enacted.

Finally, this amendment requires the FCC to auction the vacated spectrum in the 2 gigahertz band for use by commercial mobile services like cellular PCS within 5 years of the date of enactment.

By moving broadcast auxiliary service licensees, who do not pay the spectrum they are using, to another less valuable frequency, we will make available some very valuable spectrum for auction.

The Congressional Budget Office estimates that the auction of the 50 megahertz block of 2 gigahertz spectrum will bring at least $3.8 billion to the Federal Treasury.

Combined with the underlying amendment, the Senate from Alaska, this would raise more than $7.1 billion that is needed to offset the universal services provisions of this bill.

As the Senator from Alaska last pointed out—I commend him—this is a technical budget problem. The universal services provisions in this bill actually saves $3 billion over what would be paid if the existing system is left unchanged. However, with these amendments, we meet the letter of the Budget Act.

I urge my colleagues to support the adoption of my amendment and the underlying amendment by the Senator from Alaska.

If it is appropriate, I would urge the adoption—

Mr. PRESSLER. Mr. President, we could go into a quorum call or yield to our colleague from Montana who has spoke.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I do not wish to speak on this amendment. Might I ask a point of order? Could it be set aside, and I proceed with my opening statement because no time was given for opening statements.

Mr. President, I will continue on as if speaking on this amendment.

Today marks a special day to me because the former chairman of the full committee, Senator INOUYE, and I, when I first came here 6 years ago, had quite a time as we started I think to react to some of the things happening in the industry. We thought probably we were ahead of the curve in setting some kind of policy that would reflect the future. We thought we were ahead of the curve. Now we are behind the curve because technology as it is being outpaced in the regulatory environment in which it finds itself.

I can remember that day when we started to make amendments and the former chairman had a very gracious that day. There were some people around, and I was just a freshman Senator offering some ideas that I thought were important in the telecommunications industry, understanding that there have been three inventions which have happened in my lifetime that have changed this world forever. It has changed it so that we cannot go back and do things the old way anymore. Those three inventions were the transistor, the silicon chip and the jet engine. Think what they have done to our life and our world. We can be anywhere else in the world, from Washington, DC, in 12 hours. We can talk and receive and interact both in video and in voice with anybody anywhere else in the world in 5 seconds. Sadly, it can destroy any other society on this Earth within 20 minutes. That is what these three inventions have done. They have tightened down our world where comparatively speaking it has been the size of this Washington, DC, and has gone down to the size of a basketball. Now we are in a global society, a global economy, and we just cannot go back.

We will amend the Communications Act of 1934. That is some 60 years ago before any of these inventions were made. So basically what we are doing is we are driving digital, compressed digital, vehicles now within a law that regulates a horse-and-buggy type of situation. So we are here and starting out this great debate on changing an issue that will affect each and every one of us.

Make no mistake about it. This is a very, very important piece of legislation. I want to give kudos to our chairman and ranking member and their staffs because they have spent many hours in developing this bill with strong bipartisan support.

This bill was not drafted to satisfy business plans of major communications providers. It was drafted to benefit communications users, and communications users are solidly behind this bill for a number of reasons. Number one, they think it will bring down rates. So do I. They know it will bring advanced services. So do I. Perhaps more importantly, they know it will bring them more choices in telecommunications.

I recently saw a survey that illustrates why one important group—small businesses—want telecommunications reform. In Montana, over 98 percent of all businesses are classified as small businesses. The survey of 4,600 small business owners, which was sponsored by the National Federation of Independent Business, found that almost two-thirds of the small business owners surveyed want to be able to get long-distance telephone service from their local telecommunication company; and two-thirds want to be able to choose local service from their long-distance company.

A full 86 percent of these small business owners want one-stop shopping for telecommunications services. Two-thirds of them do not want to be able to choose one provider that can give them both local and long-distance telephone service presented in either way.

Of course, lower rates are very important to business owners. We all look for a way to do things more economically, to make our business more profitable, to open more economic opportunities and job opportunities for those folks who live in our local neighborhoods. But breaking down outdated barriers to competition is preventing some local telephone companies from providing long-distance service and local companies from providing local service will also bring something else that small businesses care about and that is competitiveness.

Small businesses do not have the time nor the resources to juggle separate vendors with separate marketing arrangements and separate billing for long-distance and local services, cable TV, teleconferencing and, yes, even internet.

The internet is to enable small or large companies to choose one reliable and affordable company that can bring them all of these services; and when they have the telecommunications problem, they want to be able to get on the phone and call one company that is qualified to handle every aspect of their communications needs and their networks.

At first, deregulation will create competition by allowing companies to cross over and compete in new business. However, very soon the gray lines that now separate telecommunications businesses will be gone. There will be seamless networks of vertically integrated communications providers competing head to head, tooth and nail to win the customers’ communications dollar. Those dollars are very big dollars. As a result, small businesses will be able to choose one company that can provide all their communications services—or they will be forced to continue paying separate telecommunications services piecemeal from multiple providers if they so choose. Either way, their decision will be based on who has the most affordable and most advanced services.

A full 92 percent of the small businesses owners questioned in this small business survey said that the telephone is central to their business. I do not doubt this. I know plenty of small businesses throughout my home state of Texas. If we did this right, we would be able to keep their business—mom and pop catalog shops that sell Montana buckskin jackets to the rest of the country or small cattle ranches that...
use cable TV and telecommunications to get future prices and negotiate with the slaughterhouses. And I do not know many small businesses today that function well without a personal computer and a fax machine.

How many people looked at a fax machine 10 years ago and said, “Who in the world would ever want to use one of those things?” I will bet you cannot walk into an office and many homes that do not have a fax machine today.

“Fees are very high” is why they do not use it as it propels us towards the next century. This bill will give small business that one-stop shopping that they want.

So we have a chance to bury outdated restrictions that were created for another era more than 60 years ago, restrictions that draw arbitrary lines between telecommunications providers that just do not make sense anymore. A lot of these anticompetitive, bureaucratic rules are only good to preserve market share for established providers. But what we really have sought to include nondiscrimination safeguards for small newspapers so that small information providers, especially in rural areas, will be able to purchase certain elements of a common carrier service offering on the smallest per unit basis that is technologically feasible.

In addition, small cable operators, when freed from regulatory restraints in past legislation, will provide perhaps our best opportunity for telecommunication in areas where they are needed in many of our Nation’s rural areas.

They all the time talk about the information highway, that glass highway. Everybody says: When are you going to build it? I am not real sure that it is not already there.

It is already there. All we have to do is take off some restrictions so that it can be used. And there is a ramp on it and there is a ramp off of it. That is what we have to make sure of in this legislation.

Finally, I had deep concerns that one of the Nation’s most important telecommunications small business industries, radio—I am familiar with radio—was being passed over in the effort to deregulate information providers. Radio ownership decisions need to be made by operators and investors, not the Federal Government. That is why we need to eliminate the remaining caps on national and local radio ownership.

Nationally, there are more than 11,000 radio stations providing service to every city, town, and rural community in the United States. Presently, no one can control more than 40 stations, 20 AM and 20 FM stations. Clearly, the radio market is so incredibly vast and diverse that there will be no possibility that any one entity could control enough stations to be able to exert any market power over either advertisers or listeners.

At the local level, while the Federal Communications Commission several years ago modified its duopoly rules to permit limited combinations of stations in the same service, in the same market, it still places very restrictive combinations in smaller markets. Further, FCC rules permit only very restricted or no combinations in smaller markets. These restrictions handcuff broadcasters and prevent them from providing the best possible service to listeners in all of our States.

So, Mr. President, this will be landmark legislation. It is legislation that we worked on ever since the first day we got here. Because I happen to believe it is key to distance learning; it is the key to telemedicine; it is key to the future of those States that are remote and must be in contact with the rest of the world.

I appreciate the fact of my good friend, the Senator from Alaska, and how he fights very hard because no one has cities and towns and villages that are more remote from the rest of the world than he has. And he understands that this nobody understands that in this body more than he does. Now, we have some vastness in Montana but it does not compare in any way with the State of Alaska.

So as we move this debate forward, I hope that we will keep an open mind and really keep our eye on the ball because we have within our grasp the ability now to turn loose a giant in our economic world and provide services to people who have never had those services before.

Mr. President, I thank you and I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I understand momentarily my distinguished colleague from Nebraska wants to be heard on the amendment.

I would be prepared, at the conclusion of his remarks, to urge adoption of the Stevens amendment and then upon urge adoption of the Stevens amendment itself.

The Senator from Montana, who is a professional auctioneer, should understand that the daddy rabbit of auctioneering is the Senator from Alaska. He has already made $7 billion for us, and this amendment here is going to make up another $7 billion to get us by a budget point of order.

But let me, in saying that, acknowledge the leadership that the Senator from Montana has given. Since his very initiation on the Commerce Committee itself, he has been a leader; he has been interested; he has been contributing; and he has been a tremendous help in bringing this bill to the floor.

Mr. BURNS. If the Senator will yield, I thank the Senator for those kind words. And if I can possibly get the job of auctioneering the spectrum, I probably would vacate the chair which I am standing in front of.

Mr. HOLLINGS. I am going to lead on to that one myself.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I have reviewed the amendment that the distinguished Senator from Alaska is offering, and as I understand it, what it does is it offsets an adverse score that this bill has received from the Congressional Budget Office. CBO has said this bill, in particular the universal service fund, is going to cost $7 billion over the next 5 years. Even though that is $3 billion less than what the current universal service fund does, there is the need to come up with $7 billion to avoid a budget point of order.

Now, I point out that under the budget resolution that was passed, when that was, 1½ weeks ago, I believe that the Commerce Committee is going to be looking at having to recognize $20 billion, $30 billion anyway, so you are going to have your hands full. The committee will be trying to come up with money to get within the recommendations of that budget resolution.

What this amendment does, it comes up with that $7.1 billion in the following fashion. It extends the spectrum actions that are scheduled to expire in 1998 for another 2 years, generating $4.5 billion according to CBO, and then it does something that is of particular interest, I believe, Mr. President—and many people would ordinarily oppose this—but they are not—and that is the broadcasters have today assigned a 2-gigahertz spectrum in order to do auxiliary services. When they are going out in the field and they are doing some broadcasting out in the field, they use that 2-gigahertz spectrum.

This amendment would transfer that over a 7-year period from 2 gigahertz to 4 gigahertz, and then that 2-gigahertz spectrum would be auctioned off, generating an estimated $3.8 billion over this 5-year period.

Under normal circumstances, the National Association of Broadcasters would probably oppose this, but there are other things in this bill that they like, so they are not going to oppose it. I believe that the distinguished Senator from Alaska and Mr. President has made a good amendment that will in fact cover the $7.1 billion. And so, therefore, Mr. President, I will not object to this being accepted by unanimous consent.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator from Nebraska has demonstrated how he is a
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Mr. PRESSLER. I urge the adoption of the amendment.

Mr. HOLLINGS. First, adoption of the Pressler amendment. If there is no further debate, I urge the adoption of the Pressler amendment.

VOTE ON AMENDMENT NO. 1256

The PRESIDING OFFICER. If there is no further debate on the Stevens amendment No. 1256, as amended, the question is on agreeing to the amendment.

The amendment (No. 1256), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I wish to thank the managers of the bill and the Senate for the hard work they have done.

I believe sincerely in universal service because without the universal service, people in rural areas would be still in probably the early part of the 20th if not the 19th century while we all go into the 21st. If they are not to be left in the position where they are without employment, they must be given this opportunity to this new telecommunications system.

I recognize the staff members who have worked diligently to resolve problems that had been delaying this legislation. I just want to acknowledge that fact at the very beginning of this debate. We have a long way to go, but I know now we have started down the path to resolve these issues because it is going to be such a dynamic explosive field.

We are fixing to unleash the bounds that have been holding back this competition and advancements and this development. I think that no other segment of the economy in the next 10 years will be more dynamic and more exciting than that of telecommunications.

I also want to commend the distinguished Senator from South Carolina who is working at this very moment to bring about the potential legislation on this bill. Senator Hollings worked so hard last year to bring about the passage of the bill through the Commerce, Science, and Transportation Committee. It did not come to consideration, partially because we just ran out of time.

But Senator Hollings again this year has shown a commitment to get legislation developed that we can pass. He is the major reason we are going to have more legislation this year than we probably have in all of our history. We will pass this legislation instead of the other body of Congress. That is no insignificant accomplishment.

Senator Inouye certainly has also been very interested in telecommunications. He worked on it last year and has been helpful this year.

The indomitable Senator Stevens from Alaska is always there. When the debate gets hot and heavy, Senator Stevens from Alaska will always rise to the occasion, as he has on this bill. I will not go on and on about terrorism because it is going to be such a dynamic explosive field.

But I know from personal experience and observation that the chairman of the Commerce, Science, and Transportation Committee, Senator Pressler, said immediately after the election in 1994 that this is an issue that is going to be given high priority, a great deal of his attention and we were going to work together to find solutions to the problems that had prevented its consideration last year and earlier. He made a commitment to make it a bipartisan effort. So that is why we are here, because the chairman of the committee gave this such high priority and he has worked diligently to resolve problems that had been delaying this legislation.
Transportation Committee. He put it very aptly when he said in this particular area of legislation “each industry seeks a fair advantage over its rivals.” And then quoting the witness that was before the committee:

“Each industry wants prompt relief so that it can take the fields it needs at the same time wants to avoid the pain of new competition in its own field by tactics that will delay that competition as long as possible. And, of course, up to the Congress, make the tough calls and, in effect, cut the Gordian knot.”

That is what we are trying to do with this legislation, cut the Gordian knot that has held this dynamic field of the economy back for so many years.

As unbelievable as it sounds, the Communications Act of 1934 passed in the era of the Edsel, and it is still the current law of the land. That act now governs, in fact, constrains the most dynamic sector of the U.S. economy—telecommunications. Just as the Edsel became a symbol of all that is outdated, so is the 1934 Communications Act. That act is based on old technology and, consequently, on an outdated monopoly-based-regulatory model. Boy, this sounds bad, but that is what we have today. It is time we changed that.

That system cannot accommodate the rapidly developing capabilities of new technologies and advanced networks, and it acts to restrict competition, innovation, and investment.

Under that framework, markets are allocated, not won, by the sweat of competition. Currently monopolies, oligopolies or, at best, limited competition exist in local long distance and cable markets. More than 40 of our 50 States prohibit any entrepreneur or competitor from offering—even offering—local telephone service.

The 1984 consent decree which broke up AT&T to restrict the Bell operating companies from offering long distance or manufacturing.

We should have fixed that long ago. It would have created jobs and would have been positive for the economy.

Current law prohibits cable companies and telephone companies from competing in each other’s markets. They are willing to do that. They want to do that. Why should we not let them do that?

Another in 1934 law, the Public Utility Holding Company Act, PUHCA, prevents registered electric utilities from using their infrastructure and networks to offer telecommunication services to the 49 million American homes that they serve. All of these restrictions and regulations and allocations are truly the equivalent of an “Edsel” in the space and information age. In the case of utilities, they are already wired, hooked up. They have the capability to offer all kinds of services. Yet, they are told, no, you cannot do it. Why? There is no good explanation or justification for it—especially if we do this legislation in a way that is fair, open, and allows competition for all.

In stark contrast, the Telecommunications Competition and Deregulation Act of 1995—this bill—will move telecommunications into the 21st century and will finally leave the era of the Edsel behind. S. 652 will achieve this through full competition, open network access, and the market places. That is what this bill is all about. That is what we say we want. Senators stand up and say it day in and day out, about all kinds of situations. Well, in this bill, in this area, that is what we would do.

This bill removes all of the protection and market allocations that made their respective businesses, and consumers benefit from lower prices in their local, long distance, manufacturing, and cable services.

If one hears the protest of the various industries, it is not because the bill is too regulatory; no, just the opposite is true. It is because this bill removes all of the protection and market allocations that made their respective businesses, and consumers benefit from lower prices in their local, long distance, manufacturing, and cable services.

Under S. 652, all State and local barriers to local competition are removed upon enactment. An immediate process for removing line of business restrictions on the Bell’s is put in place. Moreover, the Bell companies are given the freedom to immediately compete out of region and provide a broad range of services and applications known as the so-called bottleneck. These include lucrative markets in audio, video, cable, cellular, wireless, information services, and signaling.

The 1934 PUHCA is amended to allow registered electric utilities to join with all other utilities in providing telecommunication services, providing the consumer with smart homes, as well as smart homes.

Upon enactment, telephone and cable companies are allowed to compete. Current restrictions barring telephone cable entry are eliminated.

As the telephone/cable restriction is removed, S. 652, rightfully, loosens and removes cable regulation. For cable to convert and compete in the telephone area, it will be freed from the regulation of intrastate investment and capital capability, which has been a problem in recent years for the cable industry.

The restrictions placed on broadcasters, also during a bygone era, before cable, wireless cable, and advanced networks, would be removed.

Ownership restrictions on broadcast TV are raised. An amendment removing restrictions on radio ownership will be adopted, and this is one we have worked hard for wireless radio, digital TV and to use excess spectrum, created by technological advance, for broad commercial purposes. Broadcast license procedures are reformed and streamlined.

S. 652, again, moving in from the communications policy of the past, goes from a protectionist policy to one appropriate for the global economy and technology of the 21st century. The bill promotes investment and growth by opening U.S. telecommunications markets on a fair and reciprocal basis.

In short, S. 652 is a competitive framework where everybody can compete everywhere in everything. It limits the role of Government and increases the role of the market. It moves from the monopoly policies of the 1930s to the market policy of the future.

Toward that end, the removal of all barriers to and restrictions from competition is extremely important, and it is the primary objective, and I believe, the accomplishment of this legislation, the opening up of the efforts of Chairman Pressler and the former chairman, Senator Hollings of South Carolina.

In addressing the local and long distance issues, creating an open access and sound interconnection policy was the easy objective, and it was not easy to come up with a solution that we could get most people to be comfortable with. It is critical to recognize the reason why all of these barriers, restrictions, and regulations exist in the first place—the so-called bottleneck. Opening the local network removes the bottleneck and ensures that all competitors will have equal and universal access to all consumers. Such access guarantees full and, I believe, fair competition.

The open access policy makes it possible for us to move to free, free-market competition in local and long distance services, avoid antitrust dangers, and dismantle old regulatory framework.

In fact, the Heritage Foundation makes the following statement and points to the open access interconnection policy:

Policymakers of a more conservative or free market orientation should not fear this open access policy. In fact, they should favor it for three reasons:

First, there is a rich, common law history that supports the open access philosophy.

They cite railroad and telephone policy in America and common law tradition dating all the way back to the Roman Empire.

Second, open access works to eliminate any unfair competitive advantages accrued by companies that have benefited from Government-provided monopolies.

Third, open access removes the need for other regulations because the market becomes more competitive if everyone is on equal footing.

It is the only way to address economic deregulation where a bottleneck distribution system exists. It is the solution which allows a free market forces, instead of regulation, to work in the case of long distance, railroads, and in the oil and natural gas pipeline distribution system.
It is those examples of deregulation to which we should look, not to models of deregulation where no bottleneck exists, such as airline or trucking. Open networks will provide small and mid-sized competitors the opportunity to further telecommunication giants. In the long distance industry, similar requirements made it possible for over 400 small and medium-sized companies to develop and compete with AT&T over the past 10 years. One such example is Mississippi's Southern Company, a former high school basketball coach from a small town in Mississippi by the name of Bernie Ebbers. Opening requirements such as interconnection, equal access, and resale made it possible for this entrepreneur to build a small long distance company into the fourth largest in the country—LDDS. It is incredible what has been accomplished by this small town man by giving him an opportunity to get in there and compete, and boy did he ever and is he having fun.

Having used the example of a small long distance entrepreneur, it is also important to point out what happened over the past 10 years to the former monopolist, AT&T. Although AT&T lost significant market share, it has seen the long distance market that it has greatly expand, and its revenues continue with strong, healthy growth.

AT&T's current revenues, with 60 percent share in the long distance market, as opposed to what was 100 percent, are now higher than in 1984. The same dynamic will occur in the local and other markets. Opportunities and markets will expand for all participants, as long as they are effective and efficient in the competitive environment.

It is this free market model which led me to conclude that all of the companies in my State and region and, in fact, in the country, will benefit from this legislation. I believe that markets and opportunities will expand for Bell South and LDDS, both of which are very important in my State of Mississippi, and other long distance companies, including electric utilities—Southern Company and Entergy in my part of the United States, and cable companies and broadcasters who have new opportunities to grow and expand.

A competitive model will create a bigger pie for all the providers, but more importantly, it is the consumers and the economy of my region, and I believe the whole country, that will benefit from this legislation.

For consumers and competitors, the open access requirements will do for telecommunications what the Interstate Highway System has done for the shipment of tangible goods and the movement of people and ensure that all competitors will have a way to deliver goods and services to anyone anywhere on the information superhighway. Others, such as number of portability and dialing parity are just common sense, procompetitive, and fair. A consumer does not want to have to dial more digits or access codes, and if required to do so, they will be less likely and probably not switch to the competitive provider. History shows that dialing parity in long distance services and 1-800 service greatly enhanced competition—or, the lack of dialing parity is an effective barrier to that competition.

Likewise, a small business or residential consumer will not switch to the competitor if the meant the loss of his or her current number. They will not do it. The disruption to his business or individual or family is too great. That is why we had to deal with this issue in this legislation, although there was a lot of opposition to it.

Another key element of S. 652 is eliminating monopoly-based regulations and putting in place a mechanism to remove those regulations.

The bill eliminates rate-of-return regulation, a regulatory model which cannot logically exist in a competitive environment: By removing this legislation, States are encouraged to move to more flexible and competitive models.

S. 652 requires the FCC to forbear or to eliminate any past or current regulation requirement which would no longer be necessary to maintain a market base of competition. There will be a biannual regulatory review in this legislation that would recommend the elimination, modification, or other needed regulatory reform in the future.

Mr. President, in closing, I think it is time to adopt this communications policy for the future. It provides the right framework, it removes all barriers and restrictions to free market competition, innovation, and increased investment.

With the passage of this legislation our economy will grow a lot faster. We have had tremendous estimates of the kind of economic impact this legislation will have in the billions of dollars. More jobs will be created, applications serving as a key catalyst, is growing and expanding. This legislation will further fuel its growth.

S. 652 promotes and accelerates the communications revolution by tearing down all barriers and restrictions preventing the benefits of free market competition.

Mississippi's economy, with telecommunications serving as a key catalyst, is growing and expanding. This legislation will further fuel its growth.

Under S. 652, Mississippi companies will have new opportunities and expanded markets as well as the challenges of competition. South central Bell will be able to expand into long distance, cable, manufactured and other services.

LDDS, cable companies, Southern Company, Entergy, and numerous other companies will be able to begin competing for local service and combining local, long distance and cable services.

With S. 652, Mississippi's TV and radio broadcasters will see rates removed or raised which have stifled growth and new business.

I believe that we will be able to get this legislation through.

In conclusion, Mr. President, I ask unanimous consent to have printed in the RECORD information specifically citing the impact that this legislation can have in my home state of Mississippi.

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

WHAT DOES IT MEAN FOR MISSISSIPPI?

Mississippi is home to one of the Nation's new leaders in every segment of telecommunications. Mississippi is prospering and benefiting from the contributions of the largest and fastest growing regional company, Bell South.

LDDS, A Jackson MS company, is the fourth largest long distance company in the Nation and an expanding international force. It is a true American success story.

Southern Company and Entergy are pioneer companies promoting utility participation in telecommunications and advanced networks. They will pave the way for smart homes and highways in our State.

Cable companies of all sizes have deployed throughout Mississippi into virtually every small town.

Wireless cable services have exploded in both rural and urban areas of my State. Mississippi, in cooperation with National Agriculture and Rural Development, our leading educational institutions and South Central Bell, has deployed an advanced network which connects schools, universities, Federal facilities, super computers and national data bases. It is an educational and high tech model for the future and the Nation.

It is in my home State of Mississippi that I have seen and experienced the benefits of the communications revolution. I know what it means to the economy and quality of life for my State. It means the creation of high tech jobs, attracting new industry, and promoting and connecting Mississippi to the Nation's best educational opportunities.

As a Senator from a State which has become a leading telecommunications center, I come to this debate with the conviction that this legislation will serve Mississippi, the Nation's, consumers' and competitors' best interest.

S. 652 requires the FCC to forbear or to eliminate any past or current regulation requirement which would no longer be necessary to maintain a market base of competition. There will be a biannual regulatory review in this legislation that would recommend the elimination, modification, or other needed regulatory reform in the future.

Mr. President, in closing, I think it is time to adopt this communications policy for the future. It provides the right framework, it removes all barriers and restrictions to free market competition, innovation, and increased investment.

With the passage of this legislation our economy will grow a lot faster. We have had tremendous estimates of the kind of economic impact this legislation will have in the billions of dollars. More jobs will be created, applications serving as a key catalyst, is growing and expanding. This legislation will further fuel its growth.
Small cable operators in Mississippi who have struggled under the regulatory burden of the 1992 Cable Act, will see regulatory relief. Once again, Mississippi cable operators will be allowed to invest in new products, advanced networks and lower prices for the benefit of Mississippi's consumers and industries.

I want Mississippi to continue as a national leader in telecommunications. S. 652 will help achieve that objective.

For the Nation's future, S. 652 is one of the most important pieces of economic legislation we will consider.

The President's Council of Economic Advisors estimates the telecommunications deregulation will create 1.4 million new jobs by the year 2003.

A study by the WEFA group, funded by the Bell Companies, projects 3.4 million jobs by the year 2003 and 0.5 percent greater annual economic growth over the next 10 years.

In addition, the committee heard testimony that the Pressler bill will lead to an additional $2 trillion in economic activity across the United States, and 3.4 million additional jobs in the telecommunications industry.

The communications sector, more than any other, will shape our future economy as well as our civic and community life. This bill is vital to maximizing the benefits this sector of our economy can deliver.

I urge my colleagues to support this legislation. It is time for Congress, not the courts or bureaucrats, to establish the communications policy for the 21st century.

Mr. LOTT. Mr. President, I yield the floor.

Mr. PRESSLER. I thank the Senator from New Jersey for his tremendous contribution. Chip Pickering has been in every step of the way. This would not be happening without your great leadership. I personally thank you very, very much.

Mr. President, I am sending to the desk a managers' amendment which I am cosponsoring with Senator Hollings. This amendment, which has been cleared on both sides of the aisle, makes a number of technical and minor changes in the bill that have been the subject of further discussion. It was reported by the Commerce Committee.

I ask unanimous consent that when adopted, the text be treated as original text for purposes of further amendment.

At this point I would like to send the managers' amendment to the desk.

Mr. LAUTENBERG. Mr. President, reserving the right to object, I commend the managers of the bill thus far. I know they are anxious to conclude a period of hard work and having struggled through many discussions and agreements to get this behind the reason that I raise the possibility of an objection is because, in the process of developing the managers' amendment, it was determined that a major research company based in New Jersey but doing work throughout this country, a company that has offered many innovative ideas in this period of new technology in communication, would have the potential to become a rival to the present managers' statement from engaging in manufacture, even though it is the public declaration that they intend to be free of the regional Bell companies ownership. There they are, a company trying to engage in a competitive practice.

I had a discussion with two good friends, Senator Hollings on the Democratic side and Senator Pressler on the Republican side. In fact, I think there was any way that we could defer action on this tonight so we might discuss the competitive environment tomorrow morning.

Apparently, it is the belief of the managers that this bill will go through so much labor and so many delicate steps that to further delay that might be injurious to the success, ultimately, of passing this bill.

So while I will not object, I would ask the managers whether or not I can have their support for a discussion of a proposal to enable the competitive character of the field to be expanded although it is lacking in the statement of the managers.

Mr. PRESSLER. I want to commend my friend from New Jersey, Senator Lautenberg. I know he is an experienced businessman, and I know there is some controversy about Bellcore. It is my belief that if Bellcore is sold and out there competing, it should be able to compete.

That is based on the information I have at this moment. I know there is a great controversy about manufacturing, because about 99 percent of manufacturing many new devices is research.

It seems to me that the Senator has raised a very good point. As I understand it, in the managers' amendment, we have taken this section out so we will be able to enter a collogu in, or indeed an amendment.

I have begged several Senators to come tonight to offer amendments. We have all these strong feelings and we would like to get a vote on something tomorrow morning at 9 o'clock. As I gaze about, I do not see any amendments cropping forth. We welcome amendments.

I want to thank the Senator from New Jersey for raising this, because based on the information I have, I tend to agree with what I think his position is. I think he has raised a good point. If we could still adopt the managers' amendment, that is not, as I understand it, in there. We have taken out anything that there is controversy about.

Mr. Hollings. Mr. President, first let me thank, as our chairman has very dutifully done, the distinguished presiding officer, the Senator from Mississippi, Senator Lott, for the 2 years that we worked on S. 1822. The Senator has been an outstanding leader on S. 652 and his staff Chip Pickering has done exceptional bipartisan work. We never would have gotten this far, this balance that has been emphasized, had it not been for Senator Lott's leadership. I want to thank my distinguished colleagues from New Jersey for his attitude and approach to this. What happens, I have two lists in my hands. The list of possible amendments in my left hand are those amendments that are not agreed to, that we could not get consent on from the colleagues and the staffs on all sides. Objections have been heard. We had a list of those things. We have several matters like “Replace subsidiary with affiliate where it appears,” number 2. “The FCC may modify the modified final judgment with decades once they are transferred to the FCC,” and on down the list. These are things that both sides have a right to disagree about.

Unfortunately, other distinguished Members of the Senate, and particularly on our committee of Commerce, have objected to the provisions dealing with Bellcore. As I understand it, as the distinguished Senator from New Jersey points out—they are very competitive. Heavens knows, they produced the technology. If you had to measure in percentage of communications, I would say 90 percent of it has been produced in the Senator from New Jersey's home State that is Bellcore.

So I am disposed to help in any way I can. I see that Senator from New Jersey. It is not within my power to do so because I have, like I say, in my left hand those amendments that are not agreed to. And the Bellcore amendment would have to be on that particular list.

They are not agreed to. There are at least three Senators on the committee who have so notified us. And if any Senator notified me right now on any of the other items in the managers' amendment I would object for them if they could not even be here. That would be my duty as a manager of the bill, because every Senator has to be respected.

I have the highest respect for the Senator from New Jersey. I will do everything possible I can to help him with his amendment.

Mr. LAUTENBERG. With that statement, if the Senator will yield, Mr. President, I have no objection to going forward.

The PRESIDING OFFICER. Without objection, the several unanimous consent requests are agreed to.

Mr. KERREY. Reserving the right to object, is this just a unanimous consent to read the amendment?

Mr. HOLLINGS. We have to read the amendment.

AMENDMENT NO. 1258

(Purpose: To make minor, technical, and other changes in the reported bill)

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] for himself and Mr. Hollings proposes an amendment numbered 1258.

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

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

(The text of the amendment is printed in today's Record under "Amendments Submitted.")
Mr. KERREY. Reserving the right to object, Mr. President, what are we doing here?

The PRESIDING OFFICER. The Senator from South Dakota just asked the amendments be considered as read.

Mr. PRESSLER. I suggest the amendment that Senator from Nebraska seeks recognition? The Senator from Nebraska?

Mr. KERREY. Mr. President, I know there is some confusion, I see my friend from South Carolina and South Dakota as well. I take a great deal of respect for them. I take a great deal of interest in this legislation. They have been kind to allow a member of my staff to sit in on lots of the deliberation.

But I want my colleagues to understand there is a lot in this bill that is not very well understood. I declare straight out I will not vote for this bill in its current form. I am here because I see great promise in telecommunications. I see great promise, in fact, in deregulating the telecommunications industry to provide competition to regulate as opposed to having Government mandates and so forth do the job.

But in 1986 I signed a deregulation bill. I may be, for all I know, the only Member of Congress who can come to the floor and say “I signed a deregulation bill for telecommunications.” And I know that deregulation does not mean competition. You can have deregulation and have no competition.

I call upon my colleagues who wonder about the impact of their votes. There is a great deal of concern about, for example, the budget resolution we took up. “Gee, what is this going to do to me? Is it going to be difficult to explain at home? I have a thousand people at random and I am going to pay for voting yes on the budget resolution?”

We have lots of issues that are extremely controversial. This is a lot more controversial than meets the eye. I ask my colleagues, don’t you consider voting yes for this and want to move it through quickly to recall what life was like in 1984 when Mr. Baxter, from the Department of Justice, signed a consent decree divesting AT&T of the Bell operating companies, filing that decree with the Federal court here in Washington, DC.

“I remember I was Governor of Nebraska at the time and I can tell you, you took a thousand people at random and asked them this question: Would you like Congress to put the Bell companies back together? Do you like what Baxter and Judge Greene did?”

And of the thousand people I bet 998 people would have said “Reverse it. Put it back together. We do not like the confusion that we have. We do not like trying to figure out all this stuff.” It was not popular. Do not let anybody be misled by this. This is going to create considerable confusion in the early years. You are not likely to be greeted by a round of applause by households, consumers, who have not been consulted about this legislation.

This is a different America. Most of the things that we have taken up in this Senate have been carefully polled and researched to determine whether or not they are popular. I have heard, whether it is the balanced budget amendment, the budget resolution or term limits, so other things, people come down to the floor and say, “In November the people of the United States of America spoke and here is what they meant.” I have heard speaker after speaker say that. And in many cases I agreed with them, because I ran in November of 1994.

But I did not have a single citizen, when I was out campaigning, come up to me and say: “Boy, make sure when you go back, if you get reelected, if you go back and represent us, make sure you go back there and deregulate the phone companies. Make sure you go back there and deregulate the cable industry. Make sure Bob, make sure, if you get back there, get rid of the ownership restrictions on television stations, on radio stations. Because that is what I want. I am really excited about all this stuff. I really think there is a lot in this for me. That is what I want. That is the sort of thing I would like to have you go back and do.”

The American people have not been polled on this one. The distinguished majority leader came down and said there is bipartisan support. It is not a Democratic issue. It is not a Republican issue. It is not a partisan issue. This is an issue that has been discussed at length and I discussed it at length with many corporations that want to be deregulated. They want to be deregulated. In many cases they are right.

But if you listen to the rhetoric, just this far, you would think that the current regulation is holding back the telecommunications industry to such an extent that we have lousy telephone service, we have no competition without industries. You would think America was somehow backwards compared to all the rest of the world. That is not true.

If you look at the OECD examinations of our industries, telecommunications, including the telephone companies, are among the most competitive in the world and among the most productive in the world.

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asked, "What is it that you do? What do you in Washington, DC?" Do I just come down to the floor and give speeches? Do I just answer my telephone and answer letters and do constituent service for the people are having trouble with IRS, the various other agencies of the government? Yes. I try to explain to them I am involved with writing laws. That is what we do here. We write laws; and that the laws matter. I am not a lawyer.

I very often wonder whether or not one of the most important things lawyers do is write the laws that are so darned confusing we have to hire them in order to tell us what is in them. But the longer I am on the job, the longer I am on the job of being in politics and being a politician, the law is becoming more important to me. I see that they are alive. They have an impact on people, and they make a difference.

This bill has about 144 pages in it. Every single page is important. Every single phrase here is going to affect something. We all know it. We have them coming into the office saying we are concerned about this particular phrase, we are concerned about this particular paragraph. I have heard it already referenced—some of the agreements have been difficult to get. They have been difficult to get because every time you do something somebody says, "Gee. That is going to affect me in an adverse way."

I say again for emphasis, that I believe this vote is going to be a lot more controversial the further away you get from it than people suspect today. One of the things about laws that citizens need to understand is that very often it is about power. That is to say, who has the power?

I joined with, again the distinguished Senator from South Carolina, in voting against tort reform bill a little earlier because I believed that was a bill about power. That was about saying to the citizens of this country you are getting swept away saying the trial lawyers are making life miserable for you. Just ask yourself this question: You get hurt out there, you have a problem out there. Who is going to help you? Is Congress going to help you? Are you going to call up your Congressmen and say, "I am getting abused by the phone and cable companies. I do not like what is going on out there. Do you have any cosy relationship with them? Is it going to be used against you? Are you going to take up the Federal Government to rally to your defense? Do you think it will be possible for you to get the agencies of the Federal Government to rally to your cause? And you probably do not even have enough money to buy an airplane ticket to come back here, and if you came back here you will not know where to go.

This is about power. And regulations are in place to protect the interests of people. That is what they are there for. Let us deregulate.

I have a little case going on right now in Omaha, NE, that illustrates what I am talking about. We have a plant in Nebraska which employees a couple of hundred people. Unfortunately, the company processes lead, and they put a lot of lead in the air and water. And it has been determined—and no one disputes it—that lead damages newborn babies without dispute. We do not have leaded gasoline any longer because it is just wrong. That is the case. We have a Clean Air Act, we have a Clean Water Act. This company has been out of compliance for over 15 years.

Mr. President, I believe that the American people deserve as a consequence of the impact of this legislation a good and healthy and lengthy debate.

I heard the distinguished occupant of the Chair earlier say he hopes this thing does not degenerate into a filibuster. I do not intend to filibuster this thing. I point out with great respect to the Senator from Mississippi that 1822 would have passed last year if it had not been filibustered and tied up and tied up by people who said we do not want this thing to go. This would have been law last year I believe. I do not know if the Senator from South Carolina can confirm that.

I do not want to tie this thing up with filibusters and delays. I intend, when there is a manager's amendment or incidental amendment, to examine the language because the language is important. It is going to have an effect on people.

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Guess how we are going to resolve it? Do you think we resolved it because a U.S. Senator intervened on their behalf? Do you think the Congress came to the rescue? Do you think it was the administrative branch? No, sir. A couple of citizens filed a suit in court. It went all the way to the Supreme Court of a citizen to go to court and say, "This company is not obeying the law of the land. I am going to insist that they obey the law of the land."

Mr. Corporation make no mistake about it. This piece of legislation is about who controls the airways, who controls your telephone, who controls the information? It is about power.

I hear a lot of people say, "Well, we ought to get the government out of that." Let us have a debate about what the government should or should not do on behalf of the citizens. I am prepared to do that. I think it is a healthy debate. Let us not presume it is quite so easy as just saying competition is the regulator, which is heard three or four or five times. Competition does not give us clean air. Competition does not give us clean water. Competition would not likely make every single factory in the workplace in America safe. Management, management, management, come down here and say that is the case.

I get 1,000 Americans who say, "You tell me." Do you trust the corporation? You have a corporation out there that is despicable. Who is worried about their quarterly profit? They are worried about bottom line. They have the shareholders out there to perform for, and they have to make a decision. They have 1,000 people working for them, and have been working for them let us say 30 years; 30,000 man and woman hours in that corporation. They have to make a decision to lay all thousand of them off, and give them no fringe benefits, no severance pay, no retirement. All of those things add cost to the corporation.

I ask my Americans. Do you trust that corporation? Do you think that corporation is going to say "No. I think it is right and decent; I do not care what the stock holders say, what Wall Street says; I am going to ignore all of those people up in New York City; I do not care what they say; I am going to do the right thing; I am going to give you severance pay; I am going to provide you with your health care, and take care of their retirement benefit because I care about you; you are a human being; I am not going to treat you like trash?"

I do not believe many Americans are going to say that is likely to be the case. If a company is a mom and pop shop, owned by an individual which owns 100 percent of the stock, that might be different. But when that company CEO worries about the value of its share, that companies CEO does this. I look at the profit; I do not say they are doing the wrong thing. I do not blame them for doing that. But please do not come and say that the market is going to get the job
The market rewards people that produce. The market rewards a much different set of values than the values that I have just described with these thousand families.

So again, the next thing I say to citizens is going about getting rid of these 144 pages and all of the amendments that will be offered, it is about power and power over your lives, power to deliver you information, power to give you a phone service, power to give you video information, power to give you the things that you say that you want.

For your information, a lot of people who are coming down here saying get the government out of that are very strongly supportive of unfortunately a title offered by the senior Senator from Nebraska, title 4, which said we need to have a lot more government involvement when it comes to regulating.

I understand there is going to be some amendment to make even tougher penalties. That is popular. That one we all are fed up with obscenity and they are fed up with the stuff they see on television and they want us to do something about it. And title IV attempts to do that. I hope we are a bit careful, to say the least, with title IV so that it is more Government, it is not less. Title IV is the statement by Members of Congress that says the market does not work when it comes to obscenity.

Do some people want to come here and tell me it does? Does somebody want to come down here and say the market is the best regulator of obscenity? I do not think so. I do not think there is going to be a single Member come down here and say just let the market take care of it; we do not care what kids are getting over the Internet. We do not care what is coming into homes.

No. In that instance the market goes out the window. In that instance we say you are going to have a lot of companies come in and put fiber to every household in Nebraska you are going to pay. We have a very small amount of subsidy in the universal service fund. We have an education provision that some people are going to come down here and try to strike, saying the market ought to have taken care of that. I am speaking of the speechless saying this is good for health care, this is good for education, they do not even want to have that provision in this piece of legislation.

I have many problems with this bill. Mr. President, I believe the Department of Justice needs a role in this. I do not think consultation is enough. I would cite as case No. 1 why consultation is not enough, the very thing that Members will use when they are saying that competition works, and that is Mr. Baxter and Judge Greene getting together, the Department of Justice getting together with a Federal judge and putting together a consent decree. It was the Department of Justice. It was a Federal judge who said, if I am going to give you the competitive environment, it was not the Federal Communications Commission. I am not calling for increased authority, increased power, but I want them to do more than consult. I want them to do something.

This Antitrust Division of the Department of Justice understands where and when competition is, and they are about the only ones in this town that, at least by my measurement, are out there fighting to make sure that that marketplace in fact is working.

I have serious problems saying that telephone companies can acquire cable companies inside of their area immediately.

Mr. President, I believe we have to have two lines coming into the home. I believe you have to have—if it is going to be fiber or some kind of combination of coax and fiber, I do not know what it is going to be, but I want two lines coming to every household in my state.

I have heard people talk an awful lot about competition, and I have heard all the companies coming in in saying they want a competitive environment. This is one thing I know. Competition to me means I have choice. Again, this idea of choice is a two-edged sword. You are going to have a lot of households out there that are not going to be terribly pleased with this new choice they have, and they are not going to be terribly happy when they see what that choice might do.

We have to be prepared to stay with this thing. To my mind, choice means if a company does not give me what I want, I can take my business somewhere else. Competition means to me I can go wherever I want and get the service I want. And I believe in many ways this bill does just that.

The requirements of unbundling, of dialing parity, the requirements that is proposed in this legislation, in my judgment, provide a good basis for us to have a competitive environment. Allowing the phone companies to go out and buy cable inside their own area, Mr. President, is going to restrict competition immediately. We are not going to have the local cable company and the phone company competing because the phone company is going to have an incentive to buy them. If they buy them, it ends that competition.

I have many other problems about that, but I think allowing this cable-Bellcore ownership in the local area does precisely the opposite of what this bill intends to do.

The other objection is competition and problems that I have with the bill I will come later to the floor and try to address. I see the Senator from Pennsylvania is down here. I suspect that he wants to make a statement. I just wanted to stand up at this point in time and say to the Senator from South Dakota and the Senator from South Carolina I do not intend to stand down here and stop this piece of legislation from being enacted. But I do intend to stand here and examine every amendment that is proposed in this amendment that I agree to for all the reasons I cited earlier.

The consumers of this country, the households of this country have not been consulted. We are assuming that they are going to be better off because we have talked to American corporations and they are saying it is going to be good for them. They are saying this is going to be good for consumers. The corporations are saying it is going to be good for those households. They are saying it is good because they are getting more jobs, higher service, better quality, and lower prices.

That is what they are saying. It is not coming from households. This is not coming from the people of the United States of America, whether it is the people of South Dakota, the people of Nebraska, South Carolina, Mississippi, or Pennsylvania. We believe that we have something here that is going to be good for consumers. We are going to be the ones that are going to be good for them, but they have not come to us and said: Please do this because we think this needs to be done.

So I again will have many opportunities to stand and talk, and I look forward to what I hope will be a straightforward and healthy and honest debate, something that I hope does produce a final change in the 1934 Communications Act which I think does need to be changed. But at the end of the day I wish to be able to say to the consumers of Nebraska that this is a bill that is going to be good for you. I wish to be able to say to every household in Nebraska you are going to get benefits from it and these are the benefits that I believe are going to occur.

At this stage of the game, Mr. President, I cannot support this legislation for the reasons cited, and I look forward to engaging in what I said I hope will be a constructive debate.

Mr. PRESSLER addressed the Chair.

Mr. PRESIDENT OF THE SENATE. The Senator from South Dakota.

Mr. PRESSLER. I thank the Senator from Nebraska for his statement.
PRESSLER and Senator LOTT for including higher utility rates.

Two Republicans on the committee voted against the bill. Eight Republicans on the committee voted for it. This is a bipartisan bill. All the Democrats on the committee voted for it. I think that is a very important point.

THE PUBLIC UTILITY HOLDING COMPANY ACT PROVISIONS

Mr. D'AMATO. Mr. President, today I rise to speak about certain provisions in S. 622, the Telecommunications Competition and Deregulation Act of 1995.

This bill contains provisions that would significantly alter the Public Utility Holding Company Act of 1935 (PUHCA). The PUHCA was originally enacted 60 years ago to simplify the ratepayer structure. The abuses in the industry made it nearly impossible for the States to adequately protect utility ratepayers.

The PUHCA limited the types of businesses that holding companies could acquire to utility related services. As reported out of the Commerce Committee, Sections 102 and 206 of the “Telecommunications Competition and Deregulation Act” would permit diversification of registered holding companies into the telecommunications business—without SEC approval or any other conditions. Allowing holding companies to diversify away from their traditional core utility operations is a departure from the basic principles underlying the 1935 Act.

Mr. President, my primary concern with these sections of the “Telecommunications Competition and Deregulation Act” is that losses resulting from these subsidiary telecommunications activities could be passed on to public utility customers in the form of higher utility rates.

I would like to commend Senator PRESSLER, Senator LOTT, Senator BUMPERS, Senator SARBAKES, and their staffs for their cooperation on this issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, 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 Committee on Finance.

(Petitions and memorials received today are printed at the end of the Senate proceedings.)
Section I:

"A. Throughout the history of the United States, and especially in recent decades, the federal government has, without right, blantly and usurped the sovereignty by arrogating unto its powers that were to have been reserved to the states and to the people."

"B. Through these actions, the federal government has usurped the sovereignty of the states. And, through these actions, the federal government has usurped the sovereignty of the people."

Section II:

"A. We declare that the federal government, by usurping federal power should be limited to powers that were to have been reserved to the states and from the people by the federal government should be returned to the states respectively, or to the people."

Section III:

"A. We declare that the federal government, by usurping the sovereignty of the states and of the people, as required under the 10th Amendment of the Constitution of the United States, the powers usurped from the states and from the people by the federal government should be returned in an expeditious and orderly manner."

"(3.) The federal government should not mandate, unfunded or funded, on the states or on their subordinate governments."

"(4.) The federal government should be the exclusive funder of its programs. By partially funding federal programs, such as through matching grants, the federal government distorts the priorities of state and local governments and creates a pernicious fiscal imbalance that virtually disenfranchises state and local governments, and establishes a demographic deficit that virtually disenfranchises state and local voters. The federal government has a legal obligation to fully fund its programs and should not require states or local governments to participate in the funding of federal programs."

"(5.) All federal government relationships with the local government should be through the states. All governments in the United States are the creation of the states, which constitute the federal government. The federal government, was created in concert by the states. All other governments should be restored to their original meaning."

"(6.) The federal government should not assign federal responsibilities to officers of state or local governments. Various federal laws have been interpreted by federal courts and administrative agencies to allow state or local governments to participate in federal programs."

"(7.) The federal government's treaty making power should be limited to powers that are clearly within the federal scope of responsibility. The states have delegated treaty making power to the federal government. The states have not delegated treaty making power to those areas of authority that have been delegated to the federal government."

"(8.) Congress should not act to displace state and local government power and the courts should not permit such displacement—except where the Constitution authorizes Congress. Congress has preempted areas of regulation that have traditionally been matters of state and local government. In addition, the federal courts have improperly conditioned these congressional assaults on local governance, under the doctrine of preemption, the so-called "dormant" commerce clause and other constitutional provisions."

"(9.) In support of these principles, we commit ourselves to the pursuit of such remedies as may be necessary to restore the states and of the people, by:"

"(1.) Legal actions to challenge the illegitimate exercise of federal power, including, but not limited to, suits for declaratory and injunctive relief, which federal power has been illegitimately expanded;"

"(2.) The federal government's treaty making power should be limited to powers that are clearly within the federal scope of responsibility. The states have delegated treaty making power to the federal government. The states have not delegated treaty making power to those areas of authority that have been delegated to the federal government."

"(3.) Such other actions as may be appropriate."
national population, have adopted similar
tacts urging Congress to protect the Amer-
ican flag from physical desecration; and
Whereas, although the right of free ex-
pression is protected under the United States Constitution, very carefully
drawn limits on expression in specific in-
stances have long been recognized as an ap-
propriate means of maintaining public safety and decency, as well as orderliness and a pro-
ductive value of public debate; and
Whereas, certain actions, although argu-
ably permissible to the individual’s free expression, nevertheless raise issues concerning public
decency, public peace, and the rights of other
citizens; and
Whereas, there are symbols of our na-
tional heritage such as the Washington
Monument, the United States Capitol Build-
ing, and memorials to our greatest leaders,
which are the property of every American
and are therefore worthy of protection from
desecration and dishonor; and
Whereas, the American Flag is a most
honorable and worthy banner of a nation
which is thankful for its strengths and com-
mitted to overcoming its weaknesses; and
Whereas, the American flag remains a sym-
bol for the destination of millions of im-
migrants attracted to the American ideal;
and
Whereas, the law as interpreted by the
United States Supreme Court no longer ac-
cords the reverence, respect, and dignity be-
fitting the banner of the United States, that most
hallowed emblem of a nation-state: Now, Therefore, be it
RESOLVED by the Senate of the Eighteenth
Legislature of the State of Hawaii, Regular Ses-
sion of 1995, that this body respectfully urges
the President of the United States and the
United States Congress to join in a concerted
effort in amending the United States Con-
stitution to prohibit the physical desecra-
tion of the United States Flag; and be it fur-
ther
Resolved That certified copies of this Res-
on be transmitted to the President of the
United States, the Secretary of the Unit-
ed States Senate, the Clerk of the United
States House of Representatives, and each
member of the Hawaii congressional delega-
tion.

POM-153. A joint resolution adopted by the
Legislature of the State of Illinois; to the
Committee on the Judiciary.

"HOUSE J OINT RESOLUTION NO. 8
Whereas, the United States Congress will
be considering a resolution to propose an
amendment to the United States Constitu-
tion providing for a balanced budget; and
Whereas, federal budget deficits are fis-
cally irresponsible and will place an onerous
burden on future generations of Americans
and erode our Nation’s standard of living; and
Whereas, the federal government, unfet-
tered by a requirement to balance its budget,
often spends the taxpayers’ dollars indis-
criminately; and
Whereas, the federal government borrows
extremely large amounts because of budget
deficits, the interest is substantial and the
additional demands placed on the states
would otherwise be available for private in-
vestment and consumption and will inevi-
tably result in higher long-term interest
rates; and
Whereas, the costs of not acting are high
and will get exponentially higher the longer
hesitation continues; mandatory spending and
inflation will continue to plow back all
discretionary spending; therefore, even if
the amendment is not adopted, states will
face many pressures to assume the fed-
eral role in programs; therefore a federal
budget amendment will create a foundation
for long-term stability, rather than allowing
the deficit slowly to erode federal discre-
tionary programs and undermine the Amer-
can economy; and
Whereas, a balanced budget amendment to
the United States Constitution will im-
pose the discipline and responsibility that
Congress must exercise in order to assure the
viability of our economy and our Nation; and
Whereas, Congress must exercise in Con-
gress and the President time to eliminate the
deficit, avoiding the sudden shock that
opponents fear could throw the economy into
recession; and
Whereas, it is in the best interests of the
People of the State of Illinois that a bal-
anced budget to the Constitution of the
United States be adopted: Therefore, be it
Resolved by the House of Representatives
of the eighty-ninth General Assembly of the
State of Illinois, the Senate concurring herein. That
we urge the United States Congress to imme-
diately adopt a resolution proposing a bal-
anced budget amendment to the Constitu-
tion of the United States of America; and be
it further
Resolved, That a copy of this resolution be
delivered to the President pro tempore of the
United States House of Representatives, and
each member of the Illinois congressional
delegation.

POM-154. A resolution adopted by the
Senate of the Legislature of the State of Idaho;
to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 8
Whereas, the 50 states, including the State of
Idaho, have long been required by
their state constitutions to balance their
state operating budgets; and
Whereas, the states have balanced their
state operating budgets by making difficult
choices each budget session to ensure that
their expenditures do not exceed their reve-
ues;
Whereas, without a balanced federal budget,
the federal deficit may continue to grow and
continue to have serious negative impact on interest rates, available credit for
consumers, and taxpayer obligations; and
Whereas, the Congress of the United
States, in the last two years, has begun to
reduce the annual federal deficit by making
substantial reductions in federal spending;
and
Whereas, achieving a balanced federal budget will require continu-
ed reductions in the annual deficit, averag-
ing almost 15 percent per year over the next
seven years; and
Whereas, it now appears that Congress, by
passing a balanced budget amendment to the
United States Constitution, is willing to
impos-
se on itself the same budgetary discipline exhibi-
ted by the states; and
Whereas, Congress, in working to balance the
federal budget, may impose on the states
unfunded mandates that shift to the states
responsibility for programs that Congress can no longer afford; and
Whereas, the states will better be able to
revise their state budgets if Congress gives
them fair warning of the revisions Congress
will be making in the federal budget; and
Whereas, if the federal budget is to be
brought into balance by the year 2002, major
reductions in the annual federal deficit must
continue unabated; and
Whereas, these major reductions will be more
acceptable to the states and to the peo-
ple only if it is clearly shown to be a part of a realistic long-term plan to bal-
ance the federal budget: Now Therefore, be it
Resolved by the Senate, That it urges the
Congress to provide the states to continue in its
progress in reducing the annual federal defi-
cit and, when Congress proposes to the states
a balanced budget amendment, to accom-
pany it with financial information on its im-
 pact on the budget of the State of Iowa for state budget planning purposes:
Be it further resolved, That the Secretary of the Senate send copies of this Resolution
to the Clerk of the United States House of
Representatives and the Secretary of the
United States Senate, the members of Iowa’s congressional delegation, and to the
presiding officers of both houses of the legis-
lature of each of the other states.

A resolution adopted by the House of the Legislature of the State of Mass-
achusetts; to the Committee on the J udici-
ary.

"RESOLUTION
Whereas, the travel agent industry em-
}

two states and five major overseas possessions of the United States grant their executive branch some form of line item veto power. Some require simple majorities of the legislatures or the executive, others require three-fifths majority, while still others, including Michigan, require a two-thirds majority; and

Whereas, clearly, such a power has not prevented state legislatures from exercising their authority to enact legislation and to appropriate money. Instead, it has proven to be an effective tool in controlling spending by putting into line with available resources. Congress should, in a demonstration of its unswerving determination to reform our budget process, take a cue from the President of the United States line item veto authority; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That we hereby memorialize the United States Congress to take action to grant the President line item veto authority; and be it further

Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Montana congressional delegation as a symbol of our support for such action.”

POM-157. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on the Judiciary.

"JOINT RESOLUTION

Whereas, under Article III, section 1, of the United States Constitution, the Congress of the United States has plenary power to ordain and establish the federal courts below the Supreme Court level; and

Whereas, in 1988, the 100th Congress created the Special Court of Study Committee as an ad hoc committee within the Judicial Conference of the United States to examine the problems facing the federal courts and to develop a long-term plan for the judiciary; and

Whereas, the Study Committee found that the federal appellate courts are faced with a crisis of volume that will continue into the future and that the structure of these courts will require some fundamental changes; and

Whereas, the Study Committee did not endorse any one solution but served only to draw attention to the serious problems of the court system; and

Whereas, the Study Committee recommended that fundamental structural alternatives be considered and that Congress consider creating regional appellate courts; and

Whereas, it is desirable that Montana be included in a new federal circuit; now, therefore, be it

Resolved, That the President of the United States be urged to place a Montana judge on the federal circuit court for Montana, Be it further

Resolved, That Congress grant this relief and pass this legislation immediately, regarding considerations of long-term changes to the appellate system in general, Be it further

Resolved, That the Secretary of State send copies of this resolution to the Secretary of the United States Senate, the Clerk of the United States House of Representatives, the President of the United States, and the members of Montana's Congressional Delegation.”

POM-158. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on the Judiciary.

"Resolved, That at yearend 1993, 34 states and the federal prison system held 2,716 prisoners under sentence of death; and

"Whereas, in capital cases it has been estimated that the average length of time from commission of the crime to execution of the sentence was 8 years, 2 months; and

"Whereas, justice delayed is justice denied; and

"Whereas, the delay and small number of executions associated with capital cases indicates that the present system of collateral review operates to frustrate the capital punishment laws of the states; and

"Whereas, capital litigation is often chaotic, with periodic inactivity and last minute frenzied activity and rescheduling of execution dates; and

"Whereas, this chaotic nature of capital litigation diminishes public confidence in the criminal justice system; and

Whereas, reform of the appellate review process in capital cases would reduce the cost of death penalty cases by reducing the number and length of appeals proceedings; and

Whereas, reforms to the appellate review process, such as allowing federal habeas corpus petitions to be filed for only a 6-month period following final decision by a state court and restricting the filing of second or successive federal habeas corpus petitions, would provide an orderly postconviction process with the opportunity for prompt and effective review; Now, therefore, be it

Resolved by the Senate and the House of Representatives of the State of Montana:

(1) That the Senate and the House of Representatives of the United States be encouraged to enact meaningful reforms to limit successive appeals in capital cases; and

(2) That such reforms include allowing federal habeas corpus petitions to be filed for only a 6-month period following the date on which the conviction becomes final and imposing restrictions on the filing of second or successive federal habeas corpus petitions, would provide an orderly postconviction process with the opportunity for prompt and effective review; Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States:

(3) That a copy of this resolution be sent to the preexisting officers of the United States and House of Representatives and to the members of the Montana Congressional Delegation.”

POM-159. A joint resolution adopted by the Assembly of the State of Nevada; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION NO. 15

Whereas, the use, possession and distribution of unlawfully obtained controlled substances continues to be a problem of paramount concern in the United States; and

Whereas, because studies estimate that 10 times more Americans use alcohol and five times more Americans use tobacco than persons who use illicit drugs, and because the permissive and subsequent increased use of controlled substances to countries such as Italy and the Netherlands indicates that the
use of controlled substances increases when laws regulating their use are nonexistent or are only passively enforced, it could be concluded that the legalization of the use, possession and distribution of unlawfully obtained controlled substances would lead to a proportionate increase in health care costs in the United States; and

Whereas, violent crimes, including domestic violence, are committed while the offenders are under the influence of an illegally obtained controlled substance; and

Whereas, the legalization of the use, possession and distribution of unlawfully obtained controlled substances may consequentially lead to an increase in violent crimes committed in the United States; and

Whereas, the illegal use of controlled substances may cause a direct impact upon the cost of associated and indirect health care costs, thereby dramatically increasing the cost of that care; and

Whereas, the increased usage that would result from the legalization of the use, possession and distribution of unlawfully obtained controlled substances and its possible resulting increase in the cost of health care would have a negative, direct and adversely affect economic productivity in the United States; Now therefore, be it

Resolved by the assembly and Senate of the State of California, That the Nevada Legislature hereby urges the Congress and the President of the United States to oppose the legalization of the use, possession and distribution of unlawfully obtained controlled substances in the United States; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon transmission and approval.

POM-160. A joint resolution adopted by the Assembly of the State of Nevada; to the Committee on the Judiciary.

WHEREAS, the text of the Tahoe Regional Planning Compact is set forth in full in NRS 277.200; and

WHEREAS, the compact was amended by the State of California and the amendments were adopted by the Nevada Legislature in 1987; and

WHEREAS, the amendments become effective upon their approval by the Congress of the United States; and

WHEREAS, the amendments would authorize certain members of the California and Nevada delegations which constitute the governing body of the Tahoe Regional Planning Agency to appoint alternates to attend meetings and vote in the absence of the appointed members, alter the selection process of the governing body, and further, confer the powers of the Tahoe Transportation District; and

WHEREAS, the compact was enacted to achieve regional goals in conserving the natural resources of the entire Lake Tahoe Basin and the amendments are consistent with this objective; now therefore,

Resolved by the Assembly and the Senate of the State of Nevada, jointly, That the Legislature of the State of Nevada hereby urges the Congress of the United States to expedite the ratification of the amendments to the Tahoe Regional Planning Compact made by the State of California and adopted by the Nevada Legislature; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and

Resolved, That this resolution becomes effective upon transmission and approval.

POM-162. A concurrent resolution adopted by the Legislature of the State of Nevada to be transmitted to the President of the United States as a memorial to the Congress of the United States to propose and adopt an amendment to the United States Constitution, protecting the American flag from profanity and desecration, or flag burning; and

Resolved, That a copy of the resolution be transmitted to the President of the United States; the Vice President of the United States; the Speaker of the House of Representatives; the President of the Senate of the United States; and to each member of the Senate delegation to the U.S. Congress.

POM-163. A concurrent resolution adopted by the Legislature of the State of Texas, to the United States Supreme Court, in contravention of this postulate, has by a narrow decision held to be a First Amendment freedom the license to destroy in its own cherished symbol of our national heritage; and

WHEREAS, whatever legal arguments may be made to support the view that the incineration or other mutilation of the flag of the United States of America is repugnant to all those who have saluted it, paraded before the Fourth of July, and decorated it by its half-mast configuration, or raised it inspirationally in remote corners of the globe where they have defended the ideals of what is represented on it;

WHEREAS, the members of the Legislature of the State of Texas, while respectful of dissenting political views, themselves dissent from the Senate's proposed change in the beliefs of all patriotic Americans that this flag is OUR flag and not a private property subject to a private prerogative to main or destroy in the passion of individual protest; and

WHEREAS, as stated by Chief Justice William Rehnquist, writing for three of the four justices who comprised the minority in the case, "Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag burning"; and

WHEREAS, this legislative concurs with the court majority that the Stars and Stripes is deserving of a unique sanctity, free to wave in perpetuity over the spacious skies; to adorn our baid eagle; to sit plain above which our mountain majesties soar, and the venerable heights to which our melting pot of peoples and their posterity aspire. Now, therefore, be it

RESOLVED, That the 74th Legislature of the State of Texas hereby petition the Congress of the United States of America to propose to the states an amendment to the United States Constitution, protecting the American flag from profanity and desecration, or flag burning. "Resolved, That the Chief Clerk of the Senate directs to transmit enrolled copies of this resolution to the Honorable Bill Clinton, President of the United States, the Honorable Al Gore, Vice President of the United States, and to each member of the Texas delegation to the U.S. Congress.  "Resolved, That a copy of the resolution be prepared and forwarded also to President Bill Clinton, asking that he lend his support to this amendment as a memorial to the Congress of the United States of America to propose to the states an amendment to the United States Constitution, protecting the American flag from profanity and desecration, or flag burning."
"Resolved, That official copies likewise be sent to the presiding officers of the legislatures of the several states, inviting them to join with Texas to secure this amendment and to adopt the same with due regard to their rightful status of treasured reverence."

POM-164. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on the Judiciary.  

"SENATE JOINT MEMORIAL 8006  

Whereas, the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as the productive value of public debate; and  

Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and speech values of others; and  

Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and  

Whereas, the American Flag to this day is a most honorable and worthy banner of a nation bound by its strength and committed to curing its faults, and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and  

Whereas, the law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes the dignity befitting the banner of that most noble experiment of a nation-state; and  

Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for a restoration of the Stars and Stripes to a proper station under law and decency. Now, Therefore, Your Memorialists respectfully pray that the Congress of the United States, sitting in the City of New York, on the 29th day of May, 1995, do hereby enact into law, and the President of the United States do hereby assent to the passage thereof:"

"That, the Legislature of the State of Washington is quite aware of this constitutional amendment in question became Amendment XXVII to the United States Constitution during the a.m. hours of May 23, 1982, when the Legislature of the State of Michigan became the thirty-eighth state legislature to ratify it; that on May 18, 1992, the Archivist of the United States issued a proclamation published in the Federal Register concluding that the two hundred four-year-old proposal had, in fact, been incorporated into the United States Constitution; and that on May 20, 1992, both the United States Senate and the United States House of Representatives, by roll-call votes, adopted resolutions agreeing with the Archivist's Conclusion;  

That, while the Legislature of the State of Washington is quite aware of this constitutional amendment's success in already becoming the thirty-eighth state to ratify the United States Constitution, it is important that the stamp-of-approval of the State of Washington join the legislatures of the forty-three other states which have already given their consent to what is now Amendment XXVII; be it further  

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the Archivist of the United States (pursuant to what is now Amendment XXVII), the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington, with the request that this joint memorial's text be reprinted in its entirety in the Congressional Record."

POM-166. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on the Judiciary.  

"Be it resolved, That the Legislature of the State of Wyoming, pursuant to Article V, Section 1 of the United States Constitution, hereby posthumously grants to the people of the United States the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

Whereas, for one hundred twenty-five (125) years the women of Wyoming have been granted the right to vote, the state of Wyoming being the first government in the world to grant women suffrage, thus earning the national Equal Rights State for the people of Wyoming; and  

Whereas, on December 10, 1890, Wyoming's first Territorial Governor, John A. Campbell signed a bill making Wyoming the first government to grant women the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

Whereas, Wyoming women held the privilege of voting for fifty (50) years before the 19th Amendment to the United States Constitution was ratified giving all women in the United States the right to vote; and  

Whereas, 1995 marks the 75th anniversary of the passage of the 19th Amendment to the United States Constitution which brought all women of the United States out of second class citizenship into full partnership political and social life; and  

Whereas, women continue to work on issues of equality including education, economy and health care. Now, therefore, be it resolved by the members of the Legislature of the State of Wyoming:  

That the Legislature of the State of Wyoming further authorize the following amendment to be placed on a ballot:  

"WHEREAS, for one hundred twenty-five (125) years the women of Wyoming have been granted the right to vote, the state of Wyoming being the first government in the world to grant women suffrage, thus earning the national Equal Rights State for the people of Wyoming; and  

WHEREAS, on December 10, 1890, Wyoming's first Territorial Governor, John A. Campbell signed a bill making Wyoming the first government to grant women the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

WHEREAS, Wyoming women held the privilege of voting for fifty (50) years before the 19th Amendment to the United States Constitution was ratified giving all women in the United States the right to vote; and  

WHEREAS, 1995 marks the 75th anniversary of the passage of the 19th Amendment to the United States Constitution which brought all women of the United States out of second class citizenship into full partnership political and social life; and  

WHEREAS, women continue to work on issues of equality including education, economy and health care. Now, therefore, be it resolved by the members of the Legislature of the State of Wyoming:  

That the Legislature of the State of Wyoming further authorize the following amendment to be placed on a ballot:  

"Resolved, That the old statehood amendment referred to above be hereby stricken from the bill and this new amendment be added in its place:  

WHEREAS, for one hundred twenty-five (125) years the women of Wyoming have been granted the right to vote, the state of Wyoming being the first government in the world to grant women suffrage, thus earning the national Equal Rights State for the people of Wyoming; and  

WHEREAS, on December 10, 1890, Wyoming's first Territorial Governor, John A. Campbell signed a bill making Wyoming the first government to grant women the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

WHEREAS, Wyoming women held the privilege of voting for fifty (50) years before the 19th Amendment to the United States Constitution was ratified giving all women in the United States the right to vote; and  

WHEREAS, 1995 marks the 75th anniversary of the passage of the 19th Amendment to the United States Constitution which brought all women of the United States out of second class citizenship into full partnership political and social life; and  

WHEREAS, women continue to work on issues of equality including education, economy and health care. Now, therefore, be it resolved by the members of the Legislature of the State of Wyoming:  

That the Legislature of the State of Wyoming further authorize the following amendment to be placed on a ballot:  

"Resolved, That the old statehood amendment referred to above be hereby stricken from the bill and this new amendment be added in its place:  

WHEREAS, for one hundred twenty-five (125) years the women of Wyoming have been granted the right to vote, the state of Wyoming being the first government in the world to grant women suffrage, thus earning the national Equal Rights State for the people of Wyoming; and  

WHEREAS, on December 10, 1890, Wyoming's first Territorial Governor, John A. Campbell signed a bill making Wyoming the first government to grant women the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

WHEREAS, Wyoming women held the privilege of voting for fifty (50) years before the 19th Amendment to the United States Constitution was ratified giving all women in the United States the right to vote; and  

WHEREAS, 1995 marks the 75th anniversary of the passage of the 19th Amendment to the United States Constitution which brought all women of the United States out of second class citizenship into full partnership political and social life; and  

WHEREAS, women continue to work on issues of equality including education, economy and health care. Now, therefore, be it resolved by the members of the Legislature of the State of Wyoming:  

That the Legislature of the State of Wyoming further authorize the following amendment to be placed on a ballot:  

"Resolved, That the old statehood amendment referred to above be hereby stricken from the bill and this new amendment be added in its place:  

WHEREAS, for one hundred twenty-five (125) years the women of Wyoming have been granted the right to vote, the state of Wyoming being the first government in the world to grant women suffrage, thus earning the national Equal Rights State for the people of Wyoming; and  

WHEREAS, on December 10, 1890, Wyoming's first Territorial Governor, John A. Campbell signed a bill making Wyoming the first government to grant women the right to vote, a proud day in the struggle for equal rights, a milestone in the history of Wyoming and the history of the United States; and  

WHEREAS, Wyoming women held the privilege of voting for fifty (50) years before the 19th Amendment to the United States Constitution was ratified giving all women in the United States the right to vote; and  

WHEREAS, 1995 marks the 75th anniversary of the passage of the 19th Amendment to the United States Constitution which brought all women of the United States out of second class citizenship into full partnership political and social life; and  

WHEREAS, women continue to work on issues of equality including education, economy and health care. Now, therefore, be it resolved by the members of the Legislature of the State of Wyoming:  

That the Legislature of the State of Wyoming further authorize the following amendment to be placed on a ballot: 
writing rights for Wyoming women and in
celebrating the 75th anniversary of the 19th
Amendment guaranteeing the right to vote
to all women in the United States.

Section 2. That the Secretary of State of
Wyoming transmit copies of this resolution
to the President of the United States, to the
President of the Senate and the Speaker of
the House of Representatives of the United
States Congress and to the Wyoming Con-
gressional Delegation.

INTRODUCTION OF BILLS AND
JOINT RESOLUTIONS
The following bills and joint resolu-
tions were introduced, read the first
and second time by unanimous con-
sent, and referred as indicated:

By Mr. STEVENS:
S. 888. A bill to extend the authority of the
Federal Communications Commission to use
auctions for the allocation of radio spectrum
frequencies for commercial use, to provide
for private sector reimbursement of Federal
governmental user costs to vacate commer-
cially valuable spectrum, and for other pur-
poses; to the Committee on Commerce,
Science, and Transportation.

By Mrs. MURRAY:
S. 889. A bill to authorize the Secretary of
Transportation to issue a certificate of docu-
tmentation to railroads for their employment
in the coastwise trade for the City of
Washington, D.C., in order to foster the economic
development of the City, which has been ad-
versely impacted by the closure of Fort Ord;
and for other purposes; to the Committee on
Transportation and Infrastructure.

By Mr. KOHL (for himself, Mr. SPEC-
tER, Mr. SIMON, Mrs. FEINSTEIN, Mr.
BRADLEY, Mr. LAUTENBERG, Mr.
CHAFEE, and Mr. KERREY):
S. 980. A bill to amend title 18, United
States Code, with respect to gun free
schools, and for other purposes; to the Com-
mmittee on the Judiciary.

By Mr. BOXER:
S. 981. A bill to require the Secretary of
the Army to convey certain real property at
Fort Ord, California, to the City of Seaside,
California, in order to foster the economic
development of the City, which has been ad-
versely impacted by the closure of Fort Ord;
to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr.
DOLE, Mr. COATS, Mr. MCCONNELL,
Mr. SHELBY, and Mr. Nickles):
S. 982. A bill to amend section 1646 of title
18, United States Code, to punish trans-
mission by computer of indecent material
to minors; to the Committee on the Judiciary.

By Mr. SANTORUM:
S. 983. A bill to amend the Internal Reven-
ue Code of 1986 to provide a credit for char-
itable contributions, and for other purposes;
to the Committee on Finance.

STATEMENTS ON INTRODUCED
BILLS AND JOINT RESOLUTIONS
By Mr. STEVENS:
S. 888. I wish to send to the desk this morning a bill
to extend the Federal Communications
Commission’s authority to use auc-
tions to award radio spectrum licenses.
I want to state to the Senate that for
several Congresses, I had suggested
spectrum auctions to deal with the
problem of allocating this very valu-
able space in our airways. Congress did
not accept this measuring, I believe, in the
last Congress, Congress did accept the
amendment that I had offered. Since
that time, the Federal Government has
received over $9 billion in money that
has been bid for the use of this spec-
trum which is located by the FCC.
I am introducing this bill now so that
the Senate will be aware of it, because
I intend to offer it as an amendment to the
telecommunications bill when it is
presented to the Senate. This bill will
raise an estimated minimum amount of $4.5 billion over a 5-year period. It will
be used to partially offset the cost of
the telecommunications bill as com-
pared by the Congressional Budget Of-
fice.

I might say on the bright side, the
Congressional Budget Office has stated
that enactment of the communications
bill will result in a $3 billion reduction
in the payments, that are made by the private sector I might add, for universal service
in this country. But there is still a remaining expendi-
ture that will be made in the 7-year peri-

d of the budget that is before the
Congress, and in order that that budget
may remain in balance and still have
us be able to enact the telecommunications
bill, we are presenting amend-
ments that will provide offsetting reven-
ues on the Federal side.

It is a strange thing about this, Mr.
President, because it is the private sec-
	or that makes the support payments
under existing law and will continue to
make smaller payments under the tele-
communications bill as the Commerce
Committee will present it. But there is
no question that the CBO has decided
it still has a small impact as far as the
economy is concerned, and, there-
fore, an offset is required.

I urge Senators to review this pro-
posed bill, which, as I said, will become
an amendment to be offered by me to
the telecommunications bill when it is
on the floor.

This bill has five sections. Section 1
is the short title, which is the “Spec-
trum Auction Act of 1995.” Section 2
contains findings drawn from two NTIA
reports that the United States will ne-
cessitate at least 180 megahertz of addi-
tional spectrum, for cellular, PCS,
and satellite services over the next 10
years, and that less than that amount
will be available without the bill. Sec-
section 3 extends the FCC’s auction au-

thority from 1998 until 2002, and would
allow the FCC to use auctions for all li-
censes except public safety radio serv-
cices and new digital TV licenses. Sec-
section 4 of the bill allows federal agen-
cies to accept payments from pri-
ivate parties for the costs of relocating
to new spectrum frequencies, so that
the private sector can pay to move gov-
ernment stations off valuable fre-
guencies; it also requires NTIA to move
government stations if all costs are
paid and the new frequency and facili-
ties are comparable. Section 5 requires
the Secretary of Commerce to submit a
plan to reallocate three additional fre-
quency bands that NTIA has identified
for transfer from government to pri-

time.

Mr. President, I ask unanimous con-

sent that the text of the bill be printed in
the Record.

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

S. 888
Be it enacted by the Senate and House of Rep-

resentatives of the United States of America in
Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the “Spectrum
Auction Act of 1995.”

SECTION 2. FINDINGS.
The Congress finds that—
(A) the National Telecommunications and In-
formation Administration of the Depart-
ment of Commerce recently submitted to
the Congress a report entitled “U.S. National
Spectrum Requirements” as required by sec-

tion 113 of the National Telecommunications
Information Administration Organiza-

tion Act (47 U.S.C. 923);
(B) based on the best available information
the report concludes that at least 170 me-

gahertz of spectrum will be needed within
the next ten years to meet the expected
demand for land mobile and mobile satellite
radio services such as cellular telephone
service, paging services, personal commun-

ication services, and low earth orbiting sat-

ellite communications systems;
(C) a further 45 megahertz of additional spec-

trum, for a total of 214 megahertz, is
needed if the United States is to fully imple-

ment the Intelligent Transportation System
currently under development by the Depart-

ment of Transportation;
(D) as required by Part B of the National
Telecommunications and Information Ad-

ministration Organization Act (47 U.S.C. 921
et seq.) the Federal Government will transfer
215 megahertz of spectrum from exclusive

government use to government or mixed
governmental and non-governmental use be-

tween 1994 and 2006;
(E) the Final Report of the Spectrum Reallo-

cation Final Report submitted to Congress by
the National Telecommunications and Infor-

mation Administration states that, of the 235 me-

gahertz of spectrum identified for reallocation
from governmental to non-governmental or

mixed use—
(A) 50 megahertz has already been reallo-

cated for exclusive non-governmental use,
(B) 45 megahertz will be reallocated in 1995
for both exclusive non-governmental and mixed
governmental and non-governmental use,
(C) 25 megahertz will be reallocated in 1997
for exclusive non-governmental use,
(D) 70 megahertz will be reallocated in 1999
for both exclusive non-governmental and mixed
governmental and non-governmental use, and
(E) the final 45 megahertz will be reallo-

cated for mixed governmental and non-gov-

ernmental use by 2004;
(F) the 355 megahertz of spectrum that are
not yet reallocated, combined with 80 me-

gahertz that the Federal Communications
Commission is currently holding in reserve
for new technologies, are less than the best esti-
mates of projected spectrum needs in the
United States;
(G) the authority of the Federal Commu-
nications Commission to assign radio spec-
trum frequencies using an auction process
expires on September 30, 1998;
(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that entity expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited.

(47 U.S.C. 923) is amended by adding at the end the following new subsections:

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measure that was supported by all of us. And we should continue to support it.

But in April, a sharply divided Supreme Court struck down the original Gun-Free School Zones Act in the case of United States versus Lopez, relying on the grounds that the commerce clause of the Constitution did not support the act. As long as we can address the Supreme Court’s concerns, there is no reason why the decision should alter the support this bill had in 1994.

This bill made it a Federal crime to knowingly bring a gun within 1,000 feet of a school or to fire a gun in these zones, with carefully crafted exceptions. The Gun-Free School Zones Act of 1995 does exactly what the old act did. However, it adds a requirement that the prosecutor prove that the gun moved in or affected interstate or foreign commerce.

That is the only change to the legislative language of the original bill. The only change. We place only a minor burden on prosecutors while simply and plainly assuring the constitutionality of the act.

The goal of this bill is simple: to heed the Supreme Court’s decision regarding Federal power and yet to continue the fight against school violence. The Lopez decision cannot be used as an excuse for complacency.

Mr. President, this bill is a practical approach to the national epidemic of gun violence plaguing our education system. In 1990, the Centers For Disease Control found that 1 in 20 students carried a gun in a 30-day period. Three years later, it was 1 in 12. Even worse, the National Education Association estimates that 100,000 kids bring guns to school every day. How can Congress turn its back on our children when their safety is being threatened on a daily basis?

My home State, Wisconsin, is not immune to this wave of violence. According to Gerald Mourning, the former director of school safety for Milwaukee, “[K]ids who did their fighting with their fists, and perhaps knives, are now settling their arguments with guns.”

In the 1993-94 school year half of the students expelled from the Milwaukee Public Schools were thrown out for bringing a gun to school. In Dane County, WI, the number of juvenile weapons offenses tripled—from 75 in 1990 to 220 in 1993.

The Gun-Free School Zones Act of 1995 is a simple, straightforward, effective and construction approach to this problem. In the Lopez decision, the Supreme Court held that the original act exceeded Congress’ commerce clause power because it did not adequately tie guns found in school zones to interstate commerce. Much as I disagree with the 5 to 4 decision and strongly agree with the dissenters—Souter, Stevens, Breyer, and Ginsburg—our new legislation will clearly pass muster under the majority’s Lopez test. By requiring that the prosecutor prove that the gun brought to school “moved in or affected interstate commerce,” the act is a clear exercise of Congress’ unquestioned power to regulate interstate activities. In fact, the Lopez decision itself suggested that requiring an explicit connection between the gun and interstate commerce in each prosecution would assure the constitutionality of the act.

Mr. President, there is no doubt that the guns brought to schools are part of an interstate problem. After all, almost every gun is made with raw material from one State, assembled in a second State, and transported to the school yards of yet another State. One 14-year-old in a Madison, WI, gang told the Wisconsin State Journal that the older leaders of his gang brought carloads of guns from Chicago to Madison to pass out to the younger gang members to take to school. In short, this act regulates a national, interstate problem. Numerous Supreme Court cases have upheld similar regulations.

When the act was first passed, less than a dozen States had laws dealing with guns on school grounds. Now, more than 40 have such legislation. Our original Federal law served as an example and a spur to these State laws, and all of us in Congress should be proud of that. Their presence, however, does not eradicate the need for a Federal law.

In light of these State laws, a few of my colleagues have asked me why we need a Federal statute. The answer is simple. Some States still do not have State Gun-Free School Zones Acts; others simply have laws that supplement the Federal statute; still more have laws that are weaker than the Federal law. Alabama, for example, only prohibits bringing a gun to a public school with the intent to cause bodily harm. With a Federal law, we can bring a gun to school, frighten and disrupt everyone, but still get off because you did not intend to cause injury. And in Alabama you can bring a gun to private school without any worries. That is unacceptable. With a Federal law, we can fill in these loopholes. And where there are not State laws, we can fill in the even larger gaps. In short, the Gun-Free School Zones Act gives prosecutors the flexibility to bring violators to justice under either State or Federal statutes, whichever is appropriate—or tougher.

Mr. President, Congress cannot ignore the epidemic of school violence. The epidemic is undermining our educational system and threatens to cripple our Nation’s competitiveness. It is turning our schoolyards into sanctuaries for armed criminals and drug gangs. We have repeatedly recognized that our Nation’s classrooms deserve special protection and attention from the Nation’s Government. The Gun-Free school zones are not a panacea, to be sure, but they are an important step toward fighting gun violence and keeping our teachers and children safe.

Five years ago we all agreed unani- mously on this bill. It was sensible then, and it is sensible now. I ask unanimous consent that a copy of the Gun-Free School Zones Act be printed in the Record.

But in April, there was no objection, the bill was ordered to be printed in the Record, as follows:

S. 890

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 “Gun-Free School Zones Act of 1995.”

SECTION 2. PROHIBITION.
Section 922(q) of title 18, United States Code, is amended to read as follows:

“(l)(1) The Congress finds and declares that

“(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

“(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

“(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Judiciary Committee of the House of Representatives and the Judiciary Committee of the Senate;

“(D) in fact, even before the sale of a firearm, its components, parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

“(E) while criminals freely move from State to State, citizens and foreign visitors may fear to travel to or through certain parts of the country in concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

“(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

“(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

“(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves; even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

“(I) Congress has power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation’s schools by enactment of this subsection.

“(21A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

“(B) Subparagraph (A) shall not apply to the possession of a firearm—

“(i) on private property not part of school grounds;

“(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision determine that the individual is qualified under law to receive the license;
Mr. President, I believe that this bill, S. 891, which requires the Secretary of the Army to convey certain real property at Fort Ord, CA, to the city of Seaside, CA, in order to foster the economic development of the city, which has been adversely impacted by the closure of Fort Ord, is a good bill.

I urge my colleagues on both sides of the aisle to support this bill and to help protect our children and their teachers from the dangers of gun violence.

The 1995 act ensures the constitutionality of the Gun Free Schools Act by requiring the prosecutor to prove as part of each prosecution that the gun moved in, or affected, interstate commerce. That provision will place only a small burden on prosecutors and will ensure our power to keep America's schools safe.

Mr. President, this bill has the support of the law enforcement and education communities.

It has been endorsed by the National Rifle Association, the National Association of School Administrators, the National School Boards Association, the National Association of Elementary School Principals, and the American Academy of Pediatrics.

Certainly this bill is not a panacea, but it is a worthwhile attempt to keep our children away from the dangers of guns and violence.

Mr. President, the National Rifle Association likes to say that guns don't kill people. But the gun statistics I've seen belie their contentions.

I just consider these numbers.

In 1992, handguns killed 33 people in Great Britain, 36 in Sweden, 97 in Switzerland, 11 in Australia, 11,680 in Mexico, 14,486 in Canada, and 13,220 in the United States.

The problem, Mr. President, isn't that we have more people. It's that we have more guns.

We need to fight back the wave of gun violence that's overtaking our streets and neighborhoods once and for all. I urge my colleagues on both sides of the aisle to support this bill and to help protect our children and teachers from the dangers of violence.

By Mrs. BOXER:

S. 891. A bill to require the Secretary of the Army to convey certain real property at Fort Ord, CA, to the city of Seaside, CA, in order to foster the economic development of the city, which has been adversely impacted by the closure of Fort Ord; to the Committee on Armed Services.

THE FORT ORD CLOSURE IMPACT ACT OF 1995

Mr. BOXER. Mr. President, I introduce this important legislation to convey surplus real property at the former Fort Ord Army reservation to the city of Seaside, CA. The sale of this property, which includes two golf courses and surrounding property, is in accordance with the reuse plan prepared by the Fort Ord Reuse Authority. This legislation enjoys strong community support.

This legislation addresses nonappropriated fund revenue needs which are supported by the golf course revenues. This legislation addresses this problem by allowing funds received by the Army from the sale of golf courses to be deposited into the Army's morale, welfare, and recreation account.

This legislation conveys approximately 477 acres, which consist of the two Fort Ord golf courses, Black Horse and Bayonet, and neighboring the surplus housing facilities. This property will be screened through the Pryor process established in the fiscal year 1994 Defense Authorization Act.

Importantly, this legislation requires the city of Seaside to pay fair market value for the property. I want to repeat that point: this is not a giveaway program; the city of Seaside is required to pay full market value.

The proceeds from the sale of the golf course will be deposited in the Department of the Army's morale, welfare, and recreation fund, and the proceeds from the housing sale will be deposited in the BRAC account.

This legislation is another important step in implementing the highly successful Fort Ord Reuse Plan. By enacting this legislation, the Congress will help implement the BRAC Commission's 1993 recommendations and simultaneously foster economic development in the city of Seaside.

I urge my colleagues to support this important bill.
Mr. GRASSLEY. Mr. President, I am pleased to introduce the Protection of Children from Computer Pornography Act of 1995.

By Mr. GRASSLEY (for himself, Mr. DOLE, Mr. COATS, Mr. MCCONNELL, Mr. SHELBY, and Mr. NICKLES):

S. 892. A bill to amend section 1464 of title 18, United States Code, to punish transmission by computer of indecent material to minors; to the Committee on the Judiciary.

THE PROTECTION OF CHILDREN FROM COMPUTER PORNOGRAPHY ACT OF 1995

Mr. GRASSLEY. Mr. President, I am pleased to introduce the Protection of Children from Computer Pornography Act of 1995, which I believe this bill would provide children with the strongest possible protection from computer pornography. I would like to thank the majority leader for his crucial support of this important piece of legislation. Currently, child molesters and sexual predators use computer networks to locate children and try to entice them into illicit sexual relationships. Accordingly, my bill would make it a crime to knowingly or recklessly transmit indecent pornography to minors over computer networks. Some so-called access providers facilitate this by refusing to take action against child molesters, even after other computer users have complained. So, my bill would make it a crime for access providers who are aware of this sort of activity to permit it to continue.

Mr. President, I have carefully drafted this bill so that it will withstand the inevitable court challenges. This bill focuses on protecting children from material which the Supreme Court has repeatedly stated is harmful to children. The Protection of Children from Computer Pornography Act of 1995 would not tell any adult what type of computerized material they may view or obtain.

Finally, Mr. President, due to time constraints, I ask unanimous consent that the remainder of my remarks be printed in the RECORD.

ANALYSIS OF THE PROTECTION OF CHILDREN FROM INDECENT PORNOGRAPHY ACT OF 1995

At the outset, this initiative, which amends 18 U.S.C. §1464 (1984), defines several technical terms. For "remote computer facility" and "electronic communications service," the definitions used in the "Protection of Children from Computer Pornography Act of 1994" apply (sections 10101 to 10110 of the code). Because it was unclear whether the terms "remote computer service" and/or "electronic communications service" was provided, the Grassley initiative creates a specific definition for electronic bulletin board systems. This was done to avoid the possibility that some companies which specialize in providing pornographic materials, would be exempt from the bill.

Substantively, this creates two distinct crimes: one for a crime to knowingly or recklessly transmit indecent pornography to minors. The Grassley bill deals exclusively with indecent pornography provided to children because there are already federal laws against providing obscene material and child pornography to anyone, including children. See 18 U.S.C. §2252 (Supp. 1994); 18 U.S.C. §1465 (Supp. 1995). The definition of indecent material has been established by the Supreme Court and is discussed below.

Second, the bill would make it a crime for a transmission service which permits users to access the Internet or electronic bulletin board to knowingly transmit indecent pornography to a minor. In the criminal law, "willful" has a specific meaning which is uniquely suited to on-line access. It means "willfully, unknowingly, or with criminal negligence." See Criminal Instructions for the Ninth Circuit §5.05 (West 1989). A willfulness standard is more appropriate for on-line service providers because these services can only monitor customer communications in narrow circumstances, or face criminal prosecution for invasion of privacy. See 18 U.S.C. §2510 (Supp. 1995).

To prove a violation under the bill for permitting adults to transmit indecent material to children, the Justice Department would have to show that the access provider was actually aware that a particular recipient was a child and that the access provider's customers were using the on-line service to transmit indecent material to minors. Importantly, although this burden of proof appears to be high, it could easily be met by prosecutors, given the current practice.

LEGAL BACKGROUND: THE CONCEPT OF INDECENCY

Basically, there are three categories of sexually explicit expression which are subject to congressional regulation notwithstanding First Amendment concerns. The First Amendment v. FCC, 458 U.S. 747 (1982); Miller v. California, 413 U.S. 15 (1973). The Grassley initiative focuses exclusively on indecent material because existing federal laws largely cover the transmission of obscene and child pornographic material in interstate commerce. See U.S.C. §2252 (Supp. 1995); U.S.C. §1465 (Supp. 1995); U.S.C. §1466 (Supp. 1995). For present purposes, indecent material can be defined as depictions of sexual activity or sexual organs which are patently offensive to the average person. FCC v. Pacifica, 438 U.S. 726, 732 (1978); Alliance for Community Media v. FCC, 10 F. 3d 812 (D.C. Cir. 1993), rehearing en banc denied, 24 F. 3d (Fed. Cir. 1994); Action for Children's Television v. FCC, 932 F. 2d 1504 (D.C. Cir. 1991). This test is basically the second prong of the "Miller Test." 413 U.S. 24 (1973). It is true that while indecent material is not constitutionally protected for children, indecency is protected for and among adults. Thus, laws intended to protect children from harmful depictions of sexual activity, similar to the goal of the harmful to juveniles test. Traditionally, the federal government has not regulated extensively to protect children from inappropriate exposure to pornography because it is not a compelling concern. With the rise of global, international computer networks, however, it has become clear that Congress has a more extensive role to play in protecting children. The Grassley initiative responds to this changed environment by "filling in the gaps" created by new technology.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that a statement from the Family Research Council and the Family Research Council and the bill be printed in the RECORD. It has the coauthorship of Senators DOLE, COATS, MCCONNELL, SHELBY, and NICKLES.

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

S. 892

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

SEC. 1. SHORT TITLE.

This Act may be cited as the "Protection of Children From Computer Pornography Act of 1995.""

STATEMENT OF LEGAL DIRECTOR FAMILY RESEARCH COUNCIL

Pursuant to your request, the Family Research Council has reviewed the constitutionality of the "Protection of Children from Computer Pornography Act of 1995." It is our opinion that the Act is fully consistent with the Supreme Court precedents.

Before providing more extensive analysis, it is prudent that I state my qualifications to render this opinion. I have practiced in the area of First Amendment law and have participated in extensive litigation before the Supreme Court, federal courts of appeal, and state courts on pornography-related controversies. I am thus familiar with the manner in which courts have treated statutes aimed at regulating pornographic materials.

The seminal cases applicable to the Act are FCC v. Pacifica, 438 U.S. 726 (1978) and Sable Communications, Inc. v. FCC, 492 U.S. 115 (1989).

Taken together, these cases clearly and unambiguously establish the principle that society may prohibit the transmission of indecent material to children. As the Act only attempts to do that, in my view it presents no serious constitutional concerns.

Please contact me if I can be of further assistance.

CATHELEEN A. CLEAVER, Esq.,
Director of Legal Policy.

By Mr. SANTORUM:

S. 893. A bill to amend the Internal Revenue Code of 1986 to provide a credit for charitable contributions, and for other purposes; to the Committee on Finance.

THE CHOICE IN WELFARE TAX CREDIT ACT OF 1995

Mr. SANTORUM. Mr. President, today I am introducing the choice in welfare tax credit bill.

The goal of our welfare reforms should be to continue to focus anti-poverty efforts not just to the States but to local, private charities as well.

With the choice in welfare tax credit, taxpayers would be allowed a 100 percent tax deduction on each wage earner each year for contributions to charities engaged in antipoverty efforts. This would go a long way toward transferring antipoverty efforts from the inefficient and ineffective Federal Government to nonprofit charities which are more efficient and have a much better sense for what their local population needs.

I have faith in the ability of people living in the communities to know what works best and to provide assistance to those who need it most. The emphasis here is on temporary. Private charities view antipoverty assistance not as a right or a way of life but as a tool by which to change behavior and encourage personal responsibility for one's own life.

I want to give the people that pay the bills and provide the services in the local community a much larger role in how poverty relief efforts are structured. This bill would also empower taxpayers to have some direct influence over how their tax dollars are spent. In fact, it will expand the number of people donating to charities. Currently, about 28 percent of taxpayers take the tax deduction for charitable contributions. This bill will allow all taxpayers, whether they itemize or not, to receive a credit for contributing. Inspiring more taxpayers to contribute to local charities will make people more aware of antipoverty efforts in their community, and may inspire them to volunteer their time as well.

So I want to encourage my colleagues to take a close look at this bill, and lend their support to an idea that truly returns power to the individual taxpayer and the community in which they live.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 893

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

SECTION 1. CREDIT FOR CHARITABLE CONTRIBUTIONS TO CERTAIN PRIVATE CHARITIES PROVIDING ASSISTANCE TO THE POOR.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

``SEC. 23. CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS.
 ``(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified charitable contributions which are paid by the taxpayer during the taxable year.
 ``(b) LIMITATION.—The credit allowed by subsection (a) for the taxable year shall not exceed $100 ($200 in the case of a joint return).
 ``(c) QUALIFIED CHARITABLE CONTRIBUTIONS.—For purposes of this section, the term `qualified charitable contribution' means any charitable contribution (as defined in section 170(c)) made in cash to a qualified charity but only if the amount of each such contribution, and the recipient thereof, are identified on the return for the taxable year during which such contribution is made.
 ``(d) QUALIFIED CHARITY.—``(1) IN GENERAL.—For purposes of this section, the term `qualified charity' means, with respect to the taxpayer, any organization described in section 501(c)(3) and exempt from tax under section 501(a)—
 ``(A) which is certified by the Secretary as meeting the requirements of paragraphs (2) and (3),
 ``(B) which is organized under the laws of the United States or of any State in which the organization is qualified to operate, and
 ``(C) which is required, or elects to be treated as being required, to file returns under section 6033.
 ``(2) CHARTER MUST PRIMARILY ASSIST THE POOR.—For purposes of this section, the term `primary activity of such organization' means any activity of such organization (other than fund raising) that is not, to receive a credit for contribut-
&bull;"
annual exempt purpose expenditures of such organization will not be less than 70 percent of the annual aggregate expenditures of such organization.

(3) EXEMPT PURPOSE EXPENDITURE.—For purposes of subparagraph (A)—

(i) IN GENERAL.—The term 'exempt purpose expenditure' means any expenditure to carry out the activity referred to in paragraph (2).

(ii) EXCEPTIONS.—Such term shall not include—

(I) any administrative expense,

(II) any expense for the purpose of influencing legislation (as defined in section 493(d)),

(III) any expense primarily for the purpose of fundraising, and

(IV) any expense for litigation on behalf of any individual referred to in paragraph (2).

(e) TIME WHEN CONSTRUCTIONS DEEMED MADE.—For purposes of this section, at the election of the taxpayer, a contribution described in section 170(f)(1)(A) shall be treated as made on the last day of such taxable year to have this section not apply.

(f) COORDINATION WITH DEDUCTION FOR CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—The credit provided by subsection (a) for any qualified charitable contribution shall be in lieu of any deduction otherwise allowable under section 170 for such contribution.

(2) ELECTION TO HAVE SECTION NOT APPLY.—A taxpayer may elect for any taxable year to have this section not apply.

(g) QUALIFIED CHARITIES REQUIRED TO PROVIDE COPIES OF ANNUAL RETURN.—Subsection (e) of section 6104 of such Code (relating to public inspection of certain annual returns and applications for exemption) is amended by adding at the end the following new paragraph:

"(3) CHARITIES RECEIVING CREDITABLE CONTRIBUTIONS REQUIRED TO PROVIDE COPIES OF ANNUAL RETURN.—

(A) IN GENERAL.—Every qualified charity described in section (c)(1) shall, upon request of an individual made at an office where such organization's annual return filed under section 6103 is required under paragraph (1) to be available for inspection, provide a copy of such return to such individual without charge other than a reasonable fee for any reproduction and mailing costs. If the request is made in person, such copies shall be provided immediately and, if made other than in person, shall be provided within 30 days.

(B) PERIOD OF AVAILABILITY.—Subparagraph (A) shall apply only during the 3-year period beginning on the filing date (as defined in paragraph (3)(D) of the return requested).

"(h) CEREMONIAL AMENDMENT.—The table of sections for part A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 32(c)(1) the following new item:

"Sec. 23. Credit for certain charitable contributions."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that adjustments shall be made under section 56(e) of the Internal Revenue Code of 1986 to the section 32(b)(2) of such Code (as amended by this section) for such taxable years.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. Coverello, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 91, a bill to delay enforcement of the National Voter Registration Act of 1993 until such time as Congress appropriates funds to implement such Act.

S. 234

At the request of Mr. Campbell, the names of the Senator from Kansas [Mr. Dole] and the Senator from Oklahoma [Mr. Inhofe] were added as cosponsors of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

S. 426

At the request of Mr. Sbaranes, the names of the Senator from Connecticut [Mr. Lieberman] and the Senator from Rhode Island [Mr. Pell] were added as cosponsors of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 581

At the request of Mr. Faircloth, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 603

At the request of Mr. Faircloth, the name of the Senator from Indiana [Mr. Coats] was added as a cosponsor of S. 603, a bill to nullify an Executive order that prohibits Federal contractors with companies that hire permanent replacements for striking employees, for other purposes.

S. 725

At the request of Ms. Feinstein, her name was added as a cosponsor of S. 725, a bill to prevent and punish acts of terrorism, and for other purposes.

S. 768

At the request of Mr. Gorton, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 768, a bill to amend the Endangered Species Act of 1973 to reauthorize the act, and for other purposes.

S. 773

At the request of Mrs. Kassebaum, the names of the Senator from Texas [Mrs. Hutchison], the Senator from Mississippi [Mr. Lott], and the Senator from Kansas [Mr. Dole] were added as cosponsors of S. 773, a bill to add the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 838

At the request of Mr. D’Amato, the name of the Senator from Kentucky [Mr. McConnel] was added as a cosponsor of S. 838, a bill to provide for additional radio broadcasting to Iran by the United States.

S. 874

At the request of Mr. Grams, the names of the Senator from Colorado [Mr. Brown] was added as a cosponsor of S. 874, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

S. CONCURRENT RESOLUTION 11

At the request of Ms. Snowe, the names of the Senator from Iowa [Mr. Harkin], the Senator from Maryland [Ms. Mikulski], the Senator from New Jersey [Mr. Lautenberg], and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the longstanding dispute regarding Cyprus.

AMENDMENTS SUBMITTED

THE COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

HATCH AMENDMENT NO. 1252

Mr. Hatch proposed an amendment to amendment No. 1199 proposed by Mr. Dole to the bill (S. 735) to prevent and punish acts of terrorism, and for other purposes; as follows:
Delete lines 4 through 7 on page 125. Strike lines 20 through 24 on page 106 and insert the following:

"(e) Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as

Strike lines 9 through 11 on page 108 and insert the following:

"Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel who is or becomes financially unable".

BIDEN AMENDMENT NO. 1253

Mr. BIDEN proposed an amendment to amendment No. 1199 proposed by Mr. DOLE to the bill S. 735, supra; as follows:

Strike lines 10-22 on page 125.

HATCH (AND BIDEN) AMENDMENT NO. 1254

Mr. HATCH (for himself and Mr. BIDEN) proposed an amendment to amendment No. 1199 proposed by Mr. DOLE to the bill S. 735, supra; as follows:

On page 5, lines 8 and 9, strike "113(a), (b), (c), or (f)" and insert "113(a) (1), (2), (3), (6), or (7)".

On page 5, line 20, strike "destroys" and insert "obstructs".

On page 7, line 11, insert "intent to commit murder or any other felony or with" after "assault with".

On page 9, line 12, strike "any manner in" and insert "interstate".

On page 10, between lines 18 and 19, insert the following new subsection:

(f) EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended by striking "any building, structure or vessel, any machinery or building materials and supplies, military or naval construction or the destruction of war or any structural aids or appliances for navigation or shipping" and inserting "any structure, conveyance, or other real or personal property".

On page 13, strike lines 5 through 8 and insert the following:

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "one" and inserting "three".

(2) in subsection (c), by striking "five" and inserting "15".

On page 23, line 23, strike "23394a" and insert "23394a of title 18, United States Code".

On page 29, line 25, strike "determined" and insert "designated".

On page 36, line 2, strike "item of" and insert "item of".

On page 48, lines 21 and 22, strike "Notwithstanding any other provision of law, of title VII".

On page 60, strike lines 1 and 2, and insert "Columbia not later than 30 days after receipt of actual notice under subsection (b)(6)".

On page 74, strike lines 18 and 20, and insert ""shall provide" and "shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State.""

On page 95, strike line 23 and all that follows through page 96, line 2 and insert the following:

(D) ANY LOCATION.—(i) Of the total amount appropriated pursuant to this section in a fiscal year—

(I) $500,000 or 0.25 percent, whichever is greater, shall be allocated to each of the participating States; and

(ii) of the total funds remaining after the allocation under subclause (I), there shall be allocated to the State in which the activity takes place, as determined and bearing the same relative ratio to the amount of the remaining funds described in this subparagraph as the population of such State bears to the population of all States.

Definition.—For purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, the United States and the Commonwealth of the Northern Marianas Islands shall be considered as one State and that 3 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Marianas Islands.

On page 99, between lines 21 and 22, insert the following:

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

On page 117, lines 3 and 4, strike "right made retroactively applicable to cases on collateral review by the Supreme Court" and insert "right that is made retroactively applicable to cases on collateral review by the Supreme Court".

On page 133, line 3, strike "(a) in GENERAL.—".

On page 133, strike lines 8 through 10 and insert the following:

(b) in paragraph (2), by striking ": or" and inserting the following: "and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, the interference with interstate or foreign commerce if such use had occurred";

(c) by redesignating paragraph (3) as paragraph (4) and:

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

"(3) against a victim, or intended victim, that is the United States Government, a member of the uniformed services, any officer, employee, agent or employee of the legislative, executive, or judicial branches, or any department or agency of the United States, and"; and:

(E) in paragraph (4), as redesignated, by inserting after the comma the at the end the following: "or is within the United States and is used in any activity affecting interstate or foreign commerce".

On page 133, line 21, before the end quotation marks insert the following: "The preceding sentence does not apply to a person performing an act that, as performed, is within the scope of the person's official duties or is within the scope of the person's duties as an officer or employee of the United States or as a member of the Armed Forces of the United States, or to a person employed by a contractor of the United States for performance of services performed, is authorized under the contract.".

On page 134, strike lines 1 through 8.

On page 140, line 20, insert after "employee," the following: "or any person assisting such an officer or employer in the performance of official duties, or"

On page 140, line 21, strike "their official duties," and insert "such duties or the provision of such assistance,".

On page 141, line 1, insert "or manslaughter as provided in section 1112" after "murder".

On page 143, between lines 15 and 16, insert the following:

(c) CLARIFICATION OF MARITIME VIOLENT JURISDICTION.—Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking "and the activity takes place in the State in which the activity takes place"; and

(2) in clause (iii), by striking "the activity takes place on a ship flying the flag of a foreign country or outside the United States."

On page 147, line 19, strike "effective date of section 801" and insert "date of enactment of title VII".

On page 148, line 13, insert "of title VII" after "date of enactment".

On page 148, line 18, insert "of title VII" after "date of enactment".

On page 149, line 6, strike "effective date of title VII".

On page 149, between lines 1 and 7, strike "effective date of section 801" and insert "date of enactment of".

On page 160, between lines 11 and 12, insert the following:

SEC. 902. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $1,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) A VAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 903. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the Administrative Office of the United States Courts, to help meet the increased needs of the Administrative Office of the United States Courts, $4,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) A VAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 904. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service, $10,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) A VAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

On page 51, line 10, replace "1252a" with "1252b".

On page 51, line 14, insert "of this title" after "section 101(a)(43)". 
DOLE AMENDMENT NO. 1255

Mr. DOLE proposed an amendment to the bill (S. 652) to provide for a pro-
competitive, deregulatory national pol-
cy framework designed to accelerate
rapidly private sector deployment of
advanced telecommunications and in-
formation technologies and services to
all Americans by opening all tele-
communication markets to competition,
and for other purposes; as follows:

On page 9, strike lines 4 through 12 and in-
sert the following:

(c) TRANSFER OF MFJ.—After the date of
enactment of this Act, the Commission shall
administer any provision of the Modification
of Final Judgment not overridden or super-
seded by this Act. The District Court for the
District of Columbia shall have no further jurisdic-
tion over any provision of the Modifi-
cation of Final Judgment administered by
the Commission under this Act or the Com-
munications Act of 1934. The Commission
may, consistent with this Act (and the
amendments made by this Act), modify any
 provision of the Modification of Final J udg-
ment that it administers.

(d) GTE CONSENT DECREES.—This Act shall
supersede the provisions of the Final J udg-
dment entered in United States v. GTE Corp.,
No. 83-1298 (D.C. D.C.), and such Final J udg-
dment shall not be enforced after the effective
date of this Act.

On page 40, line 9, strike “to enable them”
and insert “which are determined by the
Commission to be essential in order for
Americans”.

On page 40, beginning on line 11, strike
“Nation. At a minimum, universal service
shall include any telecommunications serv-
ices that” and insert “Nation, and which”.

On page 70, between lines 21 and 22, insert the following:

(b) GREATER Deregulation FOR SMALLER
Cable Companies.—Section 623 (47 U.S.C.
548) is amended by adding at the end thereof the
following:

“(m) SPECIAL RULES FOR SMALL COMPAN-
IES.—

(1) IN GENERAL.—Subsection (a), (b), or (c)
do not apply to a small cable operator with respect to—

(A) cable programming services, or

(B) a basic service tier that was the only service
tier subject to regulation as of December 31, 1994,
in any franchise area in which that operator
serves 35,000 or fewer subscribers.

(2) DEFINITION OF SMALL CABLE OPER-
ATOR.—For purposes of this subsection, the
term ‘small cable operator’ means a cable
operator that, directly or through an affili-
ate, serves in the aggregate fewer than 1 per-
cent of all subscribers in the United States and
directly or through an affiliate, own or control a daily newspaper or a
tier 1 local exchange carrier”.

On page 70, line 22, strike “(b)” and in-
sert “(c)”.

On page 71, line 3, strike “(c)” and insert
“(d)”.

On page 79, strike lines 7 through 11 and in-
sert the following:

(1) IN GENERAL.—The Commission shall
modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) excluding, as an exception, any restric-
tions on the number of television stations owned under
subdivisions (e)(1)(ii) and (iii); and

(b) changing the percentage set forth in
subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission
shall modify its rules set forth in 47 CFR
73.3555 by eliminating any provision limiting the
number of AM or FM broadcast stations which may be owned or controlled by one en-
tity either nationally or in a particular mar-
ket. The Commission may refuse to approve the
transfer or issuance of an AM or FM broadcast license to a particular entity if it
finds that the entity would thereby obtain an undue concentration of control or would
thereby harm competition. Nothing in this
section shall require or prevent the Commis-
sion from imposing certain limitations in 47
CFR 73.355(c) governing the ownership of both a radio and television broadcast sta-
tions in the same market.

On page 79, line 12, strike “(2)” and insert
“(3)”.

On page 79, line 18, strike “(3)” and insert
“(4)”.

On page 79, line 21, strike “(4)” and insert
“(5)”.

On page 79, line 22, strike “modification re-
quired by paragraphs (1) and (2)”.

On page 116, between lines 2 and 3, insert the following:

(b) DOMINANT INTEREXCHANGE CARRIER.—
The Commission, within 270 days after the
date of enactment of this Act, shall complete
a proceeding to consider modifying its rules
to determine whether an exchange telecommu-
nications carrier should be classified as “dominant carriers” and to consider excluding all
interexchange telecommunication carriers
from some or all of the restrictions apply-
ing to such classification to the extent that such carriers provide
interexchange telecommunication service.

On page 116, line 3, strike “(b)” and insert
“(c)”.

On page 117, line 1, strike “(c)” and insert
“(d)”.

On page 117, line 2, strike “REGULATIONS...”
and insert “REGULATIONS; ELIM-
INATION OF UNNECESSARY REGULATIONS
AND FUNCTIONS.”

On page 117, line 23, strike “(a) BIENNIAL
REVIEW...” and delete “Part”.

On page 118, between lines 20 and 21, insert the following:

(b) ELIMINATION OF UNNECESSARY COM-
MISSION REGULATIONS AND FUNCTIONS.

(1) REPEAL SETTING OF DEPRECIATION
 RATES.—The first sentence of section 251(b)
(47 U.S.C. 251(b)) is amended by striking
“shall prescribe” for such carriers and in-
serting “may prescribe, for such carriers as
it determines to be appropriate”.

(2) USE OF INDEPENDENT AUDITORS.—Section
220(c) (47 U.S.C. 220(c)) is amended by adding
at the end thereof the following: “The Com-
mision may waive the requirement for a
microphone audit conducted in an audit for the Commission under this sec-
tion, any such person shall have the powers
granted the Commission under this sub-
section and shall be subject to subsection (f)
in the same manner as if that person were an
employee of the Commission.”.

(3) SIMPLIFICATION OF FEDERAL-STATE CO-
ORDINATION PROCESS.—The Commission
shall simplify and expedite the Federal-State
coordination process under section 410 of the

(4) PRELIMINARY EXAMINATION AND
INSPECTION.—Section 304 (47 U.S.C. 304)
is amended by adding at the end thereof the
following: “In accordance with such other provisions of
law as the Commission may adopt, the
Commission may enter into contracts with
any person for the purpose of carrying out
such inspections and certifying compliance
with those requirements, and may, as part of
any such contract, allow any such person
to receive reimbursement from the license hold-
er for the costs of any employee conducting an inspection or certifi-
cation.”

(5) MODIFICATION OF CONSTRUCTION PERMIT
REQUIREMENTS.—Section 339(d) (47 U.S.C.
339(d)) is amended by striking the third sen-
tence and inserting the following: “The Commis-
ion may waive the requirement for a con-
struction permit with respect to a broadcast-
ing station in circumstances in which it
deems prior approval to be unnecessary. In
such circumstances, a broadcaster shall file
an application for a license, but such
application shall be filed within 10 days after
completing construction.”

(6) LIMITATION ON SILENT STATION AUTHORIZ-
ATIONS.—Section 331 (47 U.S.C. 331) is
amended by adding at the end thereof the fol-
lowing: “(g) If a broadcasting station fails to
transmit broadcast signals for any consecu-
tive 12-month period, then the station li-
cense granted for the operation of that
broadcast station expires at the end of that
period, notwithstanding any provision, term,
or condition of the license which may have been
granted the Commission under this sub-
section.”

(7) EXPANDING INSTRUCTIONAL TELEVISION
FIXED SERVICE REGULATIONS.—The Commis-
sion shall delegate, under section 5(c) of the
Communications Act of 1934, to the Commis-
sion the routine instructional television fixed service
cases to its staff for consideration and final
action.

(8) REGULATIONS REQUIRING LICENSE TEMPLATES.
—Section 5(b)(3) (47 U.S.C. 5(b)(3)) is
amended by adding at the end thereof the fol-
lowing: “(V) the Commission may adopt
regulations requiring that, when filing an appli-
cation for a license, there shall be included
an item specifying the entity’s intent to
comply with any applicable rule or regula-
tion.”

(9) DETERMINATION OF LICENSE MODIFICATIONS.
—Section 309 (47 U.S.C. 309) is amended by
adding at the end thereof the following:

“(A) The Commission in determining whether to grant a license modifi-
cation under section 309(b) or (c) shall consider whether the
modification is in the public interest.”

(10) CRITERIA FOR FORMING CONSTRUCTION REGULATIONS.
—Section 307(e) (47 U.S.C. 307(e)) is amended by adding the fol-
lowing:

“(C) requiring the construction and operation of the television station to be
completed within a specified period of time after the date of
issuance of a construction permit.”

(11) MODIFICATION OF CONSTRUCTION PERMIT
REQUIREMENTS.—Section 339(d) (47 U.S.C.
339(d)) is amended by striking the third sen-
tence and inserting the following: “The Commis-
ion may waive the requirement for a con-
struction permit with respect to a broadcast-
ing station in circumstances in which it
deems prior approval to be unnecessary. In
such circumstances, a broadcaster shall file
an application for a license, but such
application shall be filed within 10 days after
completing construction.”

(12) LIMITATION ON SILENT STATION AUTHORIZ-
ATIONS.—Section 331 (47 U.S.C. 331) is
amended by adding at the end thereof the fol-
lowing: “(g) If a broadcasting station fails to
transmit broadcast signals for any consecu-
tive 12-month period, then the station li-
cense granted for the operation of that
broadcast station expires at the end of that
period, notwithstanding any provision, term,
or condition of the license which may have been
granted the Commission under this sub-
section.”

(13) MODIFICATION OF AMATEUR RADIO EXAM-
INATION PROCEDURES.—
(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(N)) is amended by striking "transmissions, or in the preparation or distribution of any publication used in preparation for obtaining an amended station operator license," and inserting "transmission".

(B) The Commission shall modify its rules governing the amateur radio examination process to include limited examination of ham operators, increased maintenance and annual financial certification requirements.

(14) STREAMLINED NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to the renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

On page 119, between lines 21 and 22, insert the following:

"(c) [begin new paragraph]"

"(c) REGULATORY RELIEF.—"

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective;"; and

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

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a price reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.";

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.";

(2) EXTENSIONS OF LINES UNDER SECTION 254.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to make a request for the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FORBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements of this section in whole or in part, pending further action under section 305, or under any other provision of this Act other law.

On page 118, line 20, strike the closing quotation marks and the second period.

On page 118, between lines 20 and 21, insert the following:

"(C) CERTIFICATION OF CARRIERS.—In certifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR parts 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission’s Report and Order in CC Docket No. 91-141, and annually thereafter. Each subsection shall take effect on the date of enactment of the Telecommunications Act of 1996."
“(2) Process for relocation.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use shall submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station’s operating license to secondary status when the following requirements are met:

(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment for all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity’s behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

(C) any necessary replacement facilities, equipment, modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

“(3) Federal Action to Expedite Spectrum Transfer.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding anything to the contrary contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1750 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal entity’s use of the authority granted under subsection (f) for the purpose of the Federal entity providing telephone exchange service to that carrier.

“(h) Definitions.—For purposes of this section—

“(1) Federal entity.—The term ‘Federal entity’ means any Department, agency, or other element of the Federal government that utilizes radio frequency spectrum in the conduct of its governmental activities, including a Federal power agency.

“(2) Spectrum Reallocation Final Report.—The term ‘Spectrum Reallocation Final Report’ means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).

“(3) Reallocation of Additional Spectrum.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President a report and timetable recommending the reallocation of the three frequency bands (225-400 megahertz, 3625-3650 megahertz, and 5650-5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 112(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies that utilize telecommunications spectrum and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

PRESSLER AMENDMENT NO. 1257
Mr. PRESSLER proposed an amendment to amendment No. 1256 proposed by Mr. STEVENS to the bill S. 652, supra; as follows:

At the end of the matter proposed to be inserted, insert the following:

(a) Broadcast Auxiliary Spectrum Relocation.—

(1) Allocation of Spectrum for Broadcast Auxiliary Uses.—Within one year after the date of enactment of this Act, the Commission shall allocate the 4635-4685 megahertz band transferred to the Commission under section 13 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) Mandated Relocation of Broadcast Auxiliary Uses.—Within 7 years after the date of enactment of this Act, all licenses of broadcast auxiliary spectrum in the 2025-2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1) in a manner sufficient to permit timely completion of relocation; and

(b) without using a competitive bidding process.

(b) Assigning Recovered Spectrum.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025-2075 megahertz band under paragraph (2) for use by new licenses for commercial mobile services or other similar services after the relocation of broadcast auxiliary licenses, and shall assign such licenses by competitive bidding.

PRESSLER (AND HOLLINGS) AMENDMENT NO. 1258
Mr. PRESSLER (for himself and Mr. HOLLINGS) proposed an amendment to the bill S. 652, supra, as follows:

On page 2, in the item relating to section 102 in the table of contents, strike ‘subsidiary’ and insert ‘affiliates’.

On page 2, after the item relating to section 106 in the table of contents, insert the following:

Sec. 107. Coordination for telecommunications network-level interoperability.

On page 2, after the item relating to section 225 in the table of contents, insert the following:

Sec. 226. Nonapplicability of Modification of Final Judgment .......

On page 3, after the item relating to section 311 in the table of contents, insert the following:

Sec. 312. Direct Broadcast Satellite ...........

On page 9, line 8, after ‘Act’,” insert ‘The Commission may modify any provision of the GTE Consent Decree or the Modification of Final Judgment that it administers.’

On page 9, line 14, strike ‘Commission’ and insert ‘Commission’.

On page 9, line 19, strike ‘Modification of Final Judgment’ and insert ‘Modification of Final Judgment’.

On page 11, beginning on line 4, strike ‘wireless companies’ and insert ‘any company’.

On page 11, line 6, strike ‘(judgment), and insert ‘(judgment) to the extent such company provides telephone exchange service or exchange access service.’

On page 12, line 3, insert ‘directly’ after ‘available.’

On page 12, beginning with ‘The term’ on line 5, strike through line 8.

On page 12, line 13, insert ‘only’ after ‘shall’.

On page 12, line 15, after ‘services’ insert ‘voice, data, image, graphics, or video that it does not own, control, or select, except that the Commission shall continue to determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.’

On page 14, between lines 10 and 11, insert the following:

“(t) ‘LATAS’ means a local access and transport area as defined in United States v. Western Electric Co., 569 F. Supp. 900 (U.S. District Court, District of Columbia) and subsequent judicial orders relating thereto, except that, with respect to commercial mobile services under subsection (3), ‘LATAS’ means the term LATAs change the geographic areas defined or used by the Commission in issuing licenses for such services.

On page 16, line 17, strike ‘software’; and insert ‘software, to the extent defined in implementing regulations by the Commission’.

On page 17, line 12, strike ‘carrier’; and insert ‘carrier at just and reasonable rates.’

On page 19, line 4, strike ‘of such services’ and insert ‘of providing those services to that carrier.’

On page 19, line 5, strike ‘services’; and insert ‘services in accordance with section 214(d)(5).’

On page 21, beginning on line 7, strike ‘within 15 days after the State receives’ and insert ‘at the same time as it submits’.

On page 21, line 17, strike ‘notify’ and insert ‘provide a copy of the petition and any documentation to’.

On page 21, beginning in line 17, strike ‘of its petition’.

On page 23, line 23, insert ‘feasible’ after ‘technically’;

On page 25, line 5, strike the closing quotation marks and the period.

On page 26, between lines 5 and 6, insert the following:

“(a) Review of Interconnection Standards.—Beginning 3 years after the date of enactment of the Telecommunications Act of 1996 and every 3 years thereafter, the Commission shall review the standards and requirements for interconnection established under subsection (b). The Commission shall complete each such review within 180 days and may modify or waive any requirements on the basis of the waiver meets the requirements of section 214(b).”

On page 28, line 20, strike ‘SUBSIDIARY’ and insert ‘AFFILIATE’.

On page 28, line 21, strike ‘SUBSIDIARY’ and insert ‘AFFILIATE’.

On page 28, beginning on line 24, strike “its subsidiaries and affiliates which provides telephone exchange service” and insert “any affiliate which is a local exchange carrier that is subject to the requirements of section 251(a).”

On page 29, line 2, strike “a subsidiary” and insert “an affiliate.”

On page 29, line 3, strike “is” and insert “are.”
On page 30, beginning on line 22, strike “a subsidiary and any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 31, line 2, strike “subsidiary” and insert “affiliate”.

On page 31, beginning on line 3, strike “company, and any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 31, line 6, strike “pany, its subsidi- aries or affiliates,” and insert “pany or affili- late”.

On page 31, beginning on line 11, strike “company, its subsidiaries or affiliates,” and insert “company or affiliate”.

On page 31, line 15, strike “tions; and” and insert “tions, unbundled to the smallest ele- ment that is technologically feasible and eco- nomically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company;” and:

On page 31, beginning on line 16, strike “a subsidiary” and insert “an affiliate”.

On page 31, line 20, strike “subsidiary” and insert “affiliate”.

On page 32, line 2, strike “a subsidiary” and insert “an affiliate”.

On page 32, line 19, strike “or its affili- ates”.

On page 33, line 1, strike “subsidiary” and insert “affiliate”.

On page 33, line 5, strike “and”.

On page 33, line 6, strike “subsidiary” and insert “affiliate”.

On page 33, line 11, strike “service,” and insert “service; and”.

On page 33, between lines 11 and 12, insert the following:

“(f) may provide any interLATA or intraLATA facilities or services to its inter- LATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and condi- tions.

On page 33, line 15, strike “subsidiary or”.

On page 33, beginning on line 20, strike “subsidiaries.”

On page 34, line 1, insert “with any affili- ated entity required by this section or with any unaffiliated entity” after “shared.”

On page 34, between lines 19 and 20, insert the following:

“(3) SUBSCRIBER LIST INFORMATION.—For purposes of this subsection, the term ‘cus- tomer proprietary information’ does not in- clude subscriber list information.

On page 35, line 7, strike “subsidiary.” and insert “affiliate”.

On page 35, line 10, strike “subsidiary” and insert “affiliate”.

On page 35, line 19, strike “subsidiary” and insert “affiliate”.

On page 35, line 24, after the period insert closing quotation marks and another period.

On page 35, line 2, strike “subsidiary” and insert “affiliate”.

On page 35, line 10, strike “subsidiary” and insert “affiliate”.

On page 35, line 19, strike “subsidiary” and insert “affiliate”.

On page 35, line 24, after the period insert closing quotation marks and another period.

On page 36, line 1, strike “is subject to” and insert “subject to the requirements of section 251(a)”.

On page 36, line 6, strike “meets” and in- sert “meets”.

On page 36, beginning in line 8, strike “SUBSIDIARY” and insert “AFFILIATE”.

On page 36, line 10, strike “subsidiary” and insert “affiliate”.

On page 36, beginning on line 10, strike “a subsidiary and any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 36, beginning on line 14, strike “a subsidiary or any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 36, beginning on line 19, strike “entity that provides telephone exchange service.”

On page 36, beginning on line 22, strike “a subsidiary and any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 37, line 2, strike “subsidiary” and insert “affiliate”.

On page 37, beginning on line 3, strike “company, and any other subsidiary or affili- ate of such company” and insert “an affiliate”.

On page 38, line 6, strike “pany, its subsidi- aries or affiliates,” and insert “pany or affili- late”.

On page 38, beginning on line 11, strike “company, its subsidiaries or affiliates,” and insert “company or affiliate”.

On page 38, line 15, strike “tions; and” and insert “tions, unbundled to the smallest ele- ment that is technologically feasible and eco- nomically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company;” and:

On page 38, beginning on line 16, strike “a subsidiary” and insert “an affiliate”.

On page 38, line 20, strike “subsidiary” and insert “affiliate”.

On page 39, line 2, strike “subsidiary” and insert “affiliate”.

On page 40, line 15, after the period insert “The Commission may establish a different definition of universal service for schools, lib- raries, and hospitals for purposes of section 264.”

On page 41, strike lines 1 through 5.

On page 41, line 6, strike “(e)” and insert “(el)”.

On page 41, line 12, strike “(f)” and insert “(el)”.

On page 42, line 21, strike “(g)” and insert “(h)”.

On page 42, line 5, strike “maintenance and” and insert “provision, maintenance, and”.

On page 42, line 7, strike “(h)” and insert “(g)”.

On page 42, line 9, strike “customers” and insert “customers”.

On page 42, line 12, strike “(i)” and insert “(j)”.

On page 42, beginning with “Telecommuni- cations” on line 13, strike through the period on line 15 and insert “Telecommunications carriers may not use noncompetitive serv- ices to subsidize competitive services.”.

On page 42, beginning on line 20, strike “(may, in the public interest, bear less than a reasonable share or no share)”.

On page 42, line 23, strike “(j)” and insert “(i)”.

On page 47, line 3, strike “fine” and insert “sum”.

On page 47, line 5, strike “establishing” and insert “determining”.

On page 48, line 7, strike “fine of” and in- sert “sum of”.

On page 48, between lines 17 and 18, insert the following:

(c) TRANSITION RULE.—A rural telephone company is eligible to receive universal serv- ice support payments under section 253(e) of the Communications Act of 1996 as if such rates were a per-summations for that platform.”.

On page 66, line 1, strike “local” before “broadcast.”

On page 67, line 2, insert “identified under section 614” after “stations.”

On page 68, beginning on line 11, strike “consistent with the other provisions of title VI of the Communications Act of 1996 (47 U.S.C. 521 et seq.).”

On page 69, between lines 19 and 20, insert the following:

(a) CHANGE IN DEFINITION OF CABLE SYS- TEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking out “(B) a facility that serves only subscribers for such common carrier has an attributable interest in a unit dwelling under common ownership, control, or management, unless such facility or facilities serves or facilities uses any public right-of-way;” and inserting “(B) a facility that serves subs- cribers without using any public right-of- way;”.

On page 69, line 20, Strike “(a)” and insert “(b)”.

On page 70, line 22, strike “(b) and” and insert “(c)”.

On page 71, between lines 2 and 3, insert the following:

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended by striking out “(1) by striking subsection (c)(5); and” and by adding at the end the following new subsections:

“(1) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier that provides video programming di- rectly to subscribers. Any such provision that applies to a satellite cable program- ming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest.

(k) SUNSET.—This section and the regula- tions required under this section shall cease to be effective on October 5, 2002.”
Section 224 (47 U.S.C. 224) is amended—

(1) by inserting the following after subsection (a)(4):

``(f)''.

(2) by inserting after ``conditions'' in subsection (e) and after the term `telecommunications carrier' the following:

``(i)''.

(3) by inserting after subsection (d)(2) the following:

``(3)''.

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

``(e)''.

(5) The term `telecommunications carrier shall have the meaning given such term in section 3(nn) of this Act, except that, for purposes of this section, the term shall not include any entity designated by the Commission as a dominant provider of telecommunications services as of January 1, 1995;''

(6) by inserting after `conditions'' in subsection (e) and after the term `telecommunications carrier' the following:

``(ii)''.

(7) by inserting after subsection (e)(1) which is preceded by a semicolon the following:

``(ii)''.

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

``(ii)''.
to the jurisdiction of the State commission to provide quarterly reports listing any contracts, leases, transfers, or other transactions with an associate company engaged in activities prohibited by section 252.

(2) Acquisition of an interest in associate companies.—Within 10 days after the acquisition by a registered holding company of an interest in an associate company that will engage in activities described in subsection (a)(1), any public utility company that is an associate company of such company shall notify each State commission having jurisdiction over the retail rates of such public utility company of such acquisition. In the notice an officer on behalf of the public utility company will attest that, based on then current information, such acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(h) Definitions. Any term used in this section that is defined in the Public Utility Holding Company Act of 1935 (15 U.S.C. 70 et seq.), has the same meaning as it has in that Act. In this section, the terms "telecommunications service" and "information service" shall have the same meanings as those terms have in the Communications Act of 1934.

(i) Other provisions. (A) The Commission finds that such requirements, if not costing any undue burden on such person, insofar as such person is engaged in the provision of commerce or intrastate services, shall be consistent with the antitrust laws, engage in joint venture agreements, and enter into agreements with respect to areas where such person is lawfully engaging in any activity in which it is lawfully engaging, or on which is acting on its own behalf or on behalf of its affiliate.

(2) A CQUISITION OF AN INTEREST IN ASSOCIATE COMPANIES. Within 10 days after the acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(3) The amendments made by this subsection shall be considered an in-region service subject to the requirements of section 252, and not of subsection (c) and not of subsection (d).

(b) Long Distance Access for Commercial Mobile Services.—

(1) In General. Notwithstanding any restriction or obligation imposed pursuant to the Modification of final judgment or other consent decree or proposed consent decree prior to the date of enactment of this Act, a person engaged in the provision of commercial mobile services (as defined in section 332d(1) of the Communications Act of 1934), insofar as such person is so engaged, shall not be required or otherwise to provide equal access to interstate telecommunications carriers, except as provided by this subsection. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interstate services of the subscriber's choice through the use of an interchange carrier identification code assigned by that provider, except that the requirements for unlocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

(2) Equal Access Requirement Conditions.—The Commission may only require a person engaged in the provision of commercial mobile services to provide equal access to interstate telecommunications carriers if—

(A) such person, insofar as such person is engaged in the provision of commerce or intrastate services, shall be consistent with the antitrust laws, engage in joint venture agreements, and enter into agreements with respect to areas where such person is lawfully engaging in any activity in which it is lawfully engaging, or on which is acting on its own behalf or on behalf of its affiliate.

"(B) the Commission finds that such requirement is in the public interest."


On page 100, beginning on line 2, strike "subsidiary" and insert "subsidiary or affiliate." On page 100, line 10, strike "subsidiary or affiliate." On page 100, line 12, strike "subsidiary and insert "subsidiary." On page 101, line 6, strike "subsidiary" and insert "subsidiary or affiliate." On page 101, line 15, "subsidiary" and insert "affiliate." On page 102, beginning on line 2, strike "subsidiary and insert "subsidiary." On page 102, line 4, strike "subsidiary and insert "subsidiary or affiliate." On page 102, line 12, strike "subsidiary and insert "subsidiary or affiliate." On page 102, line 19, strike "subsidiaries or insert "subsidiary or affiliate." On page 103, line 4, strike "section," and insert "section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

On page 103, line 15, strike "CARRIERS and insert "PARTIES.

On page 103, line 16, strike "local exchange carrier and insert "party."

On page 103, line 18, strike "subsidiary or."

On page 104, beginning on line 1, strike "local exchange carrier and insert "party."

On page 4, strike lines 4 through 19, and insert the following:

"(g) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—

"(1) In General.—Nothing in this section—

(A) provides any authority for Bell Communications Research, or any successor entity, to manufacture or provide telecommunications equipment or to manufacture customer premises equipment; or

(B) prohibits Bell Communications Research, or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1995, including providing a centralized organization for the provision of engineering, administrative, and operating functions (including any single point of contact for coordination of the Bell operating companies to meet national security and emergency preparedness requirements.

On page 105, line 12, strike "subsidiary or."

On page 106, beginning on line 13, strike "subsidiary, subsidiary, or affiliate and insert "subsidiary or affiliate." On page 106, line 22, strike "subsidiary" and insert "affiliate."
On page 107, beginning with "service" on line 5, strike through line 6 and insert the following: "service suspended if its right to provide that service is conditioned upon its meeting those obligations."

On page 107, line 11, strike "this section" and insert "section 251 or 255".

On page 108, line 23, strike "subsidiary of".

On page 110, line 2, strike "subsidiaries of".

On page 110, beginning on line 15, strike "subsidiaries and".

On page 111, line 21, strike "subsidiary or".

On page 111, line 17, strike "punish" and insert "to impose sanctions on".

On page 112, line 1, strike "December 31, 1994," and insert "June 1, 1995."

On page 112, line 4, strike "subsidiary or".

On page 112, beginning with "services," on line 8 strike through line 10 and insert "services."

On page 113, between lines 3 and 4, insert the following:

**SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.**

Notwithstanding any other provision of law or of any judicial order, no person shall be subject to any provisions of the modification of the Final Judgment solely by reason of having acquired commercial mobile service or private mobile service assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

On page 113, line 19, strike "residential".

On page 113, line 23, strike "Where only a single carrier provides a service" and insert "Until sufficient competition exists."

On page 117, line 8, strike "upon request." and insert "and is required to furnish such information for the purpose of publishing directories in any format."

On page 117, between lines 21 and 22, insert the following:

- **(d) CONFIDENTIALITY.**—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for purposes of provisioning, billing, or facilitating the resale of its service shall use such information for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—
  1. to provide, market, or bill for its services;
  2. to perform credit evaluations on existing or potential customers;

On page 119, line 3, strike, "The" and insert "Notwithstanding section 332(c)(1)(A) of this Act, the".

On page 119, line 16, strike "ers" and insert "ers or the preservation and advancement of universal services."

On page 123, line 23, strike "13401" and insert "14010."

On page 124, line 10, insert "or created" after "designated".

On page 124, line 16, strike "shall be assigned" and insert "shall be permitted to use."

On page 124, line 21, insert "as determined by the commission" after "basis."

On page 126, line 8, insert "the Commission," before "the National."

On page 126, line 9, insert a comma after "Administration."

On page 128, strike lines 3 through 24.

On page 129, line 1, strike "(1)" and insert "(g)".

On page 129, line 6, strike "6" and insert "18."

On page 132, beginning on line 7, strike "undertaken and a best effort.".

On page 132, beginning on line 5, strike "designated as an essential telecommunications carrier under section 214(d)."

On page 132, strike line 14, after "areas," insert "A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the amounts charged to obtain information from health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation described in section 253(d) that is considered as part of its obligation to contribute to universal service under section 253(c)."

On page 132, strike lines 18 through 23 and insert the following:

- "(2) Educational Providers and Libraries.—All telecommunications carriers serving a geographic area determined by request to provide to educational schools, secondary schools and libraries universal services (as defined in Section 253) that permit such schools and libraries to provide real-time access to telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications services by such educational entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount, as calculated under section 253(h) and described in section 253(d) that is considered as part of its obligation to contribute to universal service under section 253(c)."

On page 133, beginning with "shall" on line 1, strike through line 6 and insert the following: "shall, for essential telecommunications carriers providing service pursuant to subsection (a) of this section, and for such carriers providing service pursuant to this section (as defined in Section 253) that permit such schools and libraries to provide real-time access to telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties."

On page 135, line 8, strike the closing quotation marks and the second period.

On page 135, between lines 8 and 9, insert the following:

- "(e) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided under this section may not be sold, resold, or otherwise transferred in consideration for money or any other thing of value."

On page 136, after line 21, insert the following:

**SEC. 312. DIRECT BROADCAST SATELLITE.**

(a) **DBS SIGNAL SECURITY.**—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting the following new subsection after (47 U.S.C. 605(e)(4)) is amended by inserting the following:

"(g) **AUTHORIZED USE OF TRANSMISSIONS.**—In order to utilize the direct broadcast satellite service in accordance with the provisions of this subsection the direct broadcast satellite service shall be used exclusively for purposes of broadcasting entertainment or information intended for direct receipt by subscribers in their residences or in their homes."

(b) **FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.**—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(4) To perform any other act necessary to regulate the provision of direct-to-home satellite services."

(c) **EXCEPTIONS.**—Nothing in this subsection precludes the operation of direct-to-home satellite services for purposes of programming intended for direct receipt by subscribers in their residences or in their homes."

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Wednesday, June 7, 1995, in open session, to receive testimony on the situation in Bosnia. The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, to conduct a hearing on direct-to-home satellite services. The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON FOREIGN RELATIONS**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, at 10 a.m. The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to conduct a hearing on the situation in Bosnia. The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON INTELLIGENCE**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, beginning at 9:30 a.m. in room SD-215, to conduct a hearing on direct-to-home satellite services. The PRESIDING OFFICER. Without objection, it is so ordered.

**COMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, beginning at 10 a.m. for a hearing on the subject: Duplication, Overlap and Fragmentation in Government Programs. The PRESIDING OFFICER. Without objection, it is so ordered.

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 7, 1995, at 2 p.m. to hold a closed hearing on intelligence matters. The PRESIDING OFFICER. Without objection, it is so ordered.

**SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Oversight and Investigations of the Committee on Energy and Natural Resources be granted permission to meet during the session of the
Senate on Wednesday, June 7, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to examine the historical evolution of the National Environmental Policy Act of 1969 (P.L. 91–190), how it is being applied to new situations, and what options are available to improve Federal decisionmaking consistent with the objectives of that statute. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Youth Violence of the U.S. Senate Committee on the Judiciary be authorized to meet during a session of the Senate on Wednesday, June 7, 1995, at 10 a.m., in Senate Dirksen Room 226, on “The Iron Triangle: Welfare, Illegitimacy, and Juvenile Violence.”

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

ADDITIONAL STATEMENTS

CHARLES PINCKNEY NATIONAL HISTORIC SITE

Mr. HOLLINGS. Mr. President, I recently attended the dedication of the Charles Pinckney National Historic Site near Charleston, S.C. It is an outstanding facility honoring Charles Pinckney as one of our Founding Fathers. At the ceremony, Professor Edgar of the University of South Carolina made some remarks that I commend to my colleagues. I ask that they be printed in the RECORD.

The remarks follow:

CHARLES PINCKNEY, PUBLIC SERVANT

We here today to dedicate this site that is closely associated with the life of one of the founding fathers of our republic, the Honorable Charles Pinckney. I think it particularly appropriate that this junction of our nation's history to pause and reflect upon the life of this man—not just because he was one of the more active participants in the Convention in Philadelphia—but because of the ideals of public service that he and others like him, displayed.

Today, public service is something decried by those who do not know any better. A “careerist politician” and “faceless bureaucrat” are among some of the kinder terms heard over the nation's airwaves and in print. However, at a time, when the birthplace of South Carolina was more than a century old and the new United States was less than a decade independent from Great Britain... there was a spirit of public service abroad in the land. Individuals believed in something beyond themselves; they believed in the public good. Many were willing, as stated so powerfully by Pierce Butler, that they are, “pledge their lives, their fortunes, and their sacred honor” for the cause of the nation.

Charles Pinckney of Snee Farm was one of those individuals for whom serving the state and the nation he loved was paramount. (Just take a look at the summary of his career in your programs). He came from a society where public service was something everyone's duty. Let's just look, for example, at Pinckney and his fellow South Carolinians delegates to the Constitutional Convention: Pierce Butler, Charles Cotesworth Pinckney, and John Rutledge. All four men had held a variety of local and state offices and were members of the Congress, and post-revolutionary South Carolina.

What these men did before Philadelphia is indicative of the sort of public life that was expected of the statesmen of South Carolina, however, they continued to give of themselves to the state and nation. Rutledge was an Associate Justice of the United States Supreme Court. Pierce Butler and Charles Pinckney were serving as a Senator of the Confederation, and John Rutledge served as a United States Senator.

All of these were distinguished public figures; however, I would argue, that Charles Pinckney of Snee Farm did more than his duty. He was truly a public servant. For more than four decades he dedicated his life to serving the people of South Carolina and the United States.

Charles Pinckney, son of Frances Brewton and Charles Pinckney (1732-1782), was born in Charleston in 1757, three years after his father purchased Snee Farm and moved their residence among their several plantations home. Charleston, Young Charles spent many happy days of his youth here. His father began improvements at Snee Farm which included formal gardens in the area between the present house and the road. Like his father, Charles was scheduled to be educated in England—to include taking a law degree at the University of Oxford. Disputes over the plans for Charles' education and he had to study with private tutors and read law with his father. From an early age, he demonstrated a facility with languages and, by the time he was an adult, was fluent in five.

He was 21 when he was elected to the General Assembly of South Carolina, but with the British advance on Charleston, he soon abandoned politics for the military. He served in the South Carolina militia, was captured at the fall of Charleston, and imprisoned at Fort poured. Later, he was exchanged in Philadelphia and returned to South Carolina after the peace treaty was signed.

Upon his return to South Carolina he was elected again to the General Assembly. That body, in turn, in 1784, elected him a delegate to the Articles of Confederation Congress. In Congress, he discovered the weakness of the Confederation and was among the members to urge the strengthening of the central government. He chaired a congressional committee that recommended amendments to the Articles. There were few who were as active as he in trying to enhance the powers of the government of the United States.

When New Jersey threatened to withdraw its financial support from the national government in 1786, Pinckney was one of three members of Congress sent to persuade that state's legislature not to withdraw its funds. In addressing the legislature of New Jersey, Pinckney suggested that they “urge the calling of a general convention of the states for the purpose of increasing the powers of the federal government and rendering it more useful for the ends for which it was instituted.”

The very next year there was a call for a constitutional convention to meet in Philadelphia. In South Carolina, Charles Pinckney, at 29, was the second youngest man present. He probably was one of the wealthiest—if not the wealthiest men in Philadelphia. In Philadelphia, the South Carolina delegates were influential delegates present. The South Carolina delegation returned home, they immediately began the task of ensuring that South Carolina would ratify the new Constitution—which it did. Pinckney and his fellow delegates all played key roles in the state's ratification convention.

It was sooner had South Carolina ratified the federal constitution than it had to write a new state constitution. Pinckney presided over the convention and, at his urging, the delegates wrote into the document the guarantee of religious liberty in South Carolina.

In 1791, Pinckney was serving his second term as governor when President George Washington made his tour of the Southern states. Governor Pinckney wrote the President and asked him to visit Snee Farm and have breakfast, “where your fare will be en- tirely under the observation of the weather and the size of the gathering, the meal was held outside under the oaks. On May 2, 1791, Washington wrote in his diary, “A most agreeable dinner at Gov- ernor Pinckney’s and then came to the ferry at Haddrel’s Point.”

From there, Washington travelled to Charleston where he remained for a week. While in the port city, Pinckney was the President’s host three more times—for a private dinner in his home, a large public dinner, and a ball.

No doubt, Washington’s visit was one of the high points of Pinckney’s second term in office. When it was over, he was returned to the General Assembly, was re-elected governor for a third term, and in 1798 was elected United States Senator.

During the presidential election campaign of 1800, Pinckney supported Thomas Jefferson. In so doing, he broke with his family—his cousin Charles Cotesworth Pinckney was the Federalist nominee for vice president. Thanks to Charles Pinckney, Jefferson received South Carolina’s eight electoral votes and they were enough to put him over the top.

Shortly after Jefferson was inaugurated, he appointed Pinckney as our country’s min- ister (ambassador) to Spain. While in Ma- drid, Pinckney continued his practice of pur- chased books for his library. We have here on display a magnificent maritime atlas.
which he bought in Madrid—along with other books he purchased in Philadelphia, New York, and Charleston. These books are reflections of his intellect and wide-ranging interest.

Because Pinckney spent so much time out of state, he left his business affairs in the hands of others. Their mismanagement resulted in Pinckney losing much of his inheritance. In 1814, he was forced to sell Snee Farm in order to settle his debts. There can be no question, that because he devoted himself to the service of his country, that he sacrificed much of his family fortune.

Despite his personal setbacks, he didn’t withdraw from public life. He served one more term as governor and one term in the U.S. House of Representatives. During his term in the House, he opposed the Missouri Compromise because he saw it as a threat to the union he had helped create three decades earlier.

When he completed his term in Congress, he did retire from public life—after 42 years. Three years later he was dead. Thus for all but four years of his adult life, Charles Pinckney was that rare public servant. He had a sense of duty and service that, to some, might seem outdated; but, in essence he was an old-fashioned patriot who was willing to serve the people of the state of South Carolina and the United States when asked. He did his duty. For him public service was a sacred trust. And, the service was not without great personal sacrifice.

And, so, ladies and gentlemen, as we dedicate the Charles Pinckney National Historic Site, let us remember that this place, Snee Farm, is not only a memorial to a great South Carolinian and a great American—that it is a living tribute to the ideals of patriotism, sacrifice, and public service that made this nation great ... the ideals of patriotic sacrifice and public service of which Charles Pinckney was the personal embodiment.

TRIBUTE TO WILLIAM BOLTON

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentucky educator who has dedicated 27 years of his career to the Clark County School System. Mr. William Bolton, assistant superintendent for curriculum and instruction, is retiring on June 30, 1995.

He first came to the Clark County School System in 1968 as a supervisor. Bolton was appointed to the post of assistant superintendent in 1993. Before coming to Clark County, he spent time as a teacher and supervisor in the Corbin Independent School System, and as a supervisor in the Bourbon County School System.

Born and raised in Corbin, KY, William Bolton attended Corbin High School; and after graduation, he traveled to Richmond and enrolled at Eastern Kentucky University. After receiving his degree, he decided to stay at EKU and pursue his masters, which he accomplished in 1959. That same year, he moved back to his hometown to become supervisor of the Corbin Independent School System.

Bolton worked hard over the years to improve the quality of education in Kentucky. He served as treasurer and president of the Kentucky Association of Education Supervisors, he was president of the Kentucky Association for Supervision and Curriculum Development, and he also spent time on the board of directors of the National Association for Supervision and Curriculum Development. He also kept busy as a member of the Kentucky committee of the Southern Association of Colleges and Schools, the Southern Association of Colleges and Schools Elementary Commission, and the Kentucky Department of Education Advisory Committee.

The outstanding Kentuckian is not only dedicated to his school system, he also keeps active in his community. Bolton is a member of the First United Methodist Church, and he has served on the administrative board, and is currently a church trustee.

While the Clark County school system will miss William Bolton’s presence, his retirement means he will be able to do more of the things he loves, including spending time with his wife, Connie, his daughter, and his two grandchildren.

Mr. President, I commend William Bolton for his outstanding service to the Clark County schools. He has played a major role in making it the quality school system that it is today. His influence, expertise, and kindness will certainly be missed by students, faculty, staff, and fellow administrators. I ask that you and my fellow colleagues, join me in congratulating Mr. William Bolton and to wish him good luck in his future.

WINTON M. “RED” BLOUNT, NANCY HANKS LECTURER

Mr. JEFFORDS. Mr. President, March 13 of this year marked Arts Advocacy Day, an annual event coordinated by the American Council for the Arts. The day also marked the Ninth Annual Nancy Hanks Lecture on the Arts and Public Policy.

In terms of Federal support for the arts and humanities this year is a critical one. Therefore, it is of great value to have the opportunity to share thoughts relating to our national commitment to the arts and to determine how best to move forward in ensuring that the arts continue to thrive in all corners of our great Nation.

Winton M. “Red” Blount, former Postmaster General of the United States, member of President Nixon’s Cabinet, chairman of the board of Blount, Inc., and dedicated spokesperson for the arts in this country was chosen for the high honor of Nancy Hanks Lecturer. I ask that the remarks made by Mr. Blount be printed in the Record.

The remarks follow:

REMARKS OF WINTON M. BLOUNT

Let me say that I come before you tonight as an industrialist, not as an arts and culture lobbyist. Given the current environment, I want to be very clear about that. This podium would be asked by the friends of Nancy Hanks and the American Council for the Arts to share some thoughts on the arts and public policy at this most critical time, as we celebrate a remarkable person who put real life into the National Endowment for the Arts in the 1970s when President Nixon increased dramatically the federal funds to go to the arts.

As I write this tonight, Nancy was paying tribute to an outstanding human being. I have sacrificed much of my family fortune and my career for this cause. I have sacrificed much of my family fortune and my career for this cause. I have dedicated 27 years of my career to the Clark County School System. Mr. William Bolton, assistant superintendent for curriculum and instruction, is retiring on June 30, 1995.

I don’t really know what she would have said; your imagination in this regards is as good as mine. I have been conscious of those holier-than-thou contrivances about what someone else would have said or done of wanted done in a particular circumstance. I would only say that I wish she were here today to lend her common sense, her keen insight, and her uncommon energy to the present and rather peculiar, debate on federal support to the arts.

It is a rather variable debate. Just when one thinks one has the sense of it, it pops up in some other place, in some quite other guise. Almost as if those who launched the debate in the first place aren’t really sure what their position is—or whether they want to be associated with it entirely.

On any particular day, one may think the issue is privatization, or obscurity. Just when that notion is about to focus some person never previously known to have been a constitutional scholar is arguing against subsidies on constitutional grounds.

One may think the issue is never sure, and the objection is never spelled out. The Constitution is right there with the Bible as documents which are widely cited and rarely read.

A whole different faction insists that federal assistance to the arts is really only a hand-out for elitists whose personal pleasures are being subsidized by the taxpayer.

The issue, of course, is none of the above. We all know what is the real issue. And we will come to that presently.

PRIVATE SUPPORT FOR THE ARTS

But along the way, I would like to offer my own perspective on the matter of public support to the arts. Looking back on the names of those who have been honored on this occasion in the past, one sees an extraordinary assortment of abilities and accomplishments—prominent historian; a poet; an attorney; a musician; an actor; an off- official; a former CEO of a leading communications company; a leading academic; and former member of Congress.

Mr. President, I imagine that some one would protest strongly the suggestion that the liberal view has been well and amply represented here, or that the greater number of my predecessors has at any rate not cared far better than I if they were being rated by, say, Americans for Democratic Action.
It is with this in mind that I refer to my own perspective. Privatization is as good as a place as any for a conservative businessman to begin. With the collapse of the Soviet Union, and the more general acknowledgment that there are things business can do better than governments, the concept of privatization has acquired a new momentum and a new dimension. Privatization is the new philosopher's stone that will turn lead to gold. The very word itself has acquired symbolic significance.

As it happens, I can speak with some authority on the matter of privatization. I oversaw the partial privatization of the U.S. Postal Service when I was a Cabinet officer; one day I was a Cabinet officer; the next day I was a has-been. Like most has-beens, I am an expert on the matter.

PRIVATIZATION—Does it Work for the ARTS?

At the heart of privatization is the proposition that those who receive a benefit should be the ones to pay for it. If you use the mails, or phone services, or utilities, you should pay for them. To assure that you get the best service at the best price; these services should be delivered in a free market, where competition will provide incentives for historically depressed prices.

But we, as most nations, also recognized that free market processes will not always work to the advantage of the nation as a whole. It was found that the post office was not a broadening of our agricultural base, and that would not be achieved rapidly by the invisible hand which allocates capital. So we subsidized, for example, rural electrification, and the taxpayer in our cities got his investment back through a better selection, at lower prices, on the dinner table.

The same rationale justified subsidizing the postal service for much of our still brief history. The postal service preceded our Constitution, and the founding fathers saw nothing unusual, if not correct, in allowing a public activity which benefitted the private sector, seeing that it also gave benefit to the whole nation.

So there is ample precedent for using public moneys to underwrite activities which benefit some directly and others residually. This is not a relationship governed by rigid laws. It is a fit where the public purse can be dispensed with, and wisdom resides in knowing when those times have come. It realizes as well in knowing when they have not come, and when they no longer do.

I did my privatizing in a rather interesting building on Pennsylvania Avenue. Part of the charm of that building was its art. It was public art, supported by the National Endowment for the Arts (NEA), but by the WPA. By the Federal Art Project of the Work Progress Administration, as an example. There were murals in the public spaces there, and they were quite good. In fact there are many wonderful murals and many other buildings.

Still, I don’t think they were wasted. The money that subsidized them helped the artists survive in a difficult time, while doing useful work that was an occasion of a sudden work may have helped that work to improve.

And we don’t know whether any of that will someday be taken down off those walls and offered for sale, where it can meet the public. You never know about art. It has a way of coming back around. It connects us; it provides the ligaments and the ties that bind us. It is a principle that should not drift along the trajectory of its evolution. In that sense, among many, it can be said to perform a public function, in the purest sense of the word.

Had we not subsidized those artists, in that time, who would have done so? Would we have seen the Synesthesia of American art in the Depression era? Perhaps. At any rate, it is difficult to imagine much private money going to new artists for works that would benefit the public.

These programs—and, as all of you know, the Federal Art project was only one; there was a Federal Music Project, a Federal Theatre Project—were not simply subsidizing practicing artists, writers, composers and playwrights. They even provided lessons. They taught students to make art, and others how to appreciate it.

Alternatively, they may have helped a few would-be artists to discover that their talents might be better employed in the field of cardiology, or welding, or home constructions. Was this not a beneficial thing from the standpoint of civic maturation? Indeed it was. It was as essential to the synthesizing of a distinctive national culture as the civil war was to the synthesizing of a distinctive national form of government. The federal government, by nurturing creativity, helps to increase cultural production and the skills associated with that production.

PUBLICLY FUNDED PROGRAMS MAKE ART DEMOCRATIC

These publicly funded programs made art democratic. If there is to be a debate over the utility of that objective, then let the debate be couched in those terms, rather than in economic terms and demagoguery. To suggest that the arts should rely for their health on private funding is a form of snobbery; it implies that those without means are incapable of producing art, or of appreciating it, in the first place. If we accept this proposition, we must accept its concomitant, which is an America divided by economic class. Were we to accept that, we wouldn’t really need a Constitution, would we?

So, it is important that we not let the terms of this debate be defined by ideology. The arts are not the pre-occupation of a narrow elite; they are the defining sinews of the nation. If the arts are a public good, they are properly subsidized by public resources.

Neither should be allow ourselves to be put on the defensive over this matter of privatization. The proper allocation of public resources is a vitally important issue, but the actuality is not the opposition of the arts to the private sector. There is a reduction to the absurdity which obscures the importance of that issue. Federal support of the arts yields multiple public benefits, including local economic revitalization. With arts education you get improved work force characteristics. Youth who are involved with the arts are less prone to become engaged with crime and violence, etc.

Therefore, at a time of scarce federal dollars, policy makers should be looking to allocate resources where they can generate multiple public benefits for each dollar.

A CALL FOR INTELLECTUAL RIGOR AND CONSISTENCY

What is wanted is a degree of intellectual rigor and consistency which is now missing in this debate. It will be a public service if we may also get a more accurate definition of elitism in America, and who among us are the most privileged when it comes to the allocation of public resources.

While we wait for that happy day, we may be excused for taking a look to see what really is at issue here. It is not whether the arts are subsidized or not. It is how they have been subsidized. It is on this point that one discerns something between intellectual sloth and political cowardice on the part of those who want to eliminate federal funding for the arts. To have read and re-read the arguments, as I have you, against federal funding, and for privatization, I have yet to find, anywhere, this issue defined on the merits. The issue is not the monopoly and single exclusivity the arts contribute to the commonweal. Is it an inevitable component of the good society? If there are those who believe it is not, let them have overwhelming proof. And let them explain the examples of nations which have achieved greatness while turning their backs on art.

A GREAT, LOST OPPORTUNITY

One sees in all this a great, lost opportunity. Our friends in the Senate establish the National Endowments for the Arts, the Humanities, IMS and public broadcasting, would require zero public funding for the NEA. Mapplethorpe photograph? While we wait for that happy day, we may be excused for taking a look to see what really is at issue here. It is not whether the arts are subsidized or not. It is how they have been subsidized. It is on this point that one discerns something...
It is difficult to believe that anyone honestly sees the harsh imperatives of economics as compatible with the refining evolution of a culture. Yet the argument for privatization of the arts is a belief. If one is to imagine that a variant of Gresham’s law functions in the shaping of a culture, turn on your television. Left to its own devices, bad entertainment crowds out good entertainment. Bad art will drive out good art.

FISCAL PRUDENCE SUPPORTS FEDERAL FUNDING OF THE ARTS

Yet, even on its face, the claim that fiscal prudence necessitates the privatization of the arts is transparently faulty. In what other area of federal funding does one federal dollar generate eleven more dollars from the private sector? These dollars flow back to the federal treasury. Thus, if deficit reduction is the objective, then it is obvious that we should be spending more, not less, on the arts.

In government, as in most aspects of our lives, we tend to reason from the exceptional. And it is the exceptional cases of public trust in the funding, however infinitesimal a part of the whole, of those who offend public decency, which underpins the argument for eliminating all federal funding of the arts. It makes the case of a travesty and a tragedy, is the fact that nothing would be more gratifying to those few who wish to squander our values for them to be the agents of disestablishment.

It does not seem to me beyond the competence of men and women of good will to correct the abuses in the public funding of the arts, and to retain the greater good which flows from the government’s proper role. It is precisely the opportunity to devise such corrections that is being squandered today.

We do have the right and the obligation to demand accountability from those who dispense federal resources for the arts. We do have the right to impose sanctions on those individuals and organizations which offend public sensibilities by abusing public support. It is reasonable to consider the merits of a cultural impact statement as part of the grant process. It is reasonable to demand corrections in the peer review process. It is to these corrections that we should be directing our attention now.

Mr. ROCKEFELLER. Mr. President, I rise to bring to the attention of my colleagues an upcoming occasion for which I am asking your support. I am speaking of the 90th birthday of Arthur Sherwood Flemming on Monday, June 12.

Arthur Flemming’s integrity is unsurpassed, and his commitment to social justice is unparalleled. When too many younger Americans have lost their dream, Arthur Flemming seized upon it. He was a person of uncommon integrity, with a profound commitment to our nation’s ideals. He was a visionary leader who inspired generations of public servants and civic leaders.

Arthur Flemming served almost a decade on the Civil Service Commission, under Presidents Roosevelt and Truman. He was the first African American to hold the rank of Secretary of Health, Education and Welfare under President Eisenhower, and was appointed to several positions, including Chairman of the U.S. Commission on Civil Rights.

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Mr. ROGERS. Mr. President, I rise to bring to the attention of my colleagues an upcoming occasion for which I am asking your support. I am speaking of the 90th birthday of Arthur Sherwood Flemming on Monday, June 12.

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Roosevelt called the “hazards and vicissitudes of life.”

Quite simply, this is someone for whom I have the deepest admiration and affection.

When Arthur Fleming’s 90th birthday occurs next Monday, Mr. President, he will no doubt pause only briefly to allow some of his friends and admirers to mark the occasion—and then press on. There is, in Arthur Fleming’s view, so much yet to be done.

I believe that his vision and fortitude are captured quite accurately in an opinion article he authored just last month for the Los Angeles Times, and I ask that it be printed in the RECORD.

The article follows:

[From the Los Angeles Times, May 2, 1995]

**Save Our National Community**

(By Arthur S. Fleming)

The “contract with America” constitutes a massive effort to break up the national community we have developed over the past 60 years.

The House Speaker dramatically underlined this objective when he said, referring to the welfare programs the national community has undertaken:

“They are a disaster. They ruin the poor. They create a culture of poverty and a culture of violence which is destructive to this civilization, and they have to be thoroughly replaced from the ground up. We need to simply reach out, erase the state and start over.”

When I was a reporter in 1933 and 1934 for what was the predecessor to U.S. News and World Report, I vividly observed how Franklin Roosevelt challenged the national community to pool the resources of the public and private sectors to help one another deal with the hazards and vicissitudes of life. He believed that the national community should place the concept of ‘social security’ alongside ‘national security.’

I say the national community, for the six years I served under President Roosevelt as a member of the U.S. Civil Service Commission, respond to his challenge by authorizing the establishment of a federal government capable of launching 10 programs under the umbrella of Social Security. These included social insurance for retirees, Aid to Families With Dependent Children, Aid to the Blind and the Disabled, unemployment, and vocational rehabilitation.

I have seen administrations and Congresses since then reaffirm the social role of the national community in partnership with state and local communities.

As a member of President Eisenhower’s Cabinet for both terms, I participated in developments that illustrate his commitment to strengthening the national community: the creation of the National Science Foundation, the Department of Health, Education and Welfare, the strengthening of Social Security, the addition of the disabled to our social-insurance programs, and the adoption of the National Defense Education Act.

I’ve had the opportunity of working with all subsequent presidents up to the 1980s; all have contributed to strengthening the national community. President Clinton has been, and is, making a vigorous contribution to the same objective. The drive for universal coverage of all types of health care is one example.

Never in all these years had I witnessed a national political party deliberately develop an agenda such as the “contract with America” with an avowed purpose of weakening the role of the national community.

The current leaders of Congress propose to take funds away from social insurance, particularly Medicare. In so doing, they are proposing not a new “contract with America” but to break a contract that has existed for many years.

They also propose to establish block grants for existing programs for the middle class, thus providing the poor and the wealthy with over a period of five years will provide fewer qualified persons with federal funds. Likewise, they would eliminate many standards designed to ensure quality of services.

Millions of our people are living below the poverty line. Millions more will join them if the proposals made by the leaders of Congress are adopted. Under a system of partnership between local, state and national communities, we cannot weaken the national community without weakening state and local communities. Many states will not replace lost federal funds.

We can, and should, travel another road. We are the richest nation in the world. All of our economic studies reveal that the rich are getting richer and the poor poorer. We can, and should, reverse that trend. We can adjust our tax code. We can raise the top rates for individuals and corporations, eliminate some of the significant corporate tax loopholes and raise new funds over five years for national community programs. This can be combined with closing out of constructive reductions in the programs of the national community resulting from overlaps, unnecessary rules and eliminating fraud and waste.

These combined resources should be used for a disciplined program that can bring about an actual reduction in the deficit each year, plus a stronger national community that builds on the strength and accomplishments of the past 60 years, instead of re-treating to a position comparable with that of the 1930s.

**ORDERS FOR THURSDAY, JUNE 8, 1995**

Mr. PRESSLER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Thursday, June 8, 1995, that following the prayer, the journal of proceedings be deemed approved to the time that the Senate adjourns, and the leaders be re-appointed for their use later in the day, and the Senate then immediately re-sume consideration of S. 652, the telecommunications bill.

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

**PROGRAM**

Mr. PRESSLER. Mr. President, all Members should be aware that at 9:30 a.m. tomorrow morning the new Secretary of the Senate, Kelly Johnston, will be formally sworn in on the Senate floor.

Also, Senators should be on notice that votes can be expected to occur throughout the day and into the evening on amendments to the pending telecommunications bill.

**ORDER FOR RECESS**

Mr. PRESSLER. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order following the remarks of Senator Santorum. The PRESIDING OFFICER. Without objection, it is so ordered.

**APPOINTMENT OF CONFEREES—HOUSE CONCURRENT RESOLUTION 67**

The PRESIDING OFFICER. Pursuant to the order of May 25, 1995, the Chair appoints the following conferees on House Concurrent Resolution 67: Mr. Domini, Mr. Grassley, Mr. Nickles, Mr. Lott, Mr. Brown, Mr. Gorton, Mr. Gregg, Mr. Exon, Mr. Hollings, Mr. Johnston, Mr. Lautenberg, and Mr. Simon.

The PRESIDING OFFICER. Does the Senator from Pennsylvania seek recognition?

Mr. SANTORUM addressed the Chair. The PRESIDING OFFICER. The Senator is recognized.

Mr. SANTORUM. I thank the Chair.

**MISSING BUDGET RESOLUTION**

Mr. SANTORUM. Mr. President, I return to the floor after a brief hiatus as a result of the Memorial Day recess to continue the vigil of waiting for the President to come forward with his 1996 and beyond budget resolution explaining to the Congress and to the American public how he believes we should get to a balanced budget by the year 2002 or 2000 or 2010 or whatever date that he chooses.

As of yet, while the President has coyly discussed with the reporters in New Hampshire and a little cat and mouse with Larry King a couple of nights ago on “Larry King Live,” he has steadfastly refused to come forward with any definitive proposal, or even a definitive announcement, of whether he is going to come forward with a proposal on how to balance the Federal budget.

So I will put up the numbers on the chart tonight which indicate the number of days with no proposal to balance the budget from President Clinton. We have now reached day 20 of this visual, not an unmomentous day on day 20.

Several things occurred today that provides some light on what the thinking of the White House is not only on tax reform but his lip service on a variety of issues that have come to his attention that are being debated here in the U.S. Congress.

I want to refer first to what happened on Larry King the other night. There was a commercial run by the Republican National Committee during the Larry King anniversary show that reminded the President that this was also an anniversary of a comment that he made during the 1992 campaign that he promised—that he promised that he would propose a 5-year balanced budget. Larry King asked him about that, I think, shortly after the commercial aired, and the President gave
the response that, well, he was thinking about it, or he was going to look at the Republican plans and try to deal with that but sort of dodged around the question.

The Washington Times asked White House Press Secretary Mike McCurry about this exchange on the Larry King show. I will read the exchange between the Washington Times reporter and White House Press Secretary Mike McCurry:

Question, Washington Times: “Where does President Clinton stand on writing his own budget now?”

Answer: “Where does he stand on writing it? As he indicated last night in his television interview, he’s prepared to contribute his ideas to the budget process at an appropriate time.”

Washington Times, question: “What does that mean?”

White House Press Secretary Michael McCurry, answer: “It means we’re ducking the question for now.”

“It means we’re ducking the question for now.”

Twenty days after the Republicans have put forward and now passed their budget plan, without action in the House, while we are debating in conference, “we’re ducking the question for now.” The President of the United States, the leader of the free world, “we’re ducking the question for now.” A fundamental issue that we are debating and dealing with in America today, “we’re ducking the question for now.”

This should come as no surprise as a result of some of the actions the President has taken over the last couple of days on a couple of other issues.

Today he trotted out the first veto. Now, this veto on a bill that was a dramatic change in course of this country that was threatening the very underpinnings of our society that the Congress and this Democratic administration has constructed? No.

Was this a bill that was a partisan issue that passed on strictly partisan lines that was part of the Contract With America? No, this was a rescissions bill, which also provided funding for disaster relief for Oklahoma City and California earthquakes, but provided reductions in funding in a variety of other programs. And the President, $16 billion in spending cuts, vetoed it, because it just cut too much and because it spent too much money on pork.

Now this is a very interesting point. This was a rescissions bill. A rescissions bill is a bill that says money that has been appropriated will not be spent. Now, I do not know how in a bill which says that money that was appropriated will not be spent will spend more money, because it does not. None of these pork barrel projects is actually added in the rescissions bill. It is just that they were not included to be taken out in the rescissions bill.

And, by the way, who passed these pork barrel projects and authorized the spending on those projects and appropriated the money to spend? Last year’s Democratic Congress and last year’s President. So this President, who signed off on these bills, who approved of the pork now is vetoing a bill because he did not take the pork out. I think it was said best by Senator Hatfield on the floor just before the recess when he got up, again in a bipartisan display—the bill passed in a bipartisan fashion with over 60 votes—he said that as the chairman of the Appropriations Committee, spanning six Presidents—six administrations—it is the first time that a President has not assigned an individual to sit in the conference committee where the final bill is being drafted, to sit in the conference committee and work with the House Republicans and Democrats and Senate Republicans and Democrats, conferences on a final bill that everyone could agree with. They sent no representative. They had no input. They sent one letter, asked for one change. The change was made. The bill was reported out bipartisan, it comes to the floor and the President decides he is going to veto it without any discussion was made, it was trumped up some excuses because of spending that he signed now should be taken out and he wants to spend more money in about $800 million worth of programs.

Where was he in the conference committee? Where was the leadership that is delaying disaster relief for Oklahoma City and for California? Where is this President when it comes to charting the course? I will tell you where he is. I will move to yesterday at the National Governors’ Conference where the President gets up and talks about welfare reform. Now, remember, welfare reform during the 1992 campaign was potentially the biggest issue of the election. He went over the top. He told the American public he wanted to end welfare as we know it and proved that he was not Michael Dukakis or was not Walter Mondale, that he was a new Democrat, because he was going to stand up to the old welfare state mentality of the Democratic Party.

And what has he done? Well, he went to the National Governors’ Association and said:

The Republican plans are a way to cut spending on the poor and balance the budget in 7 years and give a big tax cut largely benefiting upper-income people. People ought to just say that flat out, because that’s really underneath this.

Has the President offered a welfare reform plan this year? No.

Did the President offer a welfare reform plan last year? Yes.

Did the Democratic Congress give it a hearing? No.

Did anyone take it seriously? No.

Was it a political document that virtually changed nothing in the system? Yes.

And now he is out taking shots at what we are doing. Is he offering an alternative now? No.

Is he leading on this issue to help win him the election? No.

I may have to have multiple charts about all these issues on which the President simply is just not participating. I do not know how many easels they have here, but hopefully they have enough easels here to put up all the different charts. I had to have more numbers made about just where the President simply is not going to participate in the process.

I am not talking about whether to name the national flower the rose or something here. I am talking about welfare reform, balancing the budget, cutting spending—pretty fundamental issues to the domestic debate in this country—and he is AWOL, absent without leadership.

What are some of his friends in the media saying?

Well, on welfare, Brit Hume said, “He no longer has a welfare reform plan of his own, but would like to shape what Congress produces—and doesn’t like what he sees.”

NPR’s Liaison said, “Since President Clinton’s own welfare reform plan died in Congress last year, he’s made only intermittent attempts to influence the debate.”

His friends on the editorial staff at the Baltimore Sun said, “Clinton has a ‘long interest’ in welfare issues.”

They are saying this lamentingly. They say he “knows more than any previous President, and yet, in midterm, he has become almost irrelevant as Congress speeds toward changes * * *”

“Almost irrelevant.” Does it ring a bell? Almost irrelevant to the fundamental issue that helped him get elected—welfare. Irrelevant to providing any source of suggestions or vision or leadership in moving forward on a balanced budget. The President of the United States of America, the leader of the free world.

We can do better. We can do better. I am hopeful that as we continue this visual—as I will between now and the end of September—that we can encourage the President to engage, to understand that the country wants the executive branch, the President and the Congress, to work together to solve the problems that they were elected to change Washington, to move this country forward, to set priorities, and to create opportunities for our citizens. In the measures that I talked about, they are all fundamental to the revolution that is occurring in this country and, hopefully, here in Washington, DC.

I can only ask that the President stop me from coming back, and that he comes forward and quits playing cat and mouse with the press and proposes a budget resolution, comes forward with a welfare reform plan, with spending—let’s get the ball rolling right away and begin to lead America into the next generation and the next millennium.

Mr. President, I yield the floor.
RECESS UNTIL 9:30 A.M.
TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow, June 8, 1995.

Thereupon, the Senate, at 9:42 p.m., recessed until Thursday, June 8, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 7, 1995:

DEPARTMENT OF HEALTH AND HUMAN SERVICES
JOHN JOSEPH CALLAHAN, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE KENNETH S. APFEL, RESIGNED.

FEDERAL HOSPITAL INSURANCE TRUST FUND
STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE DAVID M. WALKER, TERM EXPIRED.

MARILYN MOON, OF MARYLAND, TO BE MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE STANFORD G. ROSS, TERM EXPIRED.

FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND
STEPHEN G. KELLISON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE DAVID M. WALKER, TERM EXPIRED.

MARILYN MOON, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR A TERM OF 4 YEARS, VICE STANFORD G. ROSS, TERM EXPIRED.
OUR COMMITMENT TO HIGHER EDUCATION: A VIEW FROM THE ‘TRENCHES’

HON. ROBERT E. ANDREWS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to commend to my colleagues an article in The Record of Hackensack written by Robert A. Scott, President of Ramapo College in Mahwah, New Jersey. In his article Dr. Scott advocates the importance of maintaining student loan funding while also encouraging alternatives such as college work-study programs. Dr. Scott has committed his professional life to the betterment of higher education. I am proud to relay that this commitment was first developed during his undergraduate experience at my alma mater, Bucknell University.

I greatly admire the accomplishments and commitment of Dr. Scott and recommend his article to all interested in higher education.

[From The Record, Hackensack, NJ, Apr. 10, 1995]

DON’T UNDERCUT OUR COMMITMENT TO HIGHER EDUCATION

(By Robert A. Scott)

The House of Representatives has voted to cut more than $200 million in funding for higher education. These cuts and some provisions in the Contract With America contain elements that could seriously weaken our commitment to social mobility and civic stability.

For more than 200 years, higher education has been an important strategy for population dispersal, scientific agriculture and food production, services to less populated regions, veteran’s readjustment, advancement of the middle class, national defense, and upward mobility.

So how is it that the federal government now seems bent on reducing access to upward mobility. This, after all, will be the result if student financial aid is reduced and college access is dependent more on the ability to pay than on the ability to learn.

The House position is a mistake. We should keep college affordable. We should stop the growth in loans, and start the growth in jobs.

TRIBUTE TO BEN WAXMAN

HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. WAXMAN. Mr. Speaker, I ask you and my colleagues to join me in saluting my dear uncle, Ben Waxman, on his 80th birthday, which will be celebrated on June 11, 1995 at the home of his deeply devoted daughter and son-in-law, Audrey and Jerry Sandler, in Boca Raton.

Ben Waxman was born 80 years ago in Los Angeles, the son of Jewish immigrants, and was educated at the Jewish Public Charter School.

Ben Waxman was a man who never traded his idealism for the commonplace, who never sold his soul to the Establishment, who never compromised on the principles that he stood for.

Ben earned his law degree at the Southwestern Law School Night Program, where he developed a thriving practice of his own.

As a Democratic Party activist, Ben was especially close to the late Vice President Hubert Humphrey.

The House of Representatives has voted to cut more than $200 million in funding for higher education. These cuts and some provisions in the Contract With America contain elements that could seriously weaken our commitment to social mobility and civic stability.

For more than 200 years, higher education has been...
about a million ultra short pulses each second at extremely low power levels. The device samples pulses reflected from distances of up to 20 feet. This remarkable device, which can run on a pair of AA batteries for up to 8 years, is inexpensive to construct and has many practical applications. Companies like Lawrence Livermore Lab have issued licenses, one licensee plans to use the invention on automobiles to signal if there are vehicles in a driver’s blind spot, which promises substantial enhancement of roadway safety. Other possible applications include intruder alarms, instruments for locating wall studs in wood and rebar in concrete, light switches, liquid level sensors, medical monitors and, safety shutoff valves.

Thomas McEwan’s invention is critical to America’s technology future. He deserves high praise and credit for his superlative work, and for his reminder that the initiative and creativity that have helped make America the land of economic promise are alive and well. It is a pleasure for me to commend him and thank him for his most important work.

COFFEE PROFFESSORS IN CHARGE OF OUR GOVERNMENT?

HON. JOHN J. DUNCAN, JR., OF TENNESSEE, IN THE HOUSE OF REPRESENTATIVES Wednesday, June 7, 1995

Mr. DUNCAN. Mr. Speaker, let me commend to you the following article written by a constituent of mine, Mr. John Mark Hancock. Citing House Speaker NEWT GINGRICH, House majority leader DICK ARMLEY, and Senator Phil GRAMM as examples, this insightful commentary discusses the important role former college professors are playing in defining the 104th Congress.

COLLEGE PROFESSORS IN CHARGE OF OUR GOVERNMENT?

(By) John Mark Hancock

One of the ironic and perhaps overlooked facts about the sweeping Republican victory in last November’s elections is that scores of college professors are actually taking control of our federal government. House Speaker Newt Gingrich, House Majority Leader Dick Armey, and Senator Phil Gramm, a frontrunner for the 1996 GOP Presidential nomination, are all former teachers from various universities. Since academia has long been the province of self-righteous, bleeding hearts, and the centers of most of our liberal thought, and even Marxist views, on government and social policy, it is gratifying to conservatives that these new leaders have come from that realm. It must be galling to the majority of college professors to know that the architects and engineers of the Republican “Contract With America” are from their domain, one they have long sought to preserve as a bastion of liberal ideology.

The ivory towers of America’s colleges and universities have for too long now been dominated by leftist views. These professors have promoted such themes as Keynesian economic theory, big government social policies, gay “rights”, prisoner’s “rights”, animal “rights”, and studies which glorified Communism, by imparting such ideas to their students and in their classrooms. Professor of hiring others of their number, despite a decided trend in the opposite direction on a worldwide scale, with the breakup of the Soviet Union and the fall of the Berlin Wall.

It is therefore especially satisfying to those of us who have received a great deal of higher education to find that the dream does indeed rise to the top. Our nation’s voters have found that the voice of the conservative Christian and pro-family institutions nationwide is actually the voice of the overall majority of Americans.

As a former member of Young Americans for Freedom and a Republican member of Congress during my student days in the 1970’s, it was hard for me to find professors who agreed with what has become the mainstream philosophical line of people who are fed up with government’s intrusion into their lives. Having served as president of the graduate student body at my school in 1979-81, it was disconcerting to find so many professors wanting to preserve the status quo on campus. Perhaps this pervasive liberal attitude is to be expected from institutions that thrive on government monies and assistance for their very livelihood. Without huge taxpayer funded mandates, colleges and universities would be unable to help minorities, assist students in paying fees, pay premium salaries to certain professors, achieve research contracts, and perpetuate bloated bureaucracies that are top-heavy with useless administrators.

Cutbacks in government will inevitably mean that our nation’s educational institutions will suffer. But, maybe that’s not so bad if it weeds out some of the deadwood that some schools have been harboring for too long. The views that I have taken have been hindered and stumbling blocks to us bringing about a better America, one in which government gets out of our lives and pocketbooks, and off of our land.

America was founded as a nation of independent ideas and rugged individualism. It has become a nation dominated by the government that serves the people, rather than having the people serve its ends. It is long past time for the pendulum to swing back in the other direction.

We have long been a people known for plain speaking and straight talking. The failed policies of FDR’s New Deal and LBJ’s Great Society have only served to weaken the people, having finally, assist students in paying fees, pay premium salaries to certain professors, achieve research contracts, and perpetuate bloated bureaucracies that are top-heavy with useless administrators.

Gladys Alloway DeMarco was born and raised in the Chatsworth area and was a teacher in the Chatsworth school. Her roots in the region extend back to the days of William Penn.

Finally, Mr. Speaker, there are a number of community leaders who deserve special recognition for assuring that the vision for this important project became a reality. Woodland’s Mayor, John Bowker, chaired the Building Committee that included the Township’s two Committeemen, Robert DePetris and Thomas Davis, Township Clerk, Carol Cobb, and J. Garfield DeMarco.

And, Mr. Speaker, the DeMarco Family generously supported the project and provided the assurance that it would be a facility the town will be proud of for generations to come. Very special thanks are due to J. Garfield DeMarco, Mark A. DeMarco, and Anna Lynne DeMarco Papinchak.

MEMORIAL DAY IS A TIME TO REMEMBER

HON. SAM GEJDENSON, OF CONNECTICUT, IN THE HOUSE OF REPRESENTATIVES Wednesday, June 7, 1995

Mr. GEJDENSON. Mr. Speaker, this Memorial Day, as we observe the 50th anniversary of the end of World War II, we have an excellent opportunity to recognize the contributions of more than 28 million living American Veterans. Furthermore, it is a good opportunity to improve citizen awareness of the sacrifices
made, and the service given, by our veterans in defense of our Constitution and the liberties it guarantees.

All too often, we take our freedoms for granted. These precious freedoms were defended by those who sacrificed their lives in times of war. These are preserved by those who exercise them. It is a solemn responsibility of every American to honor our veterans.

When I think of what my freedom means to me, I recall the memory of when my family came to the United States after surviving the horrors of World War II. My parents were not attracted by the flag or the Statue of Liberty, for other nations have flags and monuments; it was and is the American Constitution, and the freedom which it embodies, which sets the United States apart from so many other nations.

As a Member of Congress, I am pleased to be in a position to honor our veterans. The willingly went to war to defend our freedoms and the American dream we all strive to achieve. In this time of restricted budgets and divisive rhetoric, we must pause to recall the commitment given to us by those veterans and we must honor the commitments we have made to them.

Today, there are more living American veterans than at any point in history. They are among the reasons that the United States is the mightiest, wealthiest, most secure nation on the earth today. They are the reason the United States has been, and will continue to be, the bastion of support and solace for those in a world still searching for freedom and human rights.

Memorial Day is a day to remember all those men and women who gave their lives and livelihoods for their country. Let this 50th Anniversary of the end of World War II signal a rededication to our commitment to honor the service of our Nation's veterans.

REINTRODUCTION OF LEGISLATION REQUESTING ACQUISITION OF WAIHEE MARSH (H.R. 429)

HON. PATSY T. MINK
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mrs. MINK of Hawaii, Mr. Speaker, I introduce H.R. 429 at the beginning of the 104th Congress which requests the U.S. Fish and Wildlife Service [FWS] to acquire the Waihee Marsh wetland and to establish a conservation easement on both sides of Waihee Stream located at Kahaluu, Island of Oahu, State of Hawaii. I developed the legislation at the request of a member of the county council of the city and county of Honolulu.

Thirty acres of the Waihee Marsh are currently on the 2-year priority acquisition list of FWS. The wetland functions as a flood control area and filtration system that protects adjacent lands and Kaneohe Bay. The marsh also served as primary habitat for endangered water birds and migratory shorebirds. Community support is widespread for this proposed acquisition.

The Waihee Stream parcel proposed for acquisition has been recommended for conservation by the Kaneohe Bay Task Force, which maintained that the creation of a 100-foot buffer area of Waihee Stream would protect water quality and prevent flooding.

However, property owners of lands along Waihee Stream are concerned and opposed to the acquisition of the conservation easement. Because of this protest, I am deleting this particular provision from the bill, and re-submitting it for the marsh area alone.

I urge support of the Waihee Marsh, and urge its inclusion in the fiscal year 1996 budget for acquisition.

TRIBUTE TO FREDERICK DOUGLASS

HON. CHAKA FATTAH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. FATTAH. Mr. Speaker, recognizing Frederick Douglass in the centennial year of his death is an opportunity for the Nation to embrace its traditional American values of education, self-reliance, and public service through the life of this American patriot.

As biographer and author, Frederick Douglass wrote about his triumph over chattel slavery 150 years ago, and his story has become a reminder of the essential role of education in our democracy. As a journalist, he founded The North Star in 1847 and became an articulate witness for the indivisibility of freedom and citizenship for the slave and for the idea and image of freedom in America. As a public servant, Frederick Douglass advised Presidents from Lincoln to Harrison, ending his distinguished public career as Minister to the Dominican Republic in 1871 and to Haiti in 1889.

On February 1, 1895, Mr. Douglass gave his last public lecture at West Chester University of Pennsylvania. The University has honored this champion of freedom with a 2-year program and has helped to lead the Nation in commemorating his life. Frederick Douglass voiced hope and confidence in America during some of the most anxious moments in the Nation's history.

Our recognition of the life of Frederick Douglass is a testimony to his enduring faith that this Nation and all of its people will remain worthy of and committed to the highest principles of freedom and justice for all.

HON. JERRY LEWIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. LEWIS of California, Mr. Speaker, I would like to bring to your attention today the fine achievement of Will Byalles and the leadership of his teacher, Mrs. Irene Sorenson, from Home Street Middle School in Bishop, CA. Recently, this remarkable student joined other students from across the country at the University of Maryland to compete in National History Day sponsored by the Constitutional Rights Foundation. The theme for this year's competition was "Conflict and Compromise in History."

Will qualified for the national competition by first winning at the local, regional, and State levels. Will placed first in California for his research paper titled, "A Philosophical Conflict on Civil Rights, Integration or Separatism?"
Correspondence Between Martin Luther King, Jr. and Malcolm X. Will took the original approach of creating a series of letters between these two men that express an understanding of their philosophies. In reality, King and Malcolm X did not correspond so the content of the letters reflect the research done as well as comments by Will.

This outstanding student and Mrs. Sorensen are a tribute to our public school system which remains the finest in the world. Although this student lives in a community of less than 5,000 people located 200 miles from a major library or university, he completed extensive research in his subject area and was highly competitive with students from the large metropolitan area including Los Angeles County, San Bernardino County, and Riverside County. It is also remarkable that under the guidance of Mrs. Sorensen, a total of sixteen students made it all the way to the final State competition and exhibited their knowledge in seven of the possible eight categories.

Mr. Speaker, I ask that you join me, our colleagues, and friends in recognizing the fine achievement of these individuals. Their work is a reflection of education at its best. It is fitting and appropriate that the House of Representatives pay tribute to them today.

25TH ANNIVERSARY OF THE MAJOR APPLIANCE CONSUMER ACTION PROGRAM

HON. DAVE CAMP
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. CAMP. Mr. Speaker, this year marks the 25th anniversary of the creation of the Major Appliance Consumer Action Program [MACAP]. I rise today, with my colleague, Representative BART GORDON, to offer appreciation to those who have voluntarily served on the panel to promote communication between consumers and industry for the past 25 years.

On January 8, 1969, President Lyndon B. Johnson appointed a task force to investigate guarantees and servicing problems for major home appliances. He recognized the need for a greater, coordinated effort to serve the interest of consumers. President Nixon reactivated the task force on October 30, 1969, and called for a report of progress made by the appliance industry in implementing report recommendations. It was in early February 1970 that this industry launched a bold, new initiative called MACAP.

MACAP serves three primary purposes: First, to provide consumers with unbiased mediation of their unresolved major appliance complaints, second, to counsel the industry on ways to improve its customer relations practices, and third, to prevent consumer appliance problems through public education of proper appliance purchase.

The MACAP panel consists of professionals, independent of the appliance industry, representing various disciplines including family law and economics, technical knowledge of appliance operation and design, and the relationship of water/temperature/materials in laundry and dishwashing and consumer advocacy. Remarkably, the average time needed to bring a complaint to closure is about 60 days. The panel meets 10 to 12 times a year through face-to-face meetings and conference calls and reviews about 25 individual consumer complaints at each meeting. The panel is interested in complaints that identifies trends and patterns that call for specific educational messages to the public.

Since MACAP's inception 25 years ago, the program has processed over 45,000 complaints with 80 percent reaching a resolution that was accepted by the consumer and the manufacturer.

We commend this very competitive industry for first recognizing a common problem that required the cooperation and dedicated interest of all the appliance companies. We are pleased to offer our expressions of deep gratitude and appreciation to the panel for their voluntary uniring efforts and devoted service to the manufacturers for their visions, discernment and cooperation.

TRIBUTE TO OLGA S. LAW

HON. DONALD M. PAYNE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, today I rise to pay tribute to a very special lady. Mrs. Olga Sharpe Law of Merry Hill, NC, celebrated her 87th birthday on May 25 and was honored at a birthday celebration by the church family of Zion Bethel Baptist Church in Windsor, NC.

Mrs. Law, one of four children who was born in Portsmouth, VA, in 1908, has devoted her life to the service of others. After she graduated from Elizabeth City State Teachers College, now Elizabeth City State University, she taught 5 years in Virginia and then remained with the Bertie County school system for 39 years. As a former teacher myself, I can confirm that it takes a great deal of dedication and love to make a 39-year commitment to the children in her community. I can also confirm that Mrs. Law possesses these qualities in abundance. Her joy came in teaching the three R's—reading, 'riting, and 'rithmetic. However, she got greater joy in teaching her students to respect themselves, and others. Many of her students still approach her to thank her for being a wonderful and inspirational teacher.

But teaching for Mrs. Law did not end with the school day. She has and continues to serve as an adult Sunday School teacher, Bible study teacher, a deaconess, and a missionary. In between all of this, she regularly attends three churches pastored by her late husband.

Mrs. Law is well known in the community for extending her hand to whomever is in need, and her deeds speak for themselves. Everyone knows that you do not have to call upon her for help, she often offers it.

On June 4, 1992, because of her love for the church and its congregation, her soft-spoken voice and firm manner, the Rev. John W. Barnes bestowed her with the honor of “The Mother” of Zion Bethel Church.

Mrs. Law remains very active in the woman's auxiliary to the West Roanoke Association and the Tri-County Minister's Wives and Widows' Association, both of which she has served as President. She has also served as worthy matron of the North Star Chapter Order of the Eastern Star No. 332 of Merry Hill.

Mr. Speaker, all too frequently, we do not take the time out to recognize people who have made significant contributions to our communities until it is too late. However, Mr. Speaker, today, I am proud to offer to the people of the community with distinction and tenacity, and also with great humility. Mrs. Law epitomizes the tenet of lifetime service to her community and to others. She often says, "If I can help somebody—then my living will not be in vain," and fortunately for us all, it hasn't.

DRUG LEGALIZATION—THE MORAL EQUIVALENT OF GENOCIDE

HON. GERALD B.H. SOLOMON
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, June 7, 1995

Mr. SOLOMON. Mr. Speaker, our Nation's top drug enforcement official, Lee Brown, recently gave an important speech on drug legalization. While some liberals and libertarians would have you believe that legalization is a viable alternative to the war on drugs, Mr. Brown makes it very clear that drug legalization will never occur in the United States.

Lee Brown's "Why the U.S. Will Never Legalize Drugs"

When we look at the plight of many of our youth today, especially African American males, I do not think it is an exaggeration to say that legalizing drugs would be the moral equivalent of genocide.

Making addictive, mind altering drugs legal is an invitation to disaster for our communities that are already under siege.

Without laws that make drug use illegal, some experts estimate that we could easily have three times as many Americans using cocaine and crack—the proponents of legalization would have us believe that crime would go down if drug use was legal. But an honest look at the facts belie this argument.

Static tell us that almost half of those arrested for committing a crime test positive for the use of drugs at the time of their arrest. Making drugs more readily available could only propel more individuals into a life of crime and violence. Contrary to what the legalization proponents say, profit is not the only reason for the high rates of crime and violence that are associated with the drug trade—* * * * drugs are illegal because they are harmful—to both body and mind.

Those who can least afford further hardship in their lives would be much worse off if drug were legalized.
PROVING THE LIVES OF EVERYONE IN THE VILLAGE OF EAST HAMPTON EXEMPLIFY THIS SPIRIT OF ALTRUISM.

LEGISLATION

Mr. BENTSEN. Mr. Speaker, I rise today to recognize Mr. David Johnson who is celebrating his 25th year as the National Forensic League coach at Bellaire High School. Under the direction of Mr. Johnson, Bellaire High School has become a highly recognized debate team. Among the many awards Bellaire has been honored with are the National Sweepstakes trophy, won in 1994 and the Bruno E. Jacob/PDK trophy. Bellaire has been awarded the Bruno Jacob trophy more than any other school in the Nation.

PERSONAL EXPLANATION

Mr. COBURN. Mr. Speaker, I unavoidably missed several votes on Tuesday, May 23, due to family reasons—my daughter’s high school graduation. Had I been present, I would have voted “aye” on passage of H. Res. 155 (Roll Call Vote 347) and the Brownback Amendment to H.R. 1561 (Roll Call Vote 348).

CONGRATULATIONS TO THE LADIES’ VILLAGE IMPROVEMENT SOCIETY OF EAST HAMPTON ON THEIR CENTENNIAL

HON. MICHAEL P. FORBES OF NEW YORK

In the House of Representatives

Mr. FORBES. Mr. Speaker, I rise today to congratulate the Ladies Village Improvement Society of East Hampton (LVIS) on their hundredth year anniversary. The LVIS was founded by 21 women on November 30, 1895 with the slogan, “Keep East Hampton Beautiful.” Since then, these women have kept their promise. Through the years, the LVIS has planted grass plots and trees, tended the village greens, exterminated harmful insects, led clean up campaigns, and even started a college scholarship fund for high school students which totaled $23,000 in 1993.

I believe that volunteer work is an asset to any community. The women of the LVIS of East Hampton exemplify this spirit of altruism. Their service is a valuable contribution to improving the lives of everyone in the village of East Hampton.

Today, membership of LVIS has expanded to include many women who have professional careers, as well as part-time residents of East Hampton Village. These women are, and continue to be valuable members of their community. Congratulations on 100 years of dedication to making East Hampton beautiful.

HONORING JOHN KELLEIJAN

HON. BILL BAKER OF CALIFORNIA

In the House of Representatives

Mr. BAKER of California. Mr. Speaker, on a spring day in 1942, a handful of young Americans under the remarkable leadership of Jimmy Doolittle flew on a mission that has captivated the hearts and minds of Americans ever since. They did what was supposed to have been impossible: they successfully flew into Japanese airspace and bombed Tokyo.

One of the men on the famed Doolittle raid was John Kellejian. The devotion to duty and steady courage he displayed that memorial day are the stuff of legend. John’s heroism was honored in May at a Pentagon ceremony in which he was given his role in the “60 seconds over Tokyo” that live on in history.

The world rejoices in joining in recognizing John for his contribution to the freedom we enjoy today.

With his gracious wife, Bev, John is a resident of my hometown of Danville, CA, and is commander of the Danville chapter of the Veterans of Foreign Wars. His life is a testimony to the virtues of family, freedom, and loyalty that have imbued our country with greatness for more than two centuries.

In our country, we seek to commemorate great acts of bravery, and well we should. They ennoble our heritage and inspire us in our daily lives. Yet our inspiration must be a source of strength for us.

Today, I want to join in recognizing John for his contribution to the freedom we enjoy today.

STATEMENT OF LINDA SPANGLER

HON. J. JOHN J. DUNCAN, JR. OF TENNESSEE

In the House of Representatives

Today, my family and I with utmost humility would like to express to Governor Sundquist what an honor it is to have my home. Words fail us as we attempt to convey to our Governor our deep appreciation for signing a new vehicular homicide and D.U.I bill into law and arranging for funding for such a desperately needed law.

In an attempt to signify what this means to our family I would like to say that our mother, Katie Spangler, has been the most loving person I know. My family and I are Christians. We believe that God is sovereign. At the time of mother’s death each of us children began to question God as to why our mother was taken by the hands of a drunken driver. We agonized over the question “why” because we knew that God could have let mother die naturally, die in her sleep—a peaceful death. Because God had promised in his word that He would protect us “Lest we cast our foot upon a stone,” yet He had allowed our mother to die in such a horrifying way. What we had experienced would shatter the faith of the strongest Christian.

Well meaning Christians would tell us that we must not question God as to why. We felt this was not scriptural as the Bible says that Jesus while dying on the cross for our sins said My God, My God why hast thou forsaken me. God understands when we ask why from a broken heart.

God continued to love us even though we questioned Him. He held us in the palm of His hand, gave us strength for each day, guided us in decisions that needed to be made, gave us rest when there was no rest. God’s grace was indeed sufficient for us. Finally we concluded that we may never know why but that God does not make mistakes and that in His own way God would turn this horrible tragedy into something good.

We then entered into the criminal justice system for the first time seeking justice for the wrongful death of our mother. The person who killed our mother was given the maximum sentence of 6 years with 1 year in jail, 5 years probation. Our faith in the judicial system was at that point severely tried.

There was a public outcry of protest against the sentencing. Petitions were signed and brought to us. People were very angry. We could not let their cries of outrage go unheard so we channeled these petitions to our representative, Wayne Ritchie, to whom we would like to say, Mr. Ritchie, you are the epitome of what it means to be a representative of the people, one who cares what the people in his district are interested in. Good luck to you always.

As a young person and a new Christian I sat through a sermon about testing the 2 spirits, the Holy Spirit and the evil spirit. I did not understand this sermon and I asked my mother to explain to me what that would be like. I was trying to make a decision about one thing or another that the first thought I would have would be a positive thought, and the second thought would be a negative thought that would be negative. She said my first thought would be the Holy Spirit and the second thought would be the devil. She said the second thought would be the one I would always remember as my first thought.

My family and I feel that you, Governor Sundquist, along with all of those who voted for this legislation, Wayne Ritchie, have listened to your “first thought.”

In so doing no greater compliment could be paid to you than to know that God has used you as an instrument for turning a tragedy into something good and for us as a family it
answers our question “Why?” because God has used our mother’s untimely death to have far reaching effects for the citizens of Tennessee and perhaps these new laws will prevent any other families from going through such agony and loss of a loved one.

Governor Sundquist, you and your administration are to be commended for your stand against crime. It is our prayer that God will give you the courage and the wisdom to make Tennessee a safer place in which to live for its citizens.

For the first time in 17 months some of our faith has been restored in the judicial system and we realize “Why” God took our mother in such a tragic way and are truly humbled that God could use mother and this family for His purpose.

We hope you get to meet our mother someday in heaven after Christ says to you “Well done, thou good and faithful servant.” These words are so feeble to express our deepest gratitude to you, Governor Sundquist, but please know they come from our heart.

May God bless you and watch over you.

We wish you Godspeed.
Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 8, 1995, may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### JUNE 12

**9:30 a.m.**

**Joint—Economic**

To hold hearings to examine certain issues relating to capitalism in the 21st century.

**SD-106**

#### JUNE 13

**9:30 a.m.**

**Agriculture, Nutrition, and Forestry**

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.

**SR-328A**

**Commerce, Science, and Transportation**

To hold hearings on the nomination of Roberta L. Gross, of the District of Columbia, to be Inspector General, National Aeronautics and Space Administration.

**SR-253**

**Energy and Natural Resources**

To hold hearings on S. 755, to provide for the privatization of the United States Enrichment Corporation.

**SD-366**

**10:00 a.m.**

**Finance**

**Social Security and Family Policy Subcommittee**

To hold hearings to examine the financial and business practices of the American Association of Retired Persons.

**SD-215**

**Foreign Relations**

To hold hearings on numerous treaties relating to conventions and protocols on avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital.

**SD-419**

**10:30 a.m.**

**Commerce, Science, and Transportation**

**Science, Technology, and Space Subcommittee**

To hold hearings on issues relating to NASA’s mission to Earth program.

**SR-253**

**12:30 p.m.**

**Appropriations**

**Defense Subcommittee**

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on health programs.

**SD-192**

#### JUNE 14

**9:30 a.m.**

**Energy and Natural Resources**

Business meeting, to consider pending calendar business.

**SD-366**

**Labor and Human Resources**

Business meeting, to consider pending calendar business.

**SD-430**

#### JUNE 15

**9:30 a.m.**

**Agriculture, Nutrition, and Forestry**

**Production and Price Competitiveness Subcommittee**

To hold hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on commodity policy.

**SR-328A**

**Energy and Natural Resources**

To hold hearings on S. 871, to provide for the management and disposition of the Hanford Reservation, and to provide for environmental management activities at the Reservation.

**SD-366**

**Rules and Administration**

To hold hearings on proposed legislation authorizing funds for programs of the Federal Election Commission.

**SR-301**

**12:00 p.m.**

**Governmental Affairs**

**Post Office and Civil Service Subcommittee**

To resume hearings on proposals to reform the Federal pension system.

**SD-342**

#### JUNE 20

**9:30 a.m.**

**Appropriations**

**Defense Subcommittee**

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on counternarcotic programs.

**SD-192**

#### JUNE 22

**9:30 a.m.**

**Indian Affairs**

To hold joint hearings with the House Committee on Resources Subcommittee on Native American and Insular Affairs on S. 467, to amend the Indian Gaming Regulatory Act.

**SD-450**

#### JUNE 27

**9:30 a.m.**

**Appropriations**

**Defense Subcommittee**

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on ballistic missiles.

**SD-192**

#### JUNE 28

**9:30 a.m.**

**Labor and Human Resources**

Business meeting, to consider pending calendar business.

**SD-430**

**Indian Affairs**

To hold hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs.

**SR-485**

#### JULY 13

**9:30 a.m.**

**Indian Affairs**

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

**SR-485**
HIGHLIGHTS

Senate passed Comprehensive Terrorism Prevention Act.

Chamber Action
Routine Proceedings, pages S7801-S7939

Measures Introduced: Six bills were introduced, as follows: S. 888-893.

Measures Passed:

Comprehensive Terrorism Prevention Act: By 91 yeas to 8 nays (Vote No. 242), Senate passed S. 735, to prevent and punish acts of terrorism, after taking action on further amendments proposed thereto, as follows: Pages S7803-S80

Adopted:
(1) Hatch/Dole Amendment No. 1199, in the nature of a substitute. Page S7857
(2) Hatch Amendment No. 1252, to provide that counsel must be provided in Capital trials and habeas cases. Page S7817
(3) Hatch/Biden Amendment No. 1254, to make technical and conforming corrections. Pages S7850-51

Rejected:
(1) Biden Amendment No. 1217 (to Amendment No. 1199), with respect to deleting habeas corpus for state prisoners. (By 67 yeas to 28 nays (Vote No. 237), Senate tabled the amendment.) Pages S7805-08
(2) Biden Amendment No. 1253 (to Amendment No. 1199), to allow the court appointed defense attorney to meet with the judge without the prosecutor being present to request funding for an investigator. (By 65 yeas to 34 nays (Vote No. 238), Senate tabled the amendment.) Pages S7817-20, S7849
(3) Levin Modified Amendment No. 1245 (to Amendment No. 1199), to retain an avenue for appeal in the case of prisoners who can demonstrate actual innocence. (By 62 yeas to 37 nays (Vote No. 239), Senate tabled the amendment.) Pages S7823-28, S7849

(4) By 38 yeas to 61 nays (Vote No. 240), Kyl Amendment No. 1211 (to Amendment No. 1199), to improve habeas corpus reform by ensuring that a case in State courts can be reviewed in the State court system by providing adequate and effective remedies. Pages S7828-40, S7849

(5) Biden Amendment No. 1224 (to Amendment No. 1199), with respect to deleting the rule of deference for habeas corpus. (By 53 yeas to 46 nays (Vote No. 241), Senate tabled the amendment.) Pages S7840-50

Withdrawn:
Biden Amendment No. 1226 (to Amendment No. 1199), with respect to requiring counsel for Federal habeas proceedings. Pages S7809-17

Adoption Vitiated:
By unanimous consent, adoption of Biden (for Heflin) Amendment No. 1241 (to Amendment No. 1199), to amend the Solid Waste Disposal Act to list the nerve gases sarin and VX as hazardous waste, agreed to on Tuesday, June 6, was vitiates. Page S7849

Telecommunications Competition/Deregulation Act: Senate began consideration of S. 652, to provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, taking action on amendments proposed thereto, as follows: Pages S7881-S7912

Adopted:
(1) Stevens Amendment No. 1256, to extend the authority of the Federal Communications Commission to use auctions for the allocation of radio spectrum frequencies for commercial use, and provide for private sector reimbursement of Federal governmental user costs to vacate commercially valuable spectrum. Pages S7901-02, S7905
(2) Pressler Amendment No. 1257 (to Amendment No. 1256), to provide for broadcast auxiliary spectrum relocation. Page S7905
Pending:

(1) Dole Amendment No. 1255, to provide additional deregulation of telecommunications services, including rural and small cable TV systems.

(2) Pressler/Hollings Amendment No. 1258, to make certain technical corrections.

Senate will continue consideration of the bill and amendments to be proposed thereto, on Thursday, June 8.


Nominations Received: Senate received the following nominations:

John Joseph Callahan, of Massachusetts, to be an Assistant Secretary of Health and Human Services.

Stephen G. Kellison, of Texas, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Hospital Insurance Trust Fund for a term of four years.

Marilyn Moon, of Maryland, to be a Member of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund for a term of four years.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded hearings on the nominations of Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers, John D. Hawke Jr., of New York, to be Under Secretary of the Treasury for Domestic Finance, Charles L. Marinaccio, of the District of Columbia, Deborah Dudley Branson, of Texas, Marianne C. Spraggins, of New York, and Albert J. Dwoskin, of Virginia, each to be a Director of the Securities Investor Protection Corporation, Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National Institute of Building Sciences, and Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank, after the nominees testified and answered questions in their own behalf. Mr. Baily was introduced by Senator Sarbanes, Mr. Marinaccio was introduced by Representative LaFalce, Ms. Branson was introduced by Senators Bumpers and Moseley-Braun, Ms. Spraggins was introduced by Senator Sarbanes, Mr. Marinaccio was introduced by Representative LaFalce, Ms. Branson was introduced by Senators Bumpers and Moseley-Braun, Ms. Spraggins was introduced by Senator Sarbanes, Mr. Hays was introduced by Senator Frist, and Ms. Smith was introduced by Senators Simon and Moseley-Braun.

Also, committee concluded hearings on the nomination of Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank.

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—NATIONAL AND COMMUNITY SERVICE/SELECTIVE SERVICE

Committee on Appropriations: Subcommittee on VA, HUD, and Independent Agencies concluded hearings on proposed budget estimates for fiscal year 1996, after receiving testimony in behalf of funds for their respective activities from Eli J. Segal, Chief Executive Officer, Corporation for National and Community Service; and Gil Coronado, Director, Selective Service System.

BOSNIA

Committee on Armed Services: Committee held hearings to examine recent developments in Bosnia and changes in United States policy toward the conflict in the region, receiving testimony from William J. Perry, Secretary of Defense; and Gen. John M. Shalikashvili, Chairman, Joint Chiefs of Staff.

Hearings continue tomorrow.

RECESS:

Senate convened at 9:30 a.m., and recessed at 9:42 p.m., until 9:30 a.m., on Thursday, June 8, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S7937.)
NATIONAL ENVIRONMENTAL POLICY ACT
Committee on Energy and Natural Resources: Subcommittee on Oversight and Investigations concluded hearings to review how the Departments of Energy and Interior and the U.S. Forest Service are implementing the requirements of the National Environmental Policy Act of 1969 (P.L. 91-190), focusing on problems associated with Environmental Impact Statements, after receiving testimony from Jack Ward Thomas, Chief, Forest Service, Department of Agriculture; John D. Leshy, Solicitor, Department of the Interior; Robert R. Nordhaus, General Counsel, Department of Energy; David V. Garber, Big Horn Forest Grazing Permittees Association, Big Horn, Wyoming; Steve Silver, Robertson, Monagle and Eastaugh, Juneau, Alaska; Robert S. Lynch, Colorado River Energy Distributors Association, Salt Lake City, Utah; and Robert Dreher, Sierra Club Legal Defense Fund, Washington, D.C.

SMALL BUSINESS TAX INCENTIVES
Committee on Finance: Committee heard on issues relating to small business tax incentives, focusing on proposals to modify estate and gift taxation and expensing of equipment for small businesses under section 179 of the Internal Revenue Code of 1986, including H.R. 1215, S. 105, S. 867, S. 161, and S. 692, receiving testimony from Cynthia G. Beerbower, Deputy Assistant Secretary of the Treasury for Tax Policy; Douglas Holtz-Eakin, Syracuse University, Syracuse, New York, on behalf of the National Bureau of Economic Research; Guy B. Maxfield, New York University Law School, New York; Edward J. McCaffrey, University of Southern California, Los Angeles; and Richard W. Rahn, Business Leadership Council, Washington, D.C.

GOVERNMENT PROGRAM STRUCTURING
Committee on Governmental Affairs: Committee held hearings to examine potential duplication, overlap and fragmentation in Federal Government programs, receiving testimony from Susan J. Irving, Associate Director, and Michael J. Curro, Assistant Director, both for Budget Issues, Accounting and Information Management Division, General Accounting Office; William E. Davis III, Executive Director, Advisory Commission on Intergovernmental Relations; and Janet L. Norwood and Thomas H. Stanton, both of Washington, D.C.

JUVENILE CRIME
Committee on the Judiciary: Subcommittee on Youth Violence concluded hearings to examine how welfare dependence and illegitimacy contribute to juvenile crime and violence, after receiving testimony from J.T. Marlin, Chattanooga Police Department, Hixson, Tennessee; Patrick F. Fagan, The Heritage Foundation, James Wootton, Safe Streets Alliance, Michael Tanner, CATO Institute, and Robert L. Maginnis, Family Research Council, all of Washington, D.C.; Donald Bersoff, Medical College of Pennsylvania and Villanova University, Villanova, Pennsylvania; and M. Anne Hill, City University of New York, New York.

House of Representatives

Chamber Action
Bills Introduced: 33 public bills, H.R. 1753-1785; and 2 resolutions, H. Res. 162-163, were introduced.

Reports Filed: Reports were filed as follows:
S. 523, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner (H. Rept. 104-132);
H.R. 260, to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, amended (H. Rept. 104-133); and
H.R. 1070, to designate the reservoir created by Trinity Dam in the Central Valley project, California, as “Trinity Lake” (H. Rept. 104-134).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Riggs to act as Speaker pro tempore for today.

Presidential Message—Nuclear Proliferation: Read a message from the President wherein he transmits a report on the activities of United States Government departments and agencies relating to the
prevention of nuclear proliferation—referred to the Committee on International Relations.

Pages H5631–32

Committees To Sit: The following committees and their subcommittees received permission to sit today during the proceedings of the House under the five minute rule: Committees on Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, Judiciary, National Security, and Science. Page H5632

Corning Fish Hatchery: House passed H.R. 535, to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas.

Pages H5636–40

Agreed to the committee amendment. Page H5638

Rejected the Miller of California amendment that sought to require the State of Arkansas to pay the Federal Government the fair market value of the property at the time ownership of the hatchery is transferred (rejected by a recorded vote of 96 ayes to 315 noes, Roll No. 356).

Pages H5638–40

Fairport Fish Hatchery: House passed H.R. 584, to direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa.

Pages H5640–45

Rejected the Miller of California amendment that sought to require the State of Iowa to pay the Federal Government the fair market value of the property at the time ownership of the hatchery is transferred.

Pages H5643–45

New London Fish Hatchery: House passed H.R. 614, to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.

Pages H5645–47

Agreed to the committee amendment. Page H5647

American Overseas Interests Act: House continued consideration of H.R. 1561, to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997; but came to no resolution thereon. Consideration of amendments will resume on Thursday, June 8.

Pages H5648–81

Agreed to the Gilman en bloc amendment, as modified, that permits the Central Asian Enterprise Fund to establish citizen advisory councils; strikes approximately $500 million in funding for specifically earmarked programs; establishes foreign aid reporting requirements; authorizes the return and exchange of defense articles previously transferred pursuant to the Arms Export Control Act; makes permanent the Nuclear Nonproliferation Prevention Act; expresses the sense of the Congress regarding Syrian occupation of Lebanon; prohibits foreign assistance to foreign governments not implementing extradition treaties; expresses the sense of Congress that the President should impose economic sanctions on foreign entities or persons that trade with Iran; expresses the sense of Congress regarding the conflict in Chechnya; permits the President to grant a waiver of the current prohibition on foreign assistance for Laos if he determines that the Government of Laos is fully cooperating on all outstanding POW/MIA cases involving Laos; requires the Secretary of State to report on the impact of United States trade and business as a result of foreign policy; expresses the sense of Congress that one delegate to the Fourth World Conference on Women should represent Tibetan women; requires the President to submit to the Congress an annual military assistance report; establishes restrictions on assistance for Guatemala; prohibits any assistance to Mauritania unless appropriate action is taken to eliminate Chattel slavery; increases the fiscal year 1997 authorization for the International Water Boundary Commission from $12.5 million to $22 million; expresses the sense of Congress that after the year 2000, the United States be able to maintain the security of the Panama Canal and its regular operation, consistent with the Panama Canal Treaty; restores $20 million annually to the Development Fund for Africa; requires the State Department to give equal treatment to employees of AID, USIA, and ACDA when competing for jobs related to a reduction in force; exempts South Africa from provisions canceling certain housing guarantees; expresses the sense of Congress that the President should encourage other nations to end the practice of female genital mutilation; and requires recipient countries of United States monetary aid to purchase American-made goods.

Pages H5648–55

Rejected:

The Hyde amendment that sought to repeal the War Powers Resolution; and require the President to consult with the Congress in most cases before committing United States forces to imminent hostilities (rejected by a recorded vote of 201 ayes to 217 noes, Roll No. 359); and

Pages H5655–74

The Ackerman amendment that sought to require the Congressional Budget Office and the Office of Management and Budget to conduct a cost-benefit analysis of the proposed abolishment of AID, ACDA, and USIA before those agencies could be abolished and their functions consolidated into the State Department (rejected by a recorded vote of 177 ayes to 233 noes, Roll No. 360).

Pages H5674–80

H. Res. 156, the rule providing for the further consideration of the bill, was agreed to earlier by a yeas-and-nay vote of 252 yeas to 168 nays, Roll No. 357.

Pages H5632–36, H5647–48
Presidential Veto Message: Received and read a message from the President wherein he announced his veto of H.R. 1158, making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995; and explained his reasons therefor—referred to the Committee on Appropriations and ordered printed (H. Doc. No. 104±83).

Quorum Calls—Votes: One quorum call (Roll No. 358), one yea-and-nay vote and three recorded votes developed during the proceedings of the House today and appear on pages H5639±40, H5647±48, H 5670, H 5673±74, and H 5680.

Adjournment: Met at noon and adjourned at 9:19 p.m.

Committee Meetings

MILITARY CONSTRUCTION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Military Construction approved for full Committee action the military construction appropriations for fiscal year 1996.

HUD'S TAKEOVER—CHICAGO HOUSING AUTHORITY
Committee on Banking and Financial Services: Subcommittee on Housing and Community Opportunity held a hearing on HUD's Takeover of Chicago Housing Authority. Testimony was heard from the following officials of the Department of Housing and Urban Development: Henry G. Cisneros, Secretary; Joseph Schuldiner, Assistant Secretary, Public and Indian Housing; and Susan Gaffney, Inspector General; Judy England-Joseph, Director, Housing and Community Development Issues, GAO; and a public witness.

FOOD QUALITY PROTECTION ACT
Committee on Commerce: Subcommittee on Health and Environment held a hearing on H.R. 1627, Food Quality Protection Act of 1995. Testimony was heard from Lynn Goldman, Assistant Administrator, Office of Prevention, Pesticides, and Toxic Substances, EPA; William Schultz, Deputy Commissioner, Policy, FDA, Department of Health and Human Services; Lawrence Elworth, Special Assistant, Pesticide Policy, USDA; and public witnesses.

CLEAN AIR ACT AMENDMENTS—IMPLEMENTATION AND ENFORCEMENT
Committee on Commerce: Subcommittee on Oversight and Investigations continued hearings on the Implementation and Enforcement of the Clean Air Act Amendments of 1990, with emphasis on Title II, the Reformulated Gasoline Program. Testimony was heard from Mary D. Nichols, Assistant Administrator, Air and Radiation, EPA; John A. Riggs, Deputy Assistant Secretary, Policy, Planning, and Program Evaluation, Department of Energy; and public witnesses.

DEPARTMENTAL REORGANIZATION
Committee on Economic and Educational Opportunities: Held a hearing on Departmental Reorganization. Testimony was heard from Representatives Gunderson and Boehner; the following officials of the Congressional Research Service, Library of Congress: Wayne C. Riddle, Specialist in Education Finance, Education and Public Welfare Division; William Whittaker, Specialist, Economics Division; and Leslie Gladstone, Specialist, Government Division; and a public witness.

COMBINED FEDERAL CAMPAIGN: LAWYERS, LOBBYISTS VS. PEOPLE IN NEED?
Committee on Government Reform and Oversight: Subcommittee on Civil Service held a hearing on the Combined Federal Campaign: Lawyers, Lobbyists vs. People in Need? Testimony was heard from Lorraine A. Green, Deputy Director, OPM; the following former officials of OPM: Donald J. Devine, Director; and Joseph A. Morris, General Counsel; Jeremiah J. Barrett, former Director, Operations, Combined Federal Campaign; and public witnesses.

LORTON CORRECTIONAL COMPLEX CLOSURE ACT
Committee on Government Reform and Oversight: Subcommittee on the District of Columbia held a hearing on H.R. 461, Lorton Correctional Complex Closure Act. Testimony was heard from David Albo, Delegate, General Assembly, State of Virginia; and public witnesses.

OVERSIGHT
Committee on Government Reform and Oversight: Subcommittee on the Postal Service continued oversight hearings on the U.S. Postal Service. Testimony was heard from public witnesses.

Hearings continue June 14.

MISCELLANEOUS MEASURES
Committee on the Judiciary: Ordered reported the following measures: H.J. Res. 79, proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the United States; H.R. 587, to amend title 35, United States Code, with respect to patents on biotechnological processes; H.R. 1170,
amended, to provide that cases challenging the constitutionality of measures passed by State referendum be heard by a three-judge court; S. 464, to make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts; and S. 532, to clarify the rules governing venue.

UNITED STATES POLICY TOWARD THE FORMER YUGOSLAVIA
Committee on National Security: Held a hearing on United States policy toward the former Yugoslavia. Testimony was heard from the following officials of the Department of Defense: William J. Perry, Secretary; and Gen. John M. Shalikashvili, USA, Chairman, Joint Chiefs of Staff.

NATIONAL DEFENSE AUTHORIZATION ACT

INTERNATIONAL SPACE STATION AUTHORIZATION ACT

REGULATORY BARRIERS TO MINORITY ENTREPRENEURS
Committee on Small Business: Subcommittee on Regulation and Paperwork held a hearing on regulatory barriers to minority entrepreneurs. Testimony was heard from Representative Flake; and public witnesses.

FEDERAL INCOME TAX REPLACEMENT
Committee on Ways and Means: Continued hearings on Replacing the Federal Income Tax. Testimony was heard from Senators Domenici and Nunn; Representative Cox of California; Leslie B. Samuels, Assistant Secretary, Tax Policy, Department of the Treasury; and public witnesses.

Hearings continue tomorrow.

COMMITTEE MEETINGS FOR THURSDAY, JUNE 8, 1995
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Appropriations, Subcommittee on Military Construction, to hold hearings on proposed budget estimates for fiscal year 1996 for military construction programs, 10 a.m., SD-192.
Committee on Armed Services, to continue hearings to examine recent developments in Bosnia and changes in United States policy toward the conflict in the region, 10 a.m., SR-253.
Committee on Banking, Housing, and Urban Affairs, to hold hearings to examine GATT financial services negotiations, 10 a.m., SD-538.
Committee on Energy and Natural Resources, Subcommittee on Forests and Public Land Management, to hold hearings to review the Forest Service reorganization proposal and the proposed National Forest planning regulations, 2 p.m., SD-366.
Committee on Finance, to hold hearings to examine the earned income tax credit; to be followed by a hearing on pending nominations, 9:30 a.m., SD-215.
Committee on Foreign Relations, to hold hearings on the situation in Bosnia, 10 a.m., SD-419.
Committee on the Judiciary, Subcommittee on Immigration, business meeting, to mark up S. 269, to increase control over immigration to the United States by increasing border patrol and investigator personnel, improving the verification system for employer sanctions, increasing penalties for alien smuggling and for document fraud, re-forming asylum, exclusion, and deportation law and procedures, instituting a land border user fee, and to reduce the use of welfare by aliens, and S. 457, to update references in the classification of children for purposes of United States immigration laws, 2 p.m., SD-226.
Committee on Labor and Human Resources, to hold hearings on S. 673, authorizing funds for fiscal years 1996 through 1998 to establish a youth development grant program, 9:30 a.m., SD-430.
Committee on Veterans Affairs, to hold hearings to examine recent court decisions affecting Department of Veterans Affairs regulations regarding veterans' benefits, 10 a.m., SR-418.
Committee on Indian Affairs, to hold hearings on S. 436, to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, 9:30 a.m., SR-485.

NOTICE
For a Listing of Senate committee meetings scheduled ahead, see page E1173 in today's Record.

House
Committee on Agriculture, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, hearing to review the Administration's proposals to reform the
Food Stamp Program and Commodity Distribution Programs, 10 a.m., 1302 Longworth.

Subcommittee on Risk Management and Specialty Crops, to continue hearings on the 1995 Farm Bill—Peanut Title, 10 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Foreign Operations, Export Financing and Related Programs, to mark up fiscal year 1996 appropriation bill, 2 p.m., H-144 Capitol.

Subcommittee on Legislative, to mark up fiscal year 1996 appropriation bill, 10 a.m., H-144 Capitol.

Committee on Banking and Financial Services, Subcommittee on Financial Institutions and Consumer Credit, to continue hearings on the broad issue of regulatory burden relief as well as those matters addressed in H.R. 1362, Financial Institutions Regulatory Relief Act of 1995, 10 a.m., 2128 Rayburn.


Committee on Economic and Educational Opportunities, to mark up Title VI, Sec. 709, Higher Education provisions of H.R. 1617, Consolidated and Reformed Education, Employment, and Rehabilitation Systems Act, 9:30 a.m., 2175 Rayburn.

Subcommittee on Oversight and Investigations, hearing on the Transformation of the Medicaid Program, 9:30 a.m., 2322 Rayburn.

Subcommittee on Workforce Protections, hearing on the Fair Labor Standards Act, 1 p.m., 2175 Rayburn.

Committee on Resources, Subcommittee on Energy and Mineral Resources, oversight hearing on alternatives for managing on-shore federal minerals, 2 p.m., 1334 Longworth.

Subcommittee on Fisheries, Wildlife and Oceans, hearing on a number of fishery related issues, including H.R. 649, S. 268, to authorize the collection of fees for expenses for triploid grass carp certification inspections; and an oversight hearing on the following: the Anadromous Fish Conservation Act of 1966; the Interjurisdictional Fisheries Act of 1986; the Great Lakes and Wildlife Restoration Act of 1990; and the National Oceanic and Atmospheric Administration Marine Fisheries Authorization Act, 10 a.m., 1334 Longworth.

Subcommittee on Water and Power Resources, hearing on the following: H.R. 799, and H.R. 599, Bonneville Power Administration Appropriations Refinancing Act; and legislation to amend the Water Resources Research Act of 1984 to extend the authorizations of appropriations through fiscal year 2000, 9:30 a.m., 1324 Longworth.


Committee on Science, Subcommittee on Energy and Environment, to mark up the following: DOE R&D Authorization Act; NOAA Authorization Act; and EPA R&D Authorization Act, 9:30 a.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Preventing Delays and Cost Overruns in the FAA’s New Global Positioning (Satellite Navigation) System, 9:30 a.m., 2167 Rayburn.

Committee on Ways and Means, to continue hearings on Replacing the Federal Income Tax, 10 a.m., 1100 Longworth.

Joint Meetings

Joint Economic Committee, to hold hearings to examine the recent economic slowdown and its effects on the national economy, 11 a.m., SD-628.


Commission on Security and Cooperation in Europe, to hold hearings on the current crisis in Bosnia, 12:30 p.m., 340 Cannon Building.
CONGRESSIONAL RECORD Ð DAILY DIGEST

Next Meeting of the SENATE
9:30 a.m., Thursday, June 8

Senate Chamber

Program for Thursday: Senate will resume consideration of S. 652, Telecommunications Competition/Deregulation Act.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Thursday, June 8

House Chamber

Program For Thursday: Complete consideration of H.R. 1561, American Overseas Interest Act.

Extensions of Remarks, as inserted in this issue

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Camp, Dave, Mich., E1170
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