House of Representatives

The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, March 27, 2000.
I hereby appoint the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

We pray to You, Almighty God, and eternal God, ever-present to all our undertakings and all our needs. Touch every aspect of our lives with Your holiness. Endow us with faith as we begin May this House and this Nation be indivisible, with liberty and justice for all.

PLEDGE OF ALLEGIANCE
The Speaker pro tempore. Will the gentleman from Tennessee (Mr. DUNCAN) come forward and lead the House in the Pledge of Allegiance.

Mr. DUNCAN led the Pledge of Allegiance.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2559. An act to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2559) “An Act to amend the Federal Crop Insurance Act to strengthen the safety net for agricultural producers by providing greater access to more affordable risk management tools and improved protection from production and income loss, to improve the efficiency and integrity of the Federal crop insurance program, and for other purposes,” requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. HELMS, Mr. COCHRAN, Mr. COVERDELL, Mr. ROBERTS, Mr. HARKIN, Mr. LEAHY, Mr. CONRAD, and Mr. KERREY, to be the conferees on the part of the Senate.

SPECIAL ORDERS
The Speaker pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The Speaker pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUER) is recognized for 5 minutes.

(General Debate.)

SENATOR STEVENS CHOSEN ALASKAN OF THE CENTURY
The Speaker pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

Mr. NETHERCUTT. Mr. Speaker, I rise today to pay special tribute to one of our colleagues, who happened to be from the other body, who received a very distinguished award this weekend. The recipient of that award was Senator TED STEVENS of Alaska who was chosen as the Alaskan of the Century.

Now, this is a remarkable achievement by Senator Stevens, since he has served this Congress for over 30 years and served the State of Alaska with great distinction and great honor and integrity for more than that period of time.

I became acquainted with Senator Stevens as a younger man in 1972 when I was finishing the service, as a law clerk for a Federal judge in Anchorage, Alaska, and was hired by Senator Stevens. I came back here to Washington, D.C. in 1972, and served on his staff as...
his staff counsel and legislative director and then chief of staff, until I got married and left this community of Washington, D.C. and the Congress in 1977.

Senator STEVENS during that time and ever since has been a wonderful teacher for me and a great friend of our family, as he has been for a generation of Alaskans who have come to respect him and work in the United States Senate and his work for our country, as well as his work for the State of Alaska.

There is no greater advocate for the State of Alaska and for the American system than Senator STEVENS. It is absolutely fitting that he receive this Alaskan of the Century award. He has served Alaska as a resident before statehood and after statehood.

He served in the Alaska legislature achieving high marks there for his service to the State, worked for the solicitor for the Department of Interior before statehood and then was appointed to the United States Senate in 1968, and has been reelected overwhelmingly ever since.

Senator STEVENS brings a respect for his State and system to the Congress of the United States. He was elected as the assistant majority leader in the United States Senate. He went on to become chairman of the Committee on Appropriations in the Senate, a position which he holds today, with a special expertise in interior issues and public lands issues, and also a great experience in defense issues.

There probably is no greater expert in the area of national security and national defense than Senator STEVENS. The residents of Alaska recognize that, and, in choosing him to be the Alaskan of the Century, confirmed their love for him and reward him in essence for his great service to that State; a reward that he has undertaken with great passion and commitment.

Senator STEVENS is not just a great legislator and a great American, he is a wonderful father to Susan and Beth and Teddy and Walter and Ben and Lily. He is a champion for them, as well as a champion for all others in Alaska of all economic levels and all races and backgrounds. The Alaskan Native community has recognized the Stevens legacy by respecting him, not only with their votes, but with their support.

The Alaskan Native Land Claims Settlement Act was one that Senator STEVENS championed to settle the claims of the first Alaskans. And in doing so, he has endeared himself in their hearts and in the hearts of all Alaskans. The TransAlaska Pipeline project that was just a monumental undertaking that brought energy, efficiency, and assistance to the rest of the Nation was spearheaded by this man. The 2000 Mile Fishing Limit was spearheaded by this man, Senator STEVENS.

As you total up a person's contributions in life, I think Ted Stevens' greatest are his contributions, as I say, as a father, as a husband to Ann Stevens, who tragically was deceased in 1978, and his current wife, Catherine, also a great supporter of the Alaskan system.

So, I speak, I hope, on behalf of all Members of Congress in recognizing Ted Stevens' great contributions and congratulating him for being Alaskan of the Century.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that personal references to sitting Members of the other body are not to be included in remarks in debate in the House.

AIR WAR AGAINST SERBIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, in today's Scripps-Howard newspapers around the Nation is an editorial entitled "Unhappy Anniversary." It reads in part, "after its ill-advised air war against Serbia that started a year ago this month and concluded with the deaths of many innocent civilians, NATO finds itself administering a stalemate with no evident means of disengaging. The outcome certainly has not been a happy one for NATO."

All around the world, NATO is seen as the U.S., and I think it is obvious that this war would never have been started if the White House had not insisted on it.

How easily, how cavalierly we say those words "air war" that "concluded with the deaths of many innocent civilians."

We made the situation much worse and many thousands more were made homeless or killed by what we did have in the world. We diverted U.S. taxpayer money down the drain and billions in damage done by U.S.-NATO bombs. And around the world, the U.S. is seen more and more as a big bully trying to run the whole world instead of taking care of our own country.

The glob alist elites in this administration who are not satisfied just running the U.S. are making more enemies every day.

As the Scripps-Howard editorial says, "Kosovo is basically a problem for Europe and its institutions," or at least it should be, and it always was.

Many months ago, at the end of the air war, William Ratliff and David Oppenheimer wrote a column in The Washington Times which said in part, "NATO's bombings precipitated floods of refugees and other disasters that have escalated the region in political, economic, and other terms far beyond what Mr. Milosevic could have ever done on his own."

They added, "Since for most people NATO is a America, this war has ignited anti-Americanism and suspicion of U.S. intentions from Argentina to China. Most people do not believe this war was to defend human rights, particularly since so many innocent people in and far beyond the Central Balkans."

The Washington Post reported a few days ago that our soldiers are now having to fight and take weapons away from the ethnic Albanians. "We very people we supposedly went in originally to help."

Today's Scripps-Howard editorial says, "the Serbians weren't killing as many ethnic Albanians as contemporaneous accounts claimed," adding this "in Kosovo today, the ethnic Albanians are intent on revenge on the dwindling number of remaining Serbs. Kosovan courts and police are corrupt and inefficient, and the still heavily armed Kosovo Liberation Army was staging cross-border raids into parts of Serbia."

In other words, Mr. Speaker, the situation is a mess, and as Scripps-Howard today, "This is an example of where President Clinton ordered bombs instead of continuing with diplomacy."

Why is it important that we talk about these things now since this air war ended months ago? Well, for two very important reasons.

First, we need to talk about this so we will not make these mistakes again.

There are always numerous shooting wars going on around the world, some right now worse than Kosovo was when we went in.

Second, this week, presently scheduled for Wednesday, the House is scheduled to take up a $9 billion supplemental appropriations bill, $4.95 billion, almost 5 billion of which is for our expenses in Kosovo.

This 5 billion is on top of all the billions this stupid war cost us when we were worrying about our own tax dollars are told that we have to pass this supplemental bill because the military has already spent this money by taking it from other accounts. However, we gave the Pentagon a huge increase in spending with the fiscal year that started just 5 months ago, about a $17 billion or $18 billion increase.

This supplemental bill, just a couple of months ago, when people started talking about it was less than half what it is now and all the things that have been added to it.

What we need now, though, is what syndicated columnist Doug Bandow calls a foreign policy for a Republic not an Empire, one that puts our country and our security first and does not have us wasting billions and making millions of enemies trying to be the policeman of the world.

We will make many more friends by bombing only as an absolute last resort and when our national security is threatened or a very vital U.S. interest is at stake, neither of which was the case in Kosovo.
H.R. 1215: Mr. Blumenauer.
H.R. 1413: Mr. Terry, Ms. Lofgren, Mr. Jenkins, Mr. Cook, and Mr. Romero-Barcelo.
H.R. 1485: Mrs. Mink of Hawaii.
H.R. 1525: Mr. Frank of Massachusetts, Mr. Dicks, and Mr. Baird.
H.R. 1967: Mr. Baca.
H.R. 2641: Mr. Udall of New Mexico.
H.R. 2697: Mr. Wexler.
H.R. 2814: Mrs. Wilson.
H.R. 2964: Mr. Cunningham and Mr. Stupak.
H.R. 3044: Mr. George Miller of California.
H.R. 3180: Mr. Baca.
H.R. 3202: Mr. LoBiondo.
H.R. 3535: Mr. Hefley, Mr. Smith of Washington, and Mr. Calvert.
H.R. 3575: Mr. Pickett, Mr. LaFalce, and Mr. Capuano.
H.R. 3631: Ms. Slaughter.
H.R. 3639: Mr. Etheridge.
H.R. 3696: Mr. Blumenauer.
H.R. 3694: Mr. Gilman.
H.R. 3850: Mr. Hilleary, Mr. Deal of Georgia, Mr. Portman, and Mr. Klecza.
H.R. 3891: Mr. Vento, Ms. Slaughter, Ms. Carson, and Mr. Gonzalez.
H.R. 4006: Mr. Weldon of Pennsylvania.
H.R. 4051: Mr. Pickering, Mr. Hyde, Mr. Herger, and Mr. Smith of Texas.
H. Con. Res. 62: Mr. Canady of Florida, Mr. Boehner, Mr. Andrews, and Mr. Wexler.
H. Res. 346: Mr. Spratt.
The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The guest Chaplain, Bishop David R. Brown, Chaplain of the American Legion, offered the following prayer:

O God of our hearts, we thank You for the fullness of joy which has come to us from serving You and has made itself apparent in the growth of this great country. We ask for Your unswerving blessings that we may resound and strengthen the faith in ourselves, the faith in each other, the faith in the process, and the faith in You that we may live our motto "In God We Trust."

O God of hope, grant wisdom and guidance to these men and women who have been placed in positions of trust by their peers. Lead them, O Beloved, so that the desire in each of our hearts for justice and equality will resound as a clarion call throughout this hallowed Senate Chamber. We ask that Your all-encompassing love and forgiveness make equal the voice of the power broker and the most humble citizen; make equal the voice of every citizen regardless of race, creed, or gender.

Beloved, help us to renew our faith and trust in those deeply felt spiritual and reasonable truths of our forefathers that all men and women are created equal. They proposed a theory. We ask You for the strength of heart and will to give it life throughout this land of ours so that we might shine as a beacon of hope and equality, of faith and trust, for the rest of Your creation. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS, a Senator from the State of Wyoming, 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The President pro tempore. The able Senator from Wyoming is recognized.

SCHEDULE

Mr. THOMAS. Mr. President, today the Senate will be in a period of morning business until 1:30, with Senators DURBIN and THOMAS in control of the time. Following the morning business period, the Senate will begin consideration of S. Res. 14 regarding the desecration of the flag. Under a previous agreement, amendments by Senators MCCONNELL and HOLLINGS will be debated throughout the day.

As previously announced, there will be no rollcall votes today, with any votes ordered in relation to the flag desecration measure scheduled to occur on Tuesday at 2:15 p.m. Any Senators interested in debating this important measure should be prepared to do so today or early tomorrow.

I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 2284 AND S. 2285

Mr. THOMAS. Mr. President, I understand there are two bills at the desk due for their second reading.

The President pro tempore. The clerk will read the bills by title.

The assistant legislative clerk read as follows:

A bill (S. 2284) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

A bill (S. 2285) instituting a Federal fuels tax holiday.

Mr. THOMAS. Mr. President, I object to further proceedings on these bills at this time.

The President pro tempore. Under the rules, the bills will be placed on the calendar.

Mr. THOMAS. I yield the floor.
The decision to use the atomic bomb was an extraordinarily difficult one. And, too often, revisionist historians have tried to rewrite the lessons of Hiroshima and Nagasaki, with unjustified suggestions that Harry Truman’s decision to use the bomb to end the war was immoral.

What would have been immoral, of course, would have been to force the world into a further, protracted, bloody struggle when the means were available to end it—with, in the end, less suffering, destruction, and killing.

The weight of that decision was placed on the shoulders of the crew of the Enola Gay, among whom was a farm boy from Davie County, NC. In nearby Mocksville, where Tom Ferebee went to school, nobody could have predicted that this four-sport star of baseball, football, basketball, and track would be remembered one day around the world.

Throughout his later years, Tom Ferebee was often questioned about his Enola Gay role. One journalist after another with their minds made up in advance tried to press Tom Ferebee to admit guilt about his role—which Tom Ferebee rejected, saying, for example in 1995:

I’m sorry an awful lot of people died from that bomb, and I hate that something like that had to happen to end the war. But it was war, and we had to do something to end it.

None of us who were on the Enola Gay ever lost a minute’s sleep over it. In fact, I sleep better because I feel a large part of the peace we had in the last 50 years was what we brought about. If we hadn’t forced the surrender, there would have had to be a land invasion of Japan, and the estimates are that millions of Americans and as many Japanese would have died in it.

Which is absolutely correct. The fact is, Mr. President, that Tom Ferebee and his comrades deserve better than to be symbols of phony guilt resulting from an absolute necessity of war. Tom Ferebee knew—as we do—that he did the right thing by carrying out his mission.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

THE BUDGET

Mr. REID. Mr. President, last year we spent a great deal of time talking about whether or not we should have an $800 billion tax cut. We spent an inordinate amount of time working on that. The minority, the Democrats, thought we should not do that, that it was too much, that instead of having this large tax cut, we should have a targeted tax cut, much, much, much smaller. This debate went on for months. The sad part about it is, when we came to the appropriations bills, the 13 appropriations bills, suddenly there was no money. Even though there had been $800 billion set aside, supposedly for tax cuts, there was no money to take care of the expenses that were necessary in the funding of this country.

Day after day we were talked to—some say talked down to—by our friends on the other side of the aisle, that the economy would come to a grinding halt if we did not pass this bill that has not happened. Not only did the minority not buy the plan of the majority, but the American people did not buy the plan. In any poll taken, the American people decided there were more important priorities.

What were those priorities? Education—when you have 3,000 children dropping out of high school every day, you would think that would be a priority. Social Security is a priority. We have to make sure in the outyears Social Security is as good to people as it is today. Social Security is going to be doing just fine until the year 2035. Maybe in 2036, but that period of time, people will only be able to draw 75 percent or 80 percent of their benefits. We need to make sure that time they can draw all their benefits.

We have to make sure Medicare is taken care of something on this program that has been in existence for 35 years to take care of people who need prescription drugs; that is, all seniors. The average senior over age 65 fills 18 prescriptions a year. So we have to make sure Medicare, a very important program that has done a great deal to help the American senior population, that has allowed them to live longer and live more productive lives—we have to make sure that as a component of that there are some benefits for prescription drugs.

We have to make sure the debt is paid down. During the Bush-Reagan years, we accumulated a huge debt of some $5 trillion. It is time we started paying down that debt. We are not going to have the rosy economic scenario we now have forever. We are in the longest economic growth period in the history of this country. We are now in the 108th or 109th month, but that does not mean it will go on forever. It will not. I hope when the economic downturn comes, we will have paid down that debt and not have voted for irresponsible tax cuts.

It is interesting that the demagoguery and rhetoric has not stopped. It is at full blast again, talking about tax cuts. Governor George W. Bush has recently proposed tax cuts which would add up to $1 trillion over 10 years. House Majority Whip Delay from Texas—Congressman Delay—last week asked us about this. We said let’s do that and more. He wants even larger tax cuts than George W. Bush has called for. I think there could be no better example of ignoring the wishes of the American people and ignoring what the economy needs.

As justification for this $1 trillion worth of tax cuts over programs such as saving Social Security, doing something about education, Medicare, and on and on doing something about the national debt, the Governor and others in the majority continually point to the overwhelming tax burden on the American people. I imagine there were a few people around America this past Sunday wondering why have we been talking about this. What is the purpose of all this reading newspapers all over America.

A column in the Washington Post from the front page reads: “Federal Tax Level Falls for Most; Studies Show Burden Now Less Than 10%.”

This was not a partisan poll put out by the Democrats or some liberal think tank. This information is from a series of studies by liberal and conservative tax experts. It shows that taxes are at their lowest point in more than 40 years. Federal income taxes are at their lowest point in more than 40 years.

I ask unanimous consent the article that appeared in the Washington Post and other newspapers around the country be printed in the RECORD.

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

[From the Washington Post, March 26, 2000]

FEDERAL TAX LEVEL FALLS FOR MOST; STUDIES SHOW BURDEN NOW LESS THAN 10%

For all but the wealthiest Americans, the federal income tax burden has shrunk to the lowest level in four decades, according to a series of studies by liberal and conservative tax experts, the Clinton administration and two arms of the Republican-controlled Congress.

Each of the studies slices the data in different ways, but the bottom line is the same: Most Americans this year will have to fork over less than 10 percent of their income to the federal government when they file federal income taxes.

The Congressional Budget Office estimates the middle fifth of American families, with an average income of $39,100, paid 5.4 percent in income tax in 1999, compared with 8.3 percent in 1981. The Treasury Department estimates a four-person family, with the median income of $54,900, paid 7.46 percent of that in income tax, the lowest level since 1985. And the conservative Tax Foundation figures that the median two-earner family, making $68,605, paid 8.8 percent in 1998, about the same as 1985.

Federal income taxes are so low for so many Americans that it is little wonder many voters place tax cuts near the bottom of their priorities in many opinion polls. “It’s a shocker,” said Bill Ahern, spokesman of the Tax Foundation, of the group’s calculation that families paid just 8.8 percent of their income in federal income tax, the lowest level since 1985. And low federal taxes make it harder to make a case for tax cuts, he added. “With the lower-middle income taxpayers paying so little . . . there won’t be pressure for change.”

George Velasquez agrees. “I don’t have any complaints on the federal side,” said the 29-year-old network engineer as he left an H & R office in Falls Church, week. Velasquez, who says he makes about $50,000, said he got hit with unexpected state taxes
when he moved recently, but thinks his federal taxes are fair.

The low effective rates are the result of years of tinkering with the tax code by Congress and administration—rates were cut in the 1980s, millions of Americans were removed from the tax rolls in 1990s by an expansion of a tax credit for the working poor, tax credits for children and education was added in 1997. More than one-third of eligible taxpayers pay no income taxes, according to the congressional Joint Tax Committee.

These effective tax rates don’t include payroll taxes to fund Social Security and Medicare, since since the 1970s, Social Security payroll taxes are taking on average about 9 percent of income, the CBO says. Most Americans, however, now receive far more in benefits after retirement than while working. Federal and state individual income tax rates have increased, but capital gains are taxed at lower rates, according to the Congressional Budget Office. The surging property values of the last decade have contributed to the rising cost of college.

People appear more interested in government benefits that would put money in their pockets, such as Social Security and Medicare, over tax cuts, according to a survey by the Pew Research Center. As far as people wanting a big Reaganesque tax cut, I just don’t see it. People are satisfied with their economic situation.

In the recent Battleground 2000 poll, conducted March 10-13 by the Tarrance Group and Lee, Harris & Associates, 39 percent of respondents listed reducing taxes as a very important issue—behind restoring morals, values, improving education, strengthening Social Security and improving health care.

Celinda Lake, a Democratic pollster, conducted a series of focus groups earlier this year that in part looked at attitudes toward taxes. She said that in contrast to previous years, “there was a lot less energy” to the tax issue, in part because people are cynical about whether the tax cuts ever get much from a tax cut.

People appear more interested in government benefits that would put money in their pockets, such as Social Security and Medicare, over tax cuts. In the Tarrance poll, 45 percent of respondents listed reducing taxes as a very important issue—behind restoring morals, values, improving education, strengthening Social Security and improving health care.

Low Federal taxes make it harder to make a case for tax cuts. With the lower- to middle-income tax payers paying so little there won’t be much pressure for tax cuts.

Bruce Bartlett, senior policy analyst at the Dallas-based National Center for Policy Analysis, another conservative group:

Taxes are never showing up as a major factor. As far as people wanting a big Reaganesque tax cut, I just don’t see it. People are satisfied with their economic situation.

It is time we start addressing the real problems facing this country. Sure, we would all like less taxes, but let’s look where the taxes are coming from. They are coming from State and local government, not from the Federal Government. Take a look at payroll taxes, but get off the income tax kick. The taxes are the lowest they have been in some 40 to 50 years, according to your tax category. Even a Bush adviser acknowledges that taxes have declined for many low and middle-income Americans. I don’t know if this is good or bad, but the point is that cutting tax rates, the largest share of the tax savings would go to Americans who pay most of the taxes.

The institute on Taxation and Economic Policy estimated that the wealthiest 10 percent of taxpayers would receive more than 60 percent of the tax cuts in the Bush plan. Someone making $31,000 would receive a tax cut of $1,200, about 4 percent of his income, while a taxpayer making $915,000 would receive a tax cut of $50,166—5.5 percent of income.

The Bush online calculator doesn’t calculate taxes—or tax cuts—for people making more than $100,000.

Mr. REID. I draw my colleagues’ attention to this front-page story and a few of the statistics the article discusses.

The middle fifth of American families with average incomes of $39,100 paid 5.4 percent in income tax in 1999, down from 8.3 percent in 1981. Families with an income of $54,900 paid 7.46 percent in income tax, the lowest level since 1965. Even the median-earner families making $68,605 a year were at 8.8 percent, paying their lowest level of income tax in 50 years. According to The Washington Post and other newspapers around America, even conservative think tanks see the writing on the wall. A spokesperson for the Conservative Tax Foundation said: ‘’It’s a shocker. That’s referring to the 8.8 percent income tax level.

Low Federal taxes make it harder to make a case for tax cuts. With the lower- to middle-income tax payers paying so little there won’t be much pressure for tax cuts.

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Federal income taxes are so low for so many Americans that 30 percent of wonder many voters place taxes near the bottom of their priorities in many opinion polls.

Why are our friends on the other side of the aisle not listening to the American people? The public continues to demand a first thing: What are they? Save Social Security, especially when we have the budget surpluses which allow extending Social Security’s long-term solvency. The fact
Mr. DORGAN. Mr. President, I understand we have 45 minutes in morning business set aside. The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, if I could be notified after 12 minutes.

NEED FOR ACTION ON PRESSING HEALTH ISSUES

Mr. DORGAN. Mr. President, I want to talk about two issues we must address in this Congress before the end of the year, both dealing with health care. I will describe very briefly why these are important and why many of us have been pushing for some long while to try to get the Senate to act on this issue.

First is prescription drugs and Medicare. On Friday of the past week, I was in New York City with Senator Chuck Schumer holding a hearing on the issue of prescription drugs and Medicare. I have had similar hearings in Chicago, in Minneapolis, and various places around the country as the chairman of the Democratic Policy Committee. We have had virtually identical testimony no matter what city we are in. Senior citizens say drug prices are very high. When they reach their senior years, living on fixed incomes, they are not able to access prescription drugs that they need.

In Dickinson, South Dakota, a doctor told me of a patient of his who had breast cancer. He told the woman after her surgery that she was going to have to take some prescription drugs in order to reduce the chances of the recurrence of breast cancer. When she found out what the cost of the prescription was, she said: I can't afford to take these drugs.

The doctor said: Taking them will reduce the risk of recurrence of breast cancer.

The woman said: I will just have to take my chances.

Why did she say that? Because there is no coverage in the Medicare program for prescription drugs and because many of these prescription drugs cost a significant amount of money. Senior citizens in this country are 12 percent of America's population, but they consume 33 percent of the prescription drugs in our country.

Last year, spending on prescription drugs increased 16 percent in 1 year. Part of this increase is the increase in drug prices and part is greater utilization of prescription drugs.

What does that mean? It means that everyone has a rough time paying for prescription drugs, especially senior citizens who live on fixed incomes. Many of us believe that were we to create a Medicare program today in the Congress, there is no question we would have prescription drug benefit in that program.

Most of these lifesaving prescriptions were not available in the sixties when Medicare was created. But a lifesaving prescription drug can only save a life if those who need it can afford to access it. That is the point. That is why many of us want to include in the Medicare program a benefit for prescription drugs. We do not want to break the bank. We want to do it in a thoughtful way. We would have a copayment. We would have it developed in a manner that allows senior citizens to choose to access it or not. They could either participate in this Medicare prescription drug program or they could decide not to do it.

In any event, we ought to do something on this subject. Those of us who have come to the floor over and over again saying this is a priority believe with all our hearts this is something we should do for our country.

I will take a moment to describe part of the pricing problem with prescription drugs. The U.S. consumer pays the highest price for prescription drugs of anyone else in the world.

I ask unanimous consent to show a couple of pill bottles on the floor of the Senate.

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

Mr. DORGAN. Mr. President, these are two pill bottles. They are a different shape, but they contain the same pill made in the same factory, made by the same company.

This happens to be a pill most of us will recognize. It is called Claritin. It is commonly used for allergies. This bottle of 100 tablets, 10 milligrams each, is sold in the United States for $218. That is the price to the customer in the United States. This pill bottle is sold in Canada. It is the same pill made by the same company, in the same number of tablets and the same strength, but this bottle costs only $61. The same bottle of pills is $218 in the United States and $61 in Canada. The Canadian price has been converted into U.S. dollars.

One must ask the question: Do you think the pharmaceutical manufacturers are losing money in Canada selling it for $61? I guarantee you they would not sell it there if they were losing money, but they charge 358 percent more to the U.S. consumer. I will demonstrate another drug.

These two bottles contain Cipro. It is a common medicine to treat infection. This time, the drug is actually packed and sold in the United States with the same marking, same coloring, and containing the same pills made by the same company. Incidentally, both were from facilities inspected by the FDA in the United States. Cipro, purchased in the United States, 500 milligram tablets, 100 tablets, costs $399. If one buys the pills in the same bottle in Canada, it is $171. The U.S. consumer is charged 233 percent more.

We need to do something about two issues. We want to do it in a thoughtful way. We want to do it without some downward pressure on pharmaceutical drug prices and to ask the legitimate question: Why should the American consumer pay higher prescription drug...
prices than anyone else in the world? Is that fair? The answer, of course, is no. What does it mean to those who can least afford it? It means lifesaving medicine is often not available to those who cannot afford access to it. I can tell you a story after this that shows how folks who came to hearings I held in Chicago, New York, and all around the country describing their dilemma. There were people who had double lung transplants, heart transplants and cancers, talking about $2,000 a month in prescription drug prices.

I have a solution for that, and that is to allow US pharmacists and distributors access to the same drugs in Canada and to bring it down and pass the savings along to the US consumers. We have to pass a law to do that. We are having a little trouble passing that bill.

Second, we need to add a prescription drug benefit to the Medicare program. I will now turn to the Patients’ Bill of Rights, which is the second piece of legislation we ought to get done. The Senate has passed a bill, some call it the “Patients’ Bill of Goods” because it did not do much and it covered few people. The House passed a bipartisan bill, the Dingell-Norwood bill. Democrats and Republicans joined to pass this bill. It is a good bill.

The Senate and House bills are in conference. The House appointed conferees who voted against the House bill because the House leadership does not support the bipartisan bill that passed the House. We have a paradox of conferees from the House who, by and large, do not support the House bill, which is the only good bill called the Patients’ Bill of Rights.

I will describe a couple of the elements of the Patients’ Bill of Rights, which are so important.

First is the situation with Ethan Bedrick. One might say: You have done that before; that is unfair. It is not unfair. Health care denied to individuals is a very personal issue. When we have a framework for health care delivery in this country that denies basic health care services under certain HMOs and certain policies to people who need it, it is perfectly fair to talk to people in the Senate about the need to change public policy.

This is little Ethan Bedrick from Raleigh, NC. When he was born, his delivery was very complicated. It resulted in severe cerebral palsy and impaired the motor functions in his limbs. As you can see, he has bright eyes and a wonderful smile. When he was 14 months old, his insurance company curtailed his physical therapy. Why? Because they said he only had a 50-percent chance of walking by age 5. A 50-percent chance of walking, by age 5 is not enough, they said. This is a matter of dollars and cents, so Ethan shall not get his physical therapy.

Is it fair to raise these questions? Of course it is. Should someone like Ethan with a 50-percent chance of walking by age 5 have an opportunity for the physical therapy he needs? You bet. Should we have a Patients’ Bill of Rights that will guarantee him that access under an HMO contract? You bet.

We have in the House of Representatives Dr. Greg Ganske, a Republican, and very courageous fellow, I might say, the sponsor of the Patients’ Bill of Rights in the House of Representatives. Dr. Ganske is also someone who has done a substantial amount of reconstructive surgery.

He used this photograph, which is quite a dramatic photograph showing a baby born with a very serious defect, a cleft lip shown in this picture. Dr. Ganske was a reconstructive surgeon before he came to Congress. He said he routinely said HMOs do not pay for reconstructive treatment for children with this kind of defect because they said it was not medically necessary.

I thought when I heard Dr. Ganske make that presentation the first time: How can anyone say correcting this is not medically necessary? Then Dr. Ganske used a picture which showed what a correction looks like when reconstructive surgery is done. Isn’t it wonderful what can happen with good medicine? But it can only happen if that child has access to that reconstructive surgery.

Is it a medical necessity? Is it fair for us to discuss the Republican policy? The answer is clearly yes. Let me also mention a case I have discussed before on the floor of the Senate, young Jimmy Adams. Jimmy is now 5. When he was 6 months old, he developed a 105-degree fever. When his mother called the family’s HMO, they were told they should bring him ames to an HMO-participating hospital 42 miles away, even though there were emergency rooms much closer.

On that long drive to the hospital, this young boy suffered cardiac and respiratory arrest and lost consciousness. Upon arrival, the doctors were able to revive him, but the circulation in his hands and feet had been cut off. As you can see, he lost his hands and feet.

Why didn’t they stop at the first emergency room or the second emergency room that was closer? Because the HMO said: We will only reimburse you if you stop at the emergency room you were sanctioned. So 42 miles later, this young boy had these very serious problems and lost his hands and feet.

What are we to make of all this? We have very significant differences in the Patients’ Bill of Rights between the House and the Senate. The proposed differences in the bill of rights in the House and the Senate are the differences dealing with medical necessity. As used in HMO contracts:

Medical necessity means the shortest, least expensive level of treatment, care or service rendered or provided, as determined by us.

The fact is, health care ought not be a function of someone’s bottom line. Young Ethan, young Jimmy, or the young person born with a severe birth defect, like the cleft palate defect of the type I described, ought not be a function of some insurance company’s profit or loss margin will suffer by providing treatment to these patients.

A woman fell off a cliff in Virginia, dropped 40 feet and was rendered unconscious. She went into a coma and was wheeled into an emergency room and treated for broken bones and a concussion. They wheeled her into the emergency room on a gurney, while unconscious, yet the HMO later, after she survived, said: We will not pay for your emergency room treatment because you did not have prior approval.

This is a woman, unconscious, in a coma, wheeled into an emergency room, but she did not get prior approval. That is the sort of thing that goes on too often in this country in health care. It ought to be stopped. It can be stopped if we pass a Patients’ Bill of Rights. Not if we pass a patients’ bill of goods that someone tries to misname to tell their constituents have done something when, in fact, they stood up with the insurance companies, rather than with patients. We need a Patients’ Bill of Rights that really digs in on these issues: What is a medical necessity? Do patients have a right to know what their options for treatment, not just the cheapest? Do they have those rights?

The piece of legislation that was passed in the House gives patients those rights. The piece of legislation the majority passed in the Senate does not. We are going to continue to fight to try to get something out of this conference committee that medical patients in this country, that the American people can believe will give them some basic protection, some basic right so that in the circumstances I have described will not continue to exist in this country.

Health care ought not be a function of someone’s profit and loss statement. People who need lifesaving treatment ought to be able to get it. The ability to access an emergency room during an emergency ought not be something that is debatable between a patient and an HMO.

These are the issues we need to deal with in the coming couple of months—both of them health care issues, both of them important to the American people. I hope that as this debate unfolds, we will have some bipartisan help in trying to address prescription drugs in Medicare, No. 1, and, No. 2, passing a real Patients’ Bill of Rights, to give real help to the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent I be able to proceed in morning business for a period of 12 minutes.
The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET PRIORITIES

Mr. JOHNSON. Mr. President, this week the Senate Budget Committee is about to proceed with a markup of the budget resolution, an effort that is overdue. Nonetheless, it will be taken up this week. I think we should examine the context in which the budget resolution will be considered in the Senate.

There was some awfully good news for American families this weekend. It was announced this weekend that the Federal income tax burden for American families has shrunk to the lowest level in 40 years. Who says this? Studies by both liberal and conservative tax experts, the administration, and two arms of the Republican-controlled Congress confirmed that the Federal income tax burden for families in America is lower than it has been for 40 years.

The middle fifth of American families, with an average income of $39,100, paid 5.4 percent in income tax last year compared to 8.3 percent in 1981. A four-person family, with a median income of $54,900, paid 7.46 percent of their income in income tax—the lowest since 1965. And a median two-earner family, making $68,605, paid 8.8 percent in 1988, which is about the same as in 1955.

In fact, one-third of American families no longer pay income tax. That is the context in which we need to take up what we are going to do as a people relative to our newfound economic prosperity that is being projected by so many.

We need to remember, too, how we arrived at this point.

In 1993, when President Clinton took office, he inherited a budget with a record deficit of $2.7 trillion per year. In 1993, we passed the Budget Act without a single Republican vote—none in the House; none in the Senate. In fact, Vice President Al Gore cast the deciding vote on this floor in the Senate and created a framework for a remarkable turnaround.

From almost 30 years of continuing hemorrhaging red ink and growing deficits, we then had 7 years in a row of declining deficits—in fact, the last 3 in surplus, even over and above that required for Social Security. For fiscal year 2000, we are looking at a $26 billion surplus over and above Social Security. In the meantime, that set the framework for 107 consecutive months of economic growth. There have been 20.4 million new jobs since 1993. Home ownership is up a record 67 percent. Real wages have increased since the beginning of the Clinton administration by 6.6 percent, reversing a two-decade-long trend of declining real wages.

From 1993 to 1998, the number of poor people in America declined by 4.8 million and the number of poor children went down by 2.1 million. In these past 7 years, 7.2 million have left the welfare rolls—a 51-percent decline in the welfare rolls. Welfare recipients now account for the lowest percentage of the U.S. population since 1967. The height of the Vietnam war was 1971. In 1999, Federal spending was the smallest share of our gross domestic product since 1966. Lower- and middle-income Americans had the smallest tax burden in 40 years, as noted by the study that came out this weekend. And we are now paying down debt.

By the end of fiscal year 2000, the Treasury expects to have reduced our debt held by the public by about $300 billion—that is "billion" with a "B"—from where it was only 3 years ago.

Now we have this great national debate. The experts in both the House and the Senate are projecting about a $3 trillion surplus over the coming 10 years. Thanks, in very large part, to the decisions made in 1993 to set that framework for prosperity and growth, we are talking about a $3 trillion surplus. And $2 trillion of that is attributable to Social Security. That is the debate that the President of the United States, he said: Save Social Security first. Our Republican friends have concurred. That is off the table.

The next question is, then: What do you do about the remaining $1 trillion over the coming 10 years? The first thing is to be cautious. Indeed, we have had a hard time projecting 1 year in advance, much less 10 years in advance, what is going to happen to our economy. We cannot get too giddy about how to spend or give back or do whatever with this $1 trillion that may or may not materialize. But that is the debate that is going on today. It is going on between the two Presidential candidates. It has been going on between the parties. The American public themselves are trying to digest what kind of vision we have for America in the first 10 years of this century, the first 10 years of this millennium.

George W. Bush has said he knows what to do with the $1 trillion dollars: essentially give it all back in a tax cut, commit to that now. If $1 trillion doesn't actually show up, too bad, because Social Security, Medicare, and virtually everything else we do will be in jeopardy.

There are others, including myself, who say, first, be prudent about whether this trillion is going to materialize. To the degree that it does, let us look at how to protect the long-term viability of Medicare, which is in shaky financial condition. Most of all, let us look at how to reduce the deficit, nothing to protect Medicare, at least not to the degree that it needs to be done. Then look and see who are the winners and losers on this.

Yes, in the context of how to use this $1 trillion, let's try to find some room for relief, too, but let's target it to middle-class and lower-income families who have the most difficult time meeting their bills. When you look at George W. Bush's proposal, it is blown on a tax cut, with nothing for the schools, nothing to invest, nothing to reduce the deficit, nothing to protect Medicare, at least not to the degree that it needs to be done. Then look and see who are the winners and losers on this.

The typical middle-class family gets about a $500 billion per year tax cut; a million-dollar-a-year income gets about a $50,000 tax cut. That is not fair, not when we are being told we don't have the money to build new schools. We can't pass a bond issue in most of the counties in my State of South Dakota. Real estate taxes are through the roof. Our ag economy is not doing well. We are wondering how to replace all those 1910, 1920 vintage schools across my State.

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That is where the American public is in this debate with both people who say, first, be prudent about that $1 trillion, making sure that we stay in the black, that we don't go back into the bad red-ink days of the Reagan-Bush
It is a once-in-a-lifetime opportunity. Two generations have gone by waiting for this opportunity to have our Federal Government in the black and to make some policy decisions about how we can partner together to continue opportunity and prosperity for all of our citizens. Now, how tragic it would be if we were to lose this opportunity, if we would say, no, there is no role for the Federal Government to improve Medicare, to keep our rural hospitals open with a decent level of reimbursement and our schools, to do the things that need to be done while at the same time providing some tax relief and paying down debt. What a loss that would be if we were to miss that opportunity.

There is no more fundamental decision to be made in this the 2nd session of the 106th Congress than these budget issues that are before us this week. We can be proud and we can take some satisfaction in the fact that taxes for middle-income folks and the surcharges we paid in 1993 for 40 years, that we have had 3 years in a row of budget surpluses over and above that required for Social Security, and that our economy has had 8 years in a row of continuous GDP growth. But there is no automatic pilot on which to put our economy. It requires difficult decisions to be made each and every year by the Congress to set the stage for continued prosperity.

That is the challenge before us. I am hopeful that before we adjourn at the end of this week, we will be able to look back at this 2nd session of the 106th Congress as truly a watershed time, a fork in the road where we chose the right road to go down in terms of prosperity. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I understand there has been time set aside this morning?

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming or his designee shall be in control of the next 45 minutes which has now begun.

ENERGY

Mr. GRAMS. Mr. President, I rise to discuss our long-term energy needs and the energy problems we are currently facing in this country and to express my dismay with the Clinton administration last week because of the neglect of the long-term energy needs of our Nation's economy and its energy consumers.

I spent a great deal of time outlining my concern with the administration's failure to develop a coherent plan for reducing our reliance on foreign oil and for increasing our nation's energy security. I outlined my disgust for how this administration has ignored our nuclear waste storage crisis, moved to breach hydropower dams in the northwest, forced regulation upon regulation on other energy production technologies, and displayed a complete disregard for the men and women who find and produce domestic supplies of oil and natural gas.

In fact, this administration has virtually ensured that the oil price crisis we're now facing will pale in comparison to the electricity price and supply problems that are just around the corner for our nation's consumers. I know both the energy producers and consumers of Minnesota are astutely aware of the generation and transmission problems that will grip our state in the not-too-distant future. Those problems are not confined to Minnesota. Many States in the upper Midwest face generation and transmission shortages, as do States across the country. Those problems are rooted in the failure of this administration to comprehend the generation needs of a growing economy and the transmission requirements of that growing demand.

While I strongly believe that, in the absence of a coherent administration energy policy, Congress needs to step in and forge its own path for meeting the long-term energy needs of our economy, I've come to the floor today to talk about the need for some short-term measures to address high oil prices.

In Minnesota, farmers are preparing to enter the fields for spring planting. They're trying to budget for the year and put in place a business plan that will hold them through another year and perhaps also enable them to save their children through school. As everyone knows, doing these most basic things is no easy task when commodity prices are low, the weather is uncooperative, and government regulations eat away at the ability to show a profit. This year, however, farmers have a new worry that threatens to make matters even worse—the growing price of diesel fuel and gasoline. Farming is an extremely energy intensive industry. Even such simple processes in farming as plowing the field to milking the cows, energy is an essential part of a farm's bottom line.

Likewise, truckers throughout America are essential to delivering the products we use in our everyday lives to markets across the country. Without truckers, we wouldn't have access to most of the things we all take for granted on a daily basis. Even the produce and dairy products we purchase at the supermarket have to be transported across the country. Without truckers, we wouldn't have the milk we drink or the ice cream that goes on our family's ice cream bars.

This is a country that has grown dependent on truckers. It is these truckers, working often long and arduous hours, who deliver the goods that bring life to America. It is these truckers who are on the front lines. According to the American Trucking Associations, truckers transport 85 percent of the goods delivered in this country. Without truckers, we wouldn't have access to the food and the consumer goods that keep us going, and certainly, we'd see a decrease in our quality of life.

I am concerned, however, that because of the rising cost of energy, this industry could have to lay off workers and cut back operations. This is a true concern that must be addressed, and we must do it now.

In the States of Minnesota, Iowa, and South Dakota, crop losses have been further compounded negative impacts of increased transportation costs.

Mr. President, the trucking industry is vital to our economy. Without the trucking industry, our economy would come to a grind to a halt, and we'd see severe shortages of products, and these shortages would hit hardest those who are most vulnerable to increases in the price of fuel. In fact, over 6 million American workers are employed in the trucking industry. These workers would not be able to work if we have higher fuel prices, and the cost of the goods they transport would rise.

In closing, Mr. President, I want to pay tribute to the truckers and to the farmers. They are our backbone. They are the people who work hard to provide food, to deliver goods, and to make sure we can live our daily lives in a civilized manner. They are the people who make our country run. They are the people who keep our country moving. They are the people who make sure our families are fed and that our children can have a chance. They are the people whose work ethic and determination make America great.

Mr. President, I rise today to demand that the transportation and energy needs of our country be addressed promptly and that we do not allow another energy crisis to occur. I rise today to say that it is time for Congress to act.
Many of us in the Senate have witnessed the stream of truckers from across the country who have descended upon Washington, DC, in recent weeks. They have come to their Nation’s Capital not because they want government to give them something, but because they cannot make a living when the Department of Energy is caught napping on the job. They expect, demand, and deserve an Energy Department that comprehends the importance of energy consumers, this economy and has a long-term plan for meeting the needs of energy consumers.

Mr. President, I know I do not have to remind my colleagues of how the rising cost of oil threatens almost every aspect of our economy and communities. Senior citizens, on fixed incomes, cannot absorb wild fluctuations in their energy costs. Business travelers and airlines cannot afford dramatic increases in airline fuel costs. Families struggling to educate and feed their children, children’s hospitals, and high-cost medical care, are all hit by rising oil costs. The domino effect this crisis has on the costs of goods and services.

To begin addressing this problem, I have joined my Senate Majority Leader and my colleagues Senator S.SKY and Senator D.A.Preview, and a number of my colleagues in offering legislation to repeal the 4.3-cent gas tax while protecting the Highway Trust Fund and not spending any of the Social Security surplus. Our legislation is aimed at giving the short-term relief directly into the hands of energy consumers. Our bill will eliminate 4.3-cent tax on gasoline, diesel, and aviation fuel so the American consumer can see some relief at the pump when they fuel up for a day on the road, in the field, or traveling to and from school or work. Our bill will eliminate the 4.3-cent tax starting on April 16 through January 1, 2001. For farmers, truckers, airlines, and other large energy consumers, this action will have an even greater positive impact because of the large amounts of fuel they consume.

I have heard some of my colleagues argue that 4.3 cents a gallon has a negligible impact on consumers. To them, I say look at the amount of fuel a farmer or trucker consumes during an average week. Look at the thousands of gallons of diesel fuel required to operate a family farm or deliver products from Vermont to Maine. Or look at the tight profit margins that can make the difference between going to work and being without a job. I’m convinced this action is going to help farmers, truckers, businesses, and families in Minnesota and that's why I strongly support it.

For those who are concerned that eliminating the 4.3-cent gas tax is going to deplete important highway and infrastructure funding, we've included language in this legislation that will ensure the Highway Trust Fund is completely protected. The Highway Trust Fund will be restored with on-budget surplus funds from the current fiscal year as well as the fiscal year 2001.

If gas prices reach $2 a gallon, on-budget surplus funds will allow additional reductions in the gas tax without impacting the Highway Trust Fund. Our legislation, in fact, to fund any of the on-budget surplus, our legislation could provide a complete reduction of federal gas taxes until January 1, 2001 if prices rise to, and remain above, the $2 mark. Let me make this very clear: We are protecting the Highway Trust Fund with this legislation. In fact, we've ensured that the on-budget surplus will absorb all of the costs of the gas tax reduction. I also want to assure my colleagues and my constituents that this legislation walls off the Social Security surplus. We will not spend any of the Social Security surplus to pay for the gas tax reduction.

Our legislation is quite simply a tax cut for the American consumer at a time when it's needed most. We're going to give the American consumer—funds that have been taken from the American consumer above and beyond the needs of government—and give them back to consumers every day at the gasoline pumps.

For me, this legislation boils down to a very simple equation. Are we going to sit by and do nothing as farmers prepare to enter the fields this spring, or are we going to take whatever short-term actions we can to support our farmers and provide them with a needed boost? Are we going to help those most impacted by high fuel costs, or are we going to ignore their needs and let them absorb thousands of dollars in fuel costs this summer? There is overwhelming proof that the Clinton administration's complete rejection of a national energy policy has caused this mess, so I believe the Congress must step in and help get them out of it.

I joined my colleagues in the Senate earlier this year in requesting and receiving emergency releases of Low-Income Home Energy Assistance funding. We did so on at least three separate occasions, and I've supported the President's request for $600 million in additional funding this year. This crucial funding for Minnesota and many other cold weather States was a vital short-term approach to mitigating the impact high fuel costs have had on our citizens and their families. Our farmers and workers, our constituents were in need, and we responded exactly as we should have. Right now, even more of our constituents are in need, and by responding with a reduction in the Federal gasoline tax, Congress can again act in a way that is expected, even demanded, by our constituents.

As I started earlier, the gasoline crisis requires that Congress act now to stem rising energy costs in the near term. It also requires that elected officials, across Washington take a serious look at the direction in which our Nation is headed with its energy policy. I am prepared to take a hard look at any options that might help my constituents right now, and I demand that this administration explore options to ensure that our nation reduces its reliance on foreign oil and establishes a much more sound energy policy, so we can make this country energy independent and not so dependent on foreign sources of energy that when they turn them on or off, it can have dramatic impact on our economy. While those solutions will not happen overnight, I believe a reduction on the gas tax will help. It is going to help now, and it is going to help when that help is needed the most.

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. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER (Mr. Kyl). Without objection, it is so ordered.

Mr. THOMAS. Mr. President, I ask unanimous consent to speak for about 15 minutes in morning business. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Thank you.

TAXES

Mr. THOMAS. Mr. President, I wish to talk a little bit about oil prices. I guess most everyone wants to talk about oil prices and gas prices at the pump—those things that affect each of us. First of all, I have had the opportunity to meet in the Chamber this morning and hear a little discussion about taxes. So I will comment for a moment on that.

We are now dealing with the budget, which of course is one of the basic responsibilities of Congress, and the question of how much money we spend in the Federal Government. That has to do with the whole philosophical question of how large a Government we want and the things we want the Federal Government to be involved in. How much involvement we want in all of those things—what is the division between the responsibility of the Federal Government, local government, and State government. I think these are obviously some of the most important issues with which we deal. These are broad issues. These are philosophical issues. The budget has a great deal to do with it.

In fact, I suspect that the total amount of expenditures is probably the most important issue we deal with all year, depending on how you view the role of Government. Keep in mind this year we will spend about $1.8 trillion. That is $1,800 billion in the Federal budget. Of that total, it will be spent discretionary funding, which is determined by the Congress. The remainder, two-thirds of that, $1,800 billion, will be mandatory spending—
things such as Social Security, Medicare, and others.

We are dealing with setting a budget that basically is an expenditure limit on that discretionary spending, which last year, as I recall, rose about 7.5 percent and that is what we want to break even this year. This year I think there is an effort being made to see if we can control that level of spending. It has to do with the size of Government. Clearly, everyone has different views, of course, as to how to adequately fund programs we think are important—the priorities the public sets through their representatives in terms of Government programs.

One of the things it seems to me we haven’t done as well as we might is to review programs that have been in place for a very long time. Some of them, obviously, are important programs that need to go on. Others were designed to do something for a relatively short time, but they are always there. They never go away because we do not have the opportunity to have the oversight to see if, in fact, those programs have accomplished the things they were designed to accomplish, and if, indeed, those dollars can be spent more productively in some other programs.

We find ourselves in a situation of having these programs that have been in place forever and are almost automatically funded and the obvious need for new programs from time to time as time and needs change. It is simply an accumulation of programs. Those of us who occasionally say to ourselves that we ought to control the size of Government, have to take a look at those kinds of issues.

I hear my friends talk about the evils of tax reduction. They ought to review that a little bit, it seems to me.

First of all, we ought not spend Social Security dollars for operating funds. We have been doing that for 10 years, but we have not done that in the last 2 years. We hear our friends on the other side of the aisle and the administration and President Clinton saying: Save Social Security. Not one program has come from them as to how to do that.

These young pages sitting here will pay out of their first paycheck 12.5 percent for Social Security. The likelihood is, if we don’t do something, that they will not have benefits when they are eligible for them any longer.

We need to do something. We have a plan. We set aside at least a portion of that for individual retirement accounts. Let it belong to the persons who made it, and, indeed, let them invest in private sector equities or bonds so that the return is much higher.

The choices we have are fairly simple. We can reduce benefits. Nobody wants to do that. We can increase taxes, which nobody wants to do that. Social Security taxes are the highest that most people pay of any tax. Or we can increase the return for the trust funds. We are for that.

The administration has no plan at all other than to say: Save Social Security. We need to do something about paying down the debt. Most everyone would agree with that. The debt that the Treasury is paying down is taking Social Security money and putting it into debt. It would be replacing public debt. But it is still debt. It is debt to the Social Security trust fund.

What I propose and what I think we ought to do is set money aside just like with a home mortgage, and each year we will take so much money. It will take this amount of money to pay this year’s obligation to pay off the debt in real dollars. So instead of being replaced by Social Security dollars, that debt is being reduced. That is what we are for. The President has no plan. All we hear is this great talk about it but nothing.

Then, quite frankly, we talk about taxes. What we are talking about, at least to some extent, is not simply reducing debt. It is a fairness issue. The marriage penalty tax is a fairness issue. Why should two people who work independently and are married pay this amount of tax? That isn’t fair. It is a fairness issue. It is not just tax reduction.

There are ways to change the estate taxes. The President has a proposal that estate taxes ought to be paid when they pay taxes as a matter of capital gains. Good idea. Then there is money left, unless one continues to spend it.

People talk about taxes and balancing the budget and the economy growing starting in 1993. I am sorry, it didn’t start in 1993; it started in 1991. It has been going on for a good long time. I cannot imagine the President’s tax increase has contributed a great deal to the economic growth.

People have different views. That is what it is all about. We have different views of how we serve this country. There are many views.

We talk about energy. Thirteen leaders of the OPEC nations are meeting in Vienna to discuss boosting oil production. I appreciate the efforts of Secretary Richardson. I hope the answer is they will increase production. That is a good thing to have happen.

We have to talk about how we got ourselves in a position of having to go over to OPEC, saying: We have real problems, OPEC, you help us out? And then we do not get much of a response from the very group we have contributed so much to, not only in dollars but in the Gulf war. Then we find them deciding whether they will do us a favor by increasing production.

How did we get where we are? I think we have had a lack of a policy regarding energy, not only in petroleum but in the whole sphere of energy. I come from the largest coal-producing State. This administration has made it increasingly difficult to produce energy as it has sought to close down energy powerplants because of maintenance.

We find ourselves depending on others and that puts at risk not only our economy but also our security. We find ourselves now in the neighborhood of 57 percent dependent on foreign oil. We see consumption going up each year; domestic production is going down at the same time.

What are some of the reasons? Some are what have happened in the last few months in terms of this administration which has set about to leave a “landmark” and I understand Presidents desire to have different legacies. This is called a land legacy where they will set aside more and more private lands and put them into public ownership to have a billion dollars a year they can spend at their own discretion without going through the process of Congress and appropriations to acquire more Federal lands.

In my State of Wyoming, nearly 50 percent of our land belongs to the Federal Government. Selfishly, it makes a case for energy production if we can use as multiple-use public lands, if we can protect the resource, protect the environment, but also use those lands—whether for hunting, for recreation, for grazing, whether it be for coal and gas production. We can begin in such a way that we have multiple use as well as protection of the environment.

This administration has moved in a different direction. I have been on the Energy Committee since I came here in 1994. We have not had from the Energy Department a coherent policy on energy for a very long time. We had a meeting this morning on the Kyoto treaty, the meeting in Japan where we were supposed to sign a treaty which would reduce our energy by about 40 percent, while asking less of the rest of the world. Of course that has not been agreed to. As a matter of fact, this Senate voted 95-0 not to agree to it—unless we do something about clean air, not that we shouldn’t be doing something to reduce the effect of economic growth—but not to just sign a treaty that says we are going to put ourself at a disadvantage.

This is part of where we are, including access to Federal lands, where we have 40 million acres, using the Antiquities Act, to set aside other lands for single purpose uses. We have had for some time offshore oil drilling, one of the great opportunities to provide domestic production. We have the time to do something to give a tax advantage for marginal oil wells so they would produce, but the administration is opposed.

We used to talk about looking at ANWR, to do something in Alaska, to provide more domestic oil so we are not totally dependent on foreign countries to provide that energy source. That is not only good for the economy and jobs, but it is a security measure.

U.S. oil production is down 17 percent in the United States; consumption is up 14 percent. In just 1 year under this administration, oil imports
increased almost 8 percent; they are now getting close to 60 percent. DOE predicts a 65-percent oil dependency on foreign oil by the year 2020. We have become even more dependent.

The United States spends about $300 million a day on oil imported outside of America. The amount is far, far greater than we are concerned about because of the trade deficit from oil amounts to about one-third of the trade deficit. Now we are looking at short-term issues when what we have to do is take a look at the longer-term resolution to these problems.

The policy that would change this, and one we look forward to, is increased access to public land, continuing to emphasize, however, the idea that we need also to protect the environment. We can do that.

I mentioned tax incentives that would increase production. We need to look at the Clean Air Act and the Clean Water Act which is being used to reduce the use of lands as well. It has a real impact to a lot of people in my State which is largely a State that has mineral production.

In 1990, U.S. jobs exploring and producing oil amounted to over 400,000. In 1999, these jobs are down to about 293,000, a 27 percent reduction in the ability of America producing our own oil. In 1990, we had 657 working oil rigs; now it is down to 153, a 77 percent decline.

I think we need to take a long look at where we are and where we want to go. Any government looking at energy has to recognize the stewardship responsibility that we have for the environment. We do that. At the same time, we have to be able to produce for ourselves so we have the freedom and opportunity to continue to have the strongest economy in the world, the greatest for jobs, while strengthening our security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

ENERGY POLICY

Mr. CRAIG. Mr. President, I come to the floor this afternoon to join my colleagues from Wyoming who has so clearly outlined in the last few months part of the problems our country faces at this time in our history relating to energy policy, or a lack thereof.

As I speak on the floor, as my colleagues completed his comments, all eyes are turned on Vienna. That is not Vienna, NY., that is Vienna, Austria, where the OPEC nation members are meeting to decide whether they will be generous enough to turn their valves a little more and increase crude oil production to a million or a million and a half barrels a day so that our gas prices will come down at the pump. How can a great nation such as ours now find itself so dependent upon a group of nations, almost all of them quite small but all of them very rich in crude oil? How do we find ourselves dependent on their thinking? What is the reason we find ourselves dependent? This is part of what my colleague from Wyoming was talking about. It is the loss of production units and the drop in number of rigs out exploring, and that is all our fault, our fault collectively as a nation, for having failed over the last several decades to put policies in place that would have made it possible for us, had, as its first criterion, relative independence from other nations of the world as suppliers of our fundamental energy-based need for crude oil, crude oil production for our petrochemical industry.

I have been to the floor several times in the last couple of weeks to speak about this because the price at the pump today is not an aberration. It is not something that was just quick in coming. We, as a country, have known for some time this day would be at hand. Several years ago, we asked our Government to investigate whether a lack of domestic production would put us at some form of vulnerability as to our energy future. The answer was yes. Those studies were placed on the desk of our President, Bill Clinton. Nothing was done. A year ago similar studies were done, and they reside on the President's desk as we speak. We have been there since last November, and nothing has been done.

Only in the last month has the President sent his Secretary of Energy out and about the world, with his tin cup in hand, begging—begging producing nations to turn their valves on a little bit.

What is the consequence of turning your valve on at the pump? The consequence is a reduction in the overall world spot price of crude oil. When you do that, the cash-flow pouring out of this country to the OPEC nations of the world declines; oil production goes up, cash-flow declines. Why would they want to do that? Out of the generosity of their hearts?

For the last year-and-a-half or 2, they have been in political disarray. During that time, they were largely pumping at will into the world market. A year ago, we saw crude oil prices at $10 a barrel on the market. Today, they are over $30. Now, $10 a barrel is probably too low, but $30 is a huge and bountiful cash-flow to the treasuries of these countries—Saddam Hussein's country, the man whose country we fought against to free Kuwait and the Kuwaiti oil fields less than a decade ago.

In fact, it was Northeastern Senators who, some months ago, wrote a letter to our President asking him to become sensitive to this issue because they were aware, with the run-up in oil prices—and we knew it was coming the minute the OPEC nations got their act together—the Northeastern Senators would see their States hit by heavy home heating oil costs. Sure enough, that is what happened. It happened because they turned the well off and they shut the well in, meaning it no longer has the capability of producing.

U.S. crude oil consumption during that same period of time went up 14 percent; 17 percent down in production, 14 percent up in consumption. It sounds like a ready-made situation for a crisis, and that is exactly where we find ourselves today. The United States is 55 percent dependent upon those nations that are meeting in Vienna at this moment; 55 percent dependent for so much of what we do. That is dramatically up from just a couple of decades ago when we were in the mid-30s, relating to dependency.

While all of this is going on and nothing is being done by this administration, and most of what we are trying to do here has either been denied or vetoed or blocked by this administration, the Department of Energy estimates we will have a 65 percent dependency on foreign producers by the year 2020. Some would say that is good because we will not have the environmental risks in this country, we will not be drilling and therefore not be refining as much, and therefore the environmental risks will be gone.

What they did not tell you is, it puts hundreds of new supertankers out there in the open ocean on a daily basis—even if our foreign neighbors will produce and even if they will sell to us, hundreds more of those huge supertankers out there in the open ocean,
coming into our ports, offloading. Let me tell you, there are greater environmental consequences for that than the use of today’s technology on our land or out in our oceans, drilling, finding, and shipping to our refineries.

The United States is spending $300 million a day on imported crude oil. That is $100 billion a year flowing out of this country to the coffers of the OPEC nations. That is big money, huge money. 

We sit here and wring our hands over a balance of payments, yet we do nothing to bring that production back to our shores and to be able to control our own destiny in the production of crude oil.

As I mentioned, the world oil price reached over $30, about $34 a barrel on March 7. It is down a little bit now on speculation that the OPEC nations today will make decisions that will increase production. But, of course, we already know energy prices on the west coast are at nearly $2 a gallon at the pump and are certainly extremely high here. More than half of all crude oil we use, over 100 billion barrels per day, goes directly into home heating oil, motor gasoline, diesel fuel, and other transportation fuels.

The Clinton-Gore administration has failed to do one single thing to develop more of our Nation’s crude oil reserves, of which we have an abundance. In fact, I was watching CNN a few moments ago. Some people in the oil industry would suggest only about half of the oil production capacity of this Nation has been used since we first discovered crude oil. Only about half of it has been used. The rest of it is under the ground. It is more difficult to find, more expensive to produce, but it is still there, and the great tragedy is we are not producing it. In fact, we are doing quite the opposite.

Since this administration has come to town, there has been an anti-oil attitude from a standpoint of domestic production. From the very beginning, they pushed through a 4.3 percent gas tax increase. They argued it was for deficit reduction. But when one listens to the soundings of the Vice President when he talks about crude oil and combustion engines and how negative they are to the environment and we ought to tax them out of existence—and he has said all of those things; I am paraphrasing, but it is not new; he has been replete in those expressions over the years—it is not unexpected that he cast the single vote that broke the tie between Democrats and Republicans on this floor that put the gas tax in place.

We are going to balance the budget this year and have surpluses. Why not use some of that surplus money to offset the runup in energy prices that consumers are now feeling at the gas pump at this moment and that certainly our transportation industry is feeling? It ought to be something we do.

I argue that we hold the highway trust fund fully offset. That is the trust fund that funds the pouring of concrete for our roads and our bridges and creates hundreds of thousands of jobs a year in the building and rebuilding of our infrastructure. Those need to be funded, do not be left hanging, we should do that.

But here we are dealing with a surplus, fighting with our Democrat colleagues over whether we should give tax relief to the taxpayers this year. What better way to give some of that relief than to cut the price at the pumps? Most Americans today who drive cars find themselves paying increasingly higher fuel bills.

For the next few moments, I will talk about rural America. I come from a rural State. Many of us do. While runups in energy costs are dramatically impacting urban America, it is even greater in rural America. Why? It is quite simple. Many of my friends in Idaho drive 50, 60, 70 miles a day just to get their kids to school, to shop at the local grocery store. That is not unusual in rural America.

All of the goods and services that flow to our farms and from our farms travel on the backs of 18-wheeler trucks, and nearly all transport crude oil, diesel oil is now being acquired by farmers across the Nation as they enter our fields for the spring farming season. All of that is going to drive up the overall cost of the farmers this year. In agriculture, farmers have experienced a 4-year run of very low commodity prices and have found most of their farms and ranches below break even. Now, because of an absence of a national energy policy, they find their cost of production could double, at least in the energy field. Many of the tools they use—the insecticides, the pesticides, and the herbicides that are made up of oil bases—are going to go up dramatically in cost.

In many parts of the country, farming and ranching, logging and mining are also an important part of the rural economy. All of them very energy intensive. Those industries have found themselves nearly on their backs from the last few years at a time when we see energy costs ready to double or triple.

We have heard it from the homeowner and the apartment dweller in the Northeast for the last several years, that when they double their heating bills have doubled. Some are having to choose food over warmth or warmth over food. Many are senior citizens on fixed incomes.

While we have tried to offset that with some help from Washington, we have not been able to do it all. And in the next month and a half, we are going to hear it from the farmers and the ranchers as their fuel bills skyrocket.

We have already heard from the truckers. They have been to town several times, and many of our independent truckers are literally driving their trucks into their driveways, shutting them down, and not turning them back on, therefore, risking bankruptcy and the loss of that income-making property because they cannot afford to pay the fuel bills.

Why? It is time we ask, why, as a country, and it is time Congress dealt with at least some short-term provisions while we look at and strive for some long-term energy policy.

We do not think one can expect the Clinton-Gore administration to be very helpful, except maybe at the doorstep of the palaces of the sheiks of the OPEC nations, because that is their only energy policy.

Those are the kinds of things we are going to look at and abide by. I think this Congress will attempt to respond and respond in a positive way for the short-term provisions while we look at long-term policy to increase production of crude oil inside the 50 States of our Nation in a way that we can control it, we can shape our energy future and give a group of energy nations in meeting in Vienna having a choke hold around our very neck.

Secretary of the Interior Bruce Babbitt is talking about taking down valuable hydroelectric dams in the Pacific Northwest—the administration does not consider hydropower a renewable resource. Electricity from hydro meets about 10 to 12 percent of U.S. needs.

Environmental Protection Agency Administrator Carol Browner is trying to shut down coal-fired electric generating plants in the Midwest—which depends on those plants for 88 percent of its electricity. The U.S. depends on coal for 55 percent of its electricity needs.

While the Clinton-Gore administration tried to kill off the use of coal fired electricity it is doing nothing to increase the availability of domestic natural gas which is the fuel generators will use if they cannot use coal. To reach the coal the U.S. must increase its use of natural gas by about 10 trillion cubic feet per year.

Federal land in the Rocky Mountain West could contain as much as 137 billion cubic feet of natural gas but the Clinton-Gore administration refuses to allow any oil and gas exploration on those lands.

Last week the President announced his plans for dealing with our current energy problem. Once again, his emphasis was focused on coal and renewable energy sources like solar, wind and biomass. We cannot put windmills on trucks or solar panels on trains or barges.

The Clinton-Gore administration has refused to even consider allowing exploration in the Alaska National Wildlife Refuge which could contain up to 16 billion barrels of domestic crude oil which could easily be moved to refineries in the lower 48 through the Alaskan pipeline.

The Vice President has vowed to prohibit any future exploration for oil and natural gas on the Federal outer continental shelf when there are clearly
areas that have great potential for new domestic energy supplies. The President recently closed most of the Federal OCS to any exploration until 2012. The Clinton-Gore administration embraces the Kyoto Protocol because the United States has imposed steep economic costs on the United States. The Protocol would require the United States to vastly reduce its use of fossil fuels like oil, natural gas, and coal to achieve reductions in emissions of carbon dioxide—which is not a pollutant under the Clean Air Act and has not yet been proven to be the cause of climate change. The U.S. Senate voted 95-0 to reject it. Clearly, there is a pattern.

It started in 1993 when the Clinton-Gore administration proposed a $73 billion 5-year tax to force U.S. use of fossil fuels down. It continues with misguided Federal land use policies, environmental policies designed not necessarily to protect the environment but to kill fossil fuel use, and with administration support for the economically punitive Kyoto Protocol. This administration hates the fossil fuel industry and apparently the economic well-being these abundant and relatively cheap fuels have helped the U.S. economy achieve. These are the words of the Vice President:

Higher taxes on fossil fuels... is one of the logical first steps in changing our policies in a manner consistent with a more responsible approach to the environment.

That is by Senator Al Gore, from "Earth in the Balance," 1992, page 173. To me it is pretty clear that this administration is unwilling to commit to a rational energy policy that will help America's families.

I yield the floor.

FLAG DESECRATION
CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consider S.J. Res. 14, which the clerk will report by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 14) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

The Senate proceeded to consider the joint resolution.

Mr. MCCONNELL. Mr. President, the Constitution begins with the ringing words—"We the People"—for a reason. In our great nation, the people are empowered to decide the manner in which we are to be governed and the values we are to uphold. I join 80 percent of the American people in the belief the flag of the United States of America should be protected from physical desecration. And I am blessed to live in a nation where the will of the people can triumph over that of lawyers and judges.

In light of the U.S. Supreme Court decisions Texas v. Johnson, 1989, and United States v. Eichman, 1990, which essentially abrogated flag desecration statutes passed by the federal government and 48 states, a constitutional amendment is clearly necessary to protect our flag. This would take the issue of flag protection out of the Courts and back to the legislatures where it belongs. As Chief Justice Rehnquist stated in his dissent, "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 flagburning."

Mr. President, the fight to protect "Old Glory" is a fight to restore duty, honor, and love of country to their rightful place. As Justice Stevens noted, "The flag uniquely symbolizes the ideas of liberty, equality, and tolerance." These are the values that form the bedrock of our nation. We are a nation comprised of individuals of varying races, creeds, and colors, with differing ideologies. We need to reinforce the values we hold in common in order for our nation to remain united, to remain strong.

Sadly, patriotism is on the decline. That's dangerous in a democracy. Just ask those military recruits who can't find enough willing young people to fill the ranks of our military during this strong economy. What happened to the pride in serving your country? Where are the Americans willing to answer the call?

Protecting the flag reflects our desire to protect our nation from this erosion in patriotism. It signals that our government, as a reflection of the will of the people, believes all Americans should treat the flag with respect. The men and women of our armed forces who sacrificed for the flag should be shown they did not do so in vain. They fought, suffered, and died to preserve the very freedom and liberty which allow us to proclaim that desecrating the American flag goes too far and should be prohibited.

To say that our flag is just a piece of cloth—a rag that can be defiled and trampled upon and even burnt into ashes—is to dishonor every soldier who ever fought to protect it, every star, every stripe on our flag was bought through their sacrifice.

The flag of the United States of America is a true, national treasure. Because of all that it symbolizes, we have always held our flag with the greatest esteem, with reverence. That is why we fly it so high above us. When the flag is aloft, it stands above political division and above partisanship. Under God we stand united.

Most Americans cannot understand why anyone would burn a flag. Most Americans cannot understand why the Senate would not act decisively and overwhelmingly to pass an amendment affording our flag the protection it deserves.

This simple piece of cloth is indeed worthy of Constitutional protection. I urge my colleagues to follow the will of "We the People" and accord the American flag the dignity it is due by supporting Senate Joint Resolution 14.

The PRESIDING OFFICER. Under the previous order, the Senator from Kentucky, Mr. McConnel, is recognized to offer an amendment in the nature of a substitute.

AMENDMENT NO. 2889

(Purpose: To provide for the protection of the flag of the United States and free speech, and for other purposes)

Mr. McConnel. Mr. President, I send an amendment to the desk pursuant to the order previously entered.

The PRESIDING OFFICER. The clerk will report the legislative clerk reads as follows:

The Senate from Kentucky [Mr. McConnel], for himself, Mr. Bingaman, Mr. Bennett, Mr. Conrad, Mr. Dorgan, Mr. Dodd, Mr. Torricelli, Mr. Byrd, and Mr. Lieberman, proposes an amendment numbered 2889.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection and Free Speech Act of 1999."

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the personal well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the Constitution.

(b) PURPOSE.—The purpose of this Act is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

§700. Incitement; damage or destruction of property involving the flag of the United States

"(a) DEFINITION OF FLAG OF THE UNITED STATES.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is
commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

"(b) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

"(c) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(d) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

(b) CLERICAL AMENDMENT.—The analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to this section and inserting the following:

"700. Incitement; damage or destruction of property involving the flag of the United States."

The PRESIDING OFFICER. Under the provisions of the Senate rules, there shall be 2 hours for debate on the amendment equally divided, with an additional 30 minutes under the control of the Senator from West Virginia, Mr. BYRD.

Mr. MCCONNELL. Mr. President, the amendment that I have put to the desk is on behalf of myself, Senator BENNETT, Senator CONRAD, Senator DORGAN, Senator DODD, Senator TORRICE, Senator BINGAMAN, Senator BYRD, and Senator LIEBERMAN.

I am glad we are having this debate today. The American flag is our most precious national symbol, and we should be concerned about the desecration of that symbol.

This debate is also about the Constitution, which is our most revered national document. Both the flag and the Constitution represent the ideas, values, and traditions that define our Nation. Brave Americans have fought and given their lives defending the truths these both represent. We should be concerned with defending both of them.

Today I am proud to offer, along with the colleagues I previously listed—Senator BENNETT, Senator CONRAD, Senator DORGAN, Senator DODD, Senator TORRICE, Senator BINGAMAN, Senator BYRD, and Senator LIEBERMAN—the Flag Protection Act as an amendment in the form of a substitute to the bill before us.

This amendment would ensure that acts of deliberately confrontational flag-burning are punished with stiff fines and even jail time. My amendment will help prevent desecration of the flag, and at the same time, protect the Constitution.

As an American, I revere the flag. Among my most prized possessions is the American flag which honored, as he was laid to rest, my father’s service in World War II. That flag rests proudly on the marble mantel in my Senate office in Washington, D.C. In fact, the chairman of the Rules Committee last year was to offer, along with the senior Senator from New Hampshire, Mr. SMITH, an amendment to the Standing Rules of the Senate to provide that we begin each day’s business in the Senate Chamber with the Pledge of Allegiance to the flag.

I want to be perfectly clear, I have no sympathy for those who desecrate the flag. These malcontents are simply grabbing attention for themselves by burning the flags of patriotic Americans. There is no reason we should respect them or what they are saying.

Speech that incites lawlessness or is intended to do so merits no first amendment protection, as the Supreme Court has made abundantly clear. From Chaplinsky’s “fighting words” doctrine in 1942 to Brandenburg’s “incitement” test in 1969 to Mitchell’s “physical assault” standard in 1993, the Supreme Court has never protected speech which causes or intends to cause harm to others.

That is the basis for this legislation. My amendment outlaws three types of illegal flag desecration. First, anyone who destroys or damages a U.S. flag with a clear intent to incite imminent violence or a breach of the peace may be fined not more than $100,000, or up to 1 year in jail, or both.

Second, anyone who steals a flag that belongs to the United States and destroys or damages that flag may be fined up to $250,000 or imprisoned up to 2 years, or both.

And third, anyone who steals a flag from another and destroys or damages that flag on U.S. property may also be fined up to $250,000 or imprisoned up to 2 years, or both.

Some of my colleagues will argue that we have been down the statutory road before and the Supreme Court has rejected that road. However, those arguments are not valid with respect to this amendment I am now discussing. The Senate’s previous statutory effort to address this issue wasn’t tied to the explicit teachings and principles of the U.S. Supreme Court.

Put simply, my statutory approach for addressing flag desecration is completely compatible with the First Amendment. There is no way conflicts with the Supreme Court’s relevant rulings in the two leading cases: Texas v. Johnson, (1989) and U.S. v. Eichman, (1990).

In the Eichman case, the court clearly left the door open for outlawing flag burning that incites lawlessness. As is made clear by these distinctions in cases and the direction pondered by the Supreme Court in Eichman, my amendment passes constitutional muster. But you don’t have to take my word on it. The Congressional Research Service has offered legal opinions concluding that this initiative will withstand constitutional scrutiny. CRS said:

The judicial precedents establish that the [Flag Protection Act], if enacted, while not reversing Johnson and Eichman, should survive a constitutional attack on First Amendment grounds.

In addition, Bruce Fein, a former official in the Reagan administration and respected constitutional scholar, concurs. He said:

The Flag Protection Act] falls well within the protective constitutional umbrella of Brandenburg and Chaplinsky . . . [and it] also avoids content-based discrimination which is generally frowned on by the First Amendment.

Several other constitutional specialists also agree that this initiative respects the first amendment and will withstand constitutional challenge. A lawyer for those who abuse the flag, the ACLU, and Professors Robert O’Neil and Erwin Chemerinsky concludes that this legislation “conforms to constitutional requirements in both its purpose and its provisions.”

And, these same three respected men have looked at the few State court cases which have been decided since we had this debate a few years ago and have reiterated their original finding of constitutionality.

As I am sure you will hear later today, opponents of my amendment have asked a number of constitutional scholars to find constitutional concerns with my bill. One of the most respected and responsible of those who oppose my amendment was Professor William Van Alstyne, a professor at Duke Law School and a dean of constitutional law. Professor Van Alstyne wrote that although he is not in favor of the legislation, he is concerned about those who abuse the flag, he did not find any constitutional infirmity with my legislation.

In closing, I would like to share some thoughts recently conveyed by General POWELL, a great American. In a recent letter he so eloquently expressed his sentiments which explain my own. He wrote:

I understand how strongly so many . . . veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an [constitutional] amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that which we agree or disagree, but also that which we find outrageous.

I would not amend that great shield of democracy to hammer a few miscreants. The flag still flies proudly long after they have slunk away.

There is nothing wrong with the Bill of Rights or the first amendment. It
Lack of Congressional Authority—Relying on the Supreme Court's decision in Lopez, which struck down the Gun-Free School Zones Act of 1990, Parker and Tribe assert that Congress "probably lacks affirmative authority" to pass laws prohibiting the use of the flag to incite violence. Not only is there no "affirmative authority," but in the Lopez decision, the Supreme Court held that the government had no power to criminalize conduct that is accorded full First Amendment protection and found it valid.

In discussing this issue, it is important to note that the Court has held that the First Amendment protects the right to wear a flag for symbolic purposes. In 1972, the Court decided that the right to wear a flag is symbolic in nature and that the government cannot prohibit the wearing of a flag for symbolic purposes. In 1978, the Court held that the government cannot prohibit the wearing of a flag for symbolic purposes. In 1989, the Court held that the government cannot prohibit the wearing of a flag for symbolic purposes. In 1990, the Court held that the government cannot prohibit the wearing of a flag for symbolic purposes.

The Lopez decision was based on the Court's interpretation of the Commerce Clause, which grants Congress the power to regulate commerce with foreign nations, and with the States and among the States. The Court held that the government had no power to criminalize conduct that is accorded full First Amendment protection and found it valid.

However, the Court has also held that the government can regulate conduct that is not protected by the First Amendment. In 1990, the Court held that the government can regulate conduct that is not protected by the First Amendment. In 1990, the Court held that the government can regulate conduct that is not protected by the First Amendment. In 1990, the Court held that the government can regulate conduct that is not protected by the First Amendment.

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found that the "desire to redress these perceived harms provides an adequate explanation for its penalty-enhancement provision over and above mere disagreement with offensive conduct."1

S. 931 similarly focuses on conduct (incitement to violence through the instrumentality of a governmental flag) as the substantial federal harm that includes the one listed by the Mitchell Court. In his congresstrial testimony on hate crimes sentencing enhancement, Professor Parker recognizes that a special form of emotional harm might be at issue and that this transcends the Mitchell decision.1

II. The vast majority of all instances when the American flag has been used in some fashion others find offensive (and some may be inclined to react to it in ways involving violence or a breach of the peace) have been sufficiently outrageous to be prima facie evidence of some sort of offensive or objectionable others may find any such act to be. And, specifically, to make this matter latter quite clear in a relevant case, (Section 2(4) of S. 931 expressly distinguishes any and all cases where one destroys or damages a flag when one does so "to make a political statement," rather than merely "to incite a violent response."1

3. Likewise, however, according to the plain implication of its own terms as thus understood, nothing in this section4 is meant otherwise to subject one to prosecution and penalty for destroying a flag of the United States—no matter how offensive or objectionable others may find any such act to be. And, specifically, to make this matter latter quite clear in a relevant case, (Section 2(4) of S. 931 expressly distinguishes any and all cases where one destroys or damages a flag when one does so "to make a political statement," rather than merely "to incite a violent response."1

4. Subsection (a)(3) of §2, separately declares that "abuse of the flag . . . may amount to fighting words," which doubtless is true (i.e., it may, just as the provision thus also equally acknowledges, however, that it may not.) To avoid constitutional difficulties—difficulties that would arise from any broader understanding of this provision—it would be appropriate to interpret this provision merely to declare that abuse of the flag may be a means chosen deliberately to provoke a violent reaction and if undertaken just for that purpose then—as in the instance of "fighting words"—such incitement or provocation (whether the words are themselves used not as a form of political statement but, rather, in order to provoke a violent reaction)—it is the author's understanding that is considered and, when intended to incite a violent response rather than to make a political statement is outside the protections afforded by the first amendment. Again, taken this was, the observation may be substantially correct—but in being correct, it also covers very little ground.6

B. Necessarily, all of this should mean that even if the circumstances were such that (or for a host of reasons) one could reasonably be expected to result as a consequence of the defendant's actions, so long as it was not his primary purpose or intent to induce or incite it—when he burned or destroyed a flag—he is not to be subject to any penalty under this law. Specifically, if this is correct, all merely "reactive" violence—violence not sought as the immediate object by the defendant (who burns a flag for political reasons but not to make a political statement or as a public, politically demonstrative act of protest) but violence by those who, say, are but observers or passersby who are overheard or who otherwise view the behavior as outrageous behavior by him, for example, is thus not to be utilized as sufficient reason to seek his imprisonment rather than a penalty of a lesser sort, at least as long as such behavior can be interpreted to provide. And if (and probably only if) it is so interpreted as I believe it thus can be understood, I think it will survive in the courts.9

1 He hesitates in his opinion, in part because he mistakenly distinguishes the federal government (which he sees as the people who constitute that government who do have emotions). The assertion of an interest on behalf of the people, as the Mitchell Court made evident, is a stand one by the government.

Footnotes at end of letter.
the pretensions of the sponsors of the bill might be, there will be little or no real work for this proposed act to do.10

But permit me to get quite specific about this. A special way of expressing, since it may seem counterintuitive. Still, there is frankly no question that this observation is fully appli-
ciable, and not merely a feature of some act, both to the events involved in Texas v. Johnson 11 and to those also involved in United States v Eichman, 12 which events and cases previous bills (and now, it is evident) were designed to prevent or, if that word can, in some fashion, be used to describe the Constitution in matters of case. If and only if this is true, how can I press this observation, because precisely to the extent that a method of avoiding the unconstitutional aspects of the proposed bill, S. 1335, as presented to the Court for prompt review of those events and cases previously held by the Supreme Court unconstitutional as applied unless the Court itself is (were it thought to apply) would be unconstitutional, in no way reflecting on its merits, but merely what the First Amendment itself protects—and will continue to protect unless itself altered, amended, or abrogated.

A. So, for example, in Texas v. Johnson, Justice Brennan begins the Opinion for the Court by emphasizing that Johnson was convicted for publicly burning an American flag,14 but strictly as an expressive part and feature of an expressive act—that, in the words of the Court, the statute forbids, the flag protection acts—by being very narrowly drawn as the sponsor of these observations meant to be (a) It expressly affirmed its decision in Texas v. Johnson 15 and to those also involved in Texas v Eichman, 12 which events and cases previous bills (and now, it is evident) were designed to prevent or, if that word can, in some fashion, be used to describe the Constitution in matters of case. If and only if this is true, how can I press this observation, because precisely to the extent that a method of avoiding the unconstitutional aspects of the proposed bill, S. 1335, as presented to the Court for prompt review of those events and cases previously held by the Supreme Court unconstitutional as applied unless the Court itself is (were it thought to apply) would be unconstitutional, in no way reflecting on its merits, but merely what the First Amendment itself protects—and will continue to protect unless itself altered, amended, or abrogated.

B. Next, when this Congress nevertheless reacted to the furor created by the Supreme Court’s decision in Texas v. Johnson, by enacting the Flag Protection Act of 1989 (as I and others urged it at the time not to do and testified would not withstand constitutional scrutiny—there was no evidence to the contrary at all), that act in turn was at once tested by individuals who protested the act’s enactment by very publicly burning flags in demonstration to the act’s alleged unconstitutionality. In reviewing the several convictions obtained in the lower courts (under the new Act of Congress) in both these cases, the Supreme Court at once did all of the following: (a) It expressly affirmed its decision in Johnson; (b) applied it to these cases (which had been brought to it for prompt review of those convictions under the new Act of Congress) reversed both convictions; and (c) held the act unconstitutional as applied. 24

More immediately, to the point to which these observations are meant to be pertinent—do I read or understand the provisions of the proposed bill, S. 1335, as presuming to try and dictate a different result in any case involving similar facts and acts as were all present in these cases—for, indeed, if it did, presumably the outcome would once again be the same. But as the Court itself has made clear (were it thought to apply) would be unconstitutional as applied unless the Court itself is prepared simply to overrule itself as there is no good or sufficient reason to do so.

C. And again, in still a different case, in Spence v. Washington, 20 the alleged criminalized misuse of a flag consisted of defacing it, as a color of the flag (as the Court itself has made clear (were it thought to apply) would be unconstitutional as applied unless the Court itself is prepared simply to overrule itself as there is no good or sufficient reason to do so.

D. The just-quoted portion of Spence, moreover, was itself taken from a still earlier "flag-abuse" case, itself once again, however, as we could construe it, a demonstrative destruction (burning) of a flag on the public street, with the defendant’s conviction once again reversed on First Amendment grounds. Yet as in each of these other real cases, it was plain on the facts that the incident was one involving the public expression of political feelings (more accurately that Street presumed to burn a flag when and as he did to incite lawless action either against himself or anyone else). Indeed, however, I have found no case in which the idea was plain that the "destruction of the flag of the United States" was in fact "intended to incite a violent response rather than make a political statement," 25 so to lift it out from First Amendment protection, much less any that appear to meet the full requirements of the act.

IV. Briefly Then To Sum Up: Unless the critical provision of the act is applied more broadly than a tightly constrained construction would allow, (a) If thus construed (as it can be construed) to apply only in circumstances consistent with the requirements of Brandenburg v. Ohio 23 and its like, of applicability, it may well be sustained in the Supreme Court; (b) However, as thus very tightly constrained, it will not reach not—or any of the various kinds of "flag burning" cases, or other "flag desecration" or "flag abuse" cases involving varieties of political expression and political demonstration previously held by the Supreme Court to be protected by the First Amendment.

More immediately, to the point to which these observations are meant to be pertinent—do I read or understand the provisions of the proposed bill, S. 1335, as presuming to try and dictate a different result in any case involving similar facts and acts as were all present in these cases—for, indeed, if it did, presumably the outcome would once again be the same. But as the Court itself has made clear (were it thought to apply) would be unconstitutional as applied unless the Court itself is prepared simply to overrule itself as there is no good or sufficient reason to do so.

Not a secondary or even related, co-equal, objective. 26 To be sure, other sections do reach some other acts (e.g., "damaging a flag belonging to the United States" (§ 3001)) or stealing or knowingly or wilfully destroying "the flag of the United States" (§ 3004). But these provisions are doubtless secondary in significance and so I defer consideration for such slight of these provisions as they are worth.

Briefly, however, there is no likely problem with the provision re a "flag belonging to the United States" (e.g. S. 1335, 140, 409 (1974)) ("We have no doubt that the Court's definitions constitutionally may forbid anyone from mishandling in any manner that flag which is public property.") As to a flag merely
owned by a third party, that one "speak[s], knowingly convert[s], and destroy[s]," there may be— as the other commentators have noted—a federalism problem. Indeed, had we not met any of the requirements under United States v. Lopez, 534 U.S. 549 (1998), nor does the act appear to be consensual, as Congress has not provided in Article I § 8 of the Constitution (e.g., the spending, taxing, or commerce power). It is arguable, however, that the same (merely implied) power providing Congress with legislative authority to establish incidental insignia of nationhood (e.g., a flag, motto, seal, etc.) could conceivably permit it to draw on the "necessary and proper clause" to protect political controversial uses of the flag. The question whether such laws— are either unable or unwilling to validly reach. In brief, this is simply what it is thought the sponsors of the bill could readily provide examples of such local or state prosecutorial laxity. I think the sponsors of the bill could readily provide examples of such local or state prosecutorial laxity.

If such "advocacy" (i.e., such "speech act" as one engages in) is directed to "inciting or producing imminent lawless action and is likely to incite or produce such action," 5 then the act is not protected by the First Amendment as the political advocacy that is intended to serve its high purpose when it induces a condition of societal disturbance. * * * The argument amounts to little more than a functional distinction. * * * The argument amounts to little more than self-defense that avoids physical censorship of one who has not sought to provoke such a response by a hypothetical coterie of the violent and lawless, the State may more appropriately effectuate that censorship [itself]."


26 In which event, if it is given any significantly broader sweep it is likely to be held unconstitutional (even as Professors Presser and Cassell suggested). 27 And even some proposed amendments to the Constitution itself.

28 Whether or not by means one could expect to stir some to a remission or anger (that it may do so does not in any degree make it less of a means of making a political statement on that account).

29 The better contrasting example we should desire to furnish is the case of those who have slunk away. It is an outrage that few Americans think of amending their Constitution for the sake of the flag. Few Americans do such things any more than they do subject to the right of condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration. If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If they own it, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

21 Id at 406.

22 The PRESIDING OFFICER. The Senator from Utah is recognized.

23 Mr. BENNETT. Mr. President, I am not happy rising in this situation because it puts me in a difficult personal conundrum. I have enormous respect for my senior colleague, Senator HATCH, who is a primary sponsor of this legislation. He has been gracious to me as a junior Senator entering this Chamber. He has supported me and guided me and counseled me in ways that are invaluable.

24 I do my very best, on every possible occasion, to stand with Senator HATCH and to support him and recognize his great wisdom, particularly in matters relating to the law. I am unburdened with a legal education, and he is one of
the better lawyers in this body, so I do what I can to listen to him and follow him. Unfortunately, on this issue, I am unable to follow him. That is why there is some personal angst in the fact that I take the floor to make this statement.

I am not a lawyer, but I do have an academic background as a political scientist. That was my degree in college. In that situation, I spent a good deal of time studying the Constitution, studying the circumstances surrounding its adoption, and studying particularly the Federalist Papers, which were the political tracts written at the time to try to achieve ratification of the Constitution.

From that study, I have come to the conclusion that this amendment to the Constitution would be a mistake. Because I have taken an oath in this Chamber to uphold and defend the Constitution to the best of my ability, and have come to the conclusion that I cannot follow those who interpret the oath differently—I will not vote for this amendment. People say: What is wrong with it? It is simply enabling language. You read the language, you see, and it is indeed relatively innocuous. Do I think it would damage or mar the Constitution in some fundamental way if it were adopted? No, I don't. So why not go along with my colleague and go along with public opinion and get ahead and put it in the Constitution?

Let me share with my colleagues my reasoning on this. The flag is a symbol. By itself, intrinsically, it is nothing more than a piece of cloth or several pieces of colored cloth sewn together. It has great power as a symbol because of what it represents, and we must do what we can to teach respect for that symbol among our youth and to maintain that respect as we mature.

The Constitution is something more than a symbol. The Constitution is our fundamental basic law. Everything we do is measured against it. If we do something in this body that does not meet that measure, it is appropriately struck down and made invalid. The Constitution is more than a symbol.

We are dealing here with a nonissue. No one is burning the flag in America today in any discernible numbers. No one is creating outcry throughout our populace. No one is doing anything to incite any kind of reaction over this issue. This is a nonissue that came out of the 1960s and 1970s. We are 30 years beyond the time when this was something really happening in this country.

If we adopt this amendment, we will be putting a symbol in the Constitution that I do not want my name attached to. The symbol will be this: I cast no aspersions on those who interpret the oath differently—I will not vote for this amendment. People say: What is wrong with it? It is simply enabling language. You read the language, you see, and it is indeed relatively innocuous. Do I think it would damage or mar the Constitution in some fundamental way if it were adopted? No, I don't. So why not go along with my colleague and go along with public opinion and get ahead and put it in the Constitution?

An editorial ran in the Washington Post some years ago, speaking of my self and other Republicans, and said: If they were really serious in their opposition to campaign finance reform on constitutional grounds, they would oppose the flag amendment as well. I had already made up my mind and had already made public statement of my intention to oppose the flag amendment. I say to those who are in favor of the flag amendment, it leads the Senator from Kentucky to ask the Senator from Utah if he understands what flag desecration is, because I have always had a little difficulty trying to figure out what that was. I remember I took my kids to the beach one time and saw lots of flags on T-shirts. I even saw one on the head of someone. If there are a variety of ways in which flags are displayed in this country that, it seems to me, might be arguably inappropriate.

I wonder if the Senator from Utah thinks if this amendment were to become part of the Constitution, we would have a definitional problem here as well.

Mr. BENNETT. Mr. President, the Senator from Kentucky has raised a very interesting question because, as I understand it, the requirement for a definition would fall to the Congress under this amendment, which means it would be decided by statute. It is the question of the Senator from Kentucky to ask the Congress, or the Senate, to solve the whole problem by statute from the beginning. The constitutional amendment would end up being subject to congressional definition, as I understand it, and we would be right back where we are right now. We would have put this symbol in the Constitution and not have resolved any of the issues the Senator from Kentucky raises.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. Mr. President, I listened with great interest to the comments of the junior Senator from Utah, with whom I agree on this issue entirely.

One of the items I would like to engage him on—I certainly didn't cover it in my comments, and in listening to his, neither did he—was the definitional difficulty, in addition to all the other reasons why the Constitution or the first amendment should not be amended for the first time in 200 years, for either one of these proposals.

Focusing on the flag desecration amendment, it leads the Senator from Kentucky to ask the Senator from Utah if he understands what flag desecration is, because I have always had a little difficulty trying to figure out what that was. I remember I took my kids to the beach one time and saw lots of flags on T-shirts. I even saw one on the head of someone. If there are a variety of ways in which flags are displayed in this country that, it seems to me, might be arguably inappropriate.

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I think it is a very appropriate issue to be raised at this point. I can't give you a definition of what constitutes desecration of the flag.

Mr. MCCONNELL. I had a marvelous friend who was a veteran of World War I. He lived in my hometown of Louisville, KY. His mission, toward the end of his life, was to make sure that flag etiquette was always followed. He had become an expert on the subject of flag etiquette. It was apparently quite complicated because it includes ways in which the flag can be displayed, in addition to what we are all familiar with as Boy Scouts, about folding the flag properly. He was constantly irritated and offended by ways in which well-meaning citizens groups used the flag that he felt were a violation of respect with which the flag should be treated in a category of behavior generally referred to as flag etiquette. Frankly, we were all somewhat confused as to what was propping in the Constitution, presumably we would be treated in a category of behavior generally referred to as flag etiquette. Mr. BENNETT. Yes, intent. And, once again, if you are dealing with the first amendment, the first amendment is very clear that Congress shall make no law that impacts on intent; it only has to do with actual acts. If you speak against the Government, that is fine. If you enter into a conspiracy to actually overthrow the Government, it becomes treason. If the act is dealt with, but not your intention to demonstrate your disapproval.

So I think the Senator from Kentucky raises a very significant point as to how pernicious this could be if it were part of the Constitution as opposed to a statute.

Mr. BENNETT. Mr. President, I thank the Senator for his important contributions. It reminds me of when we discussed this issue previously. It leads me to believe that the appropriate way to deal with someone who desecrates the flag might be a punch in the nose as opposed to evisceration of the first amendment to the U.S. Constitution, which we have not changed—and I think wisely—in the 200-year history of our country. I thank the Senator from Utah.

I yield such time as he may desire to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I thank the Senator from Kentucky and the Senator from Utah. This has always been a very difficult issue for me. I voted against a constitutional amendment to prohibit flag desecration both as a Member of the House of Representatives and also previously as a Member of the Senate. But it has been very difficult, largely because I believe, as do most Americans, that desecrating our flag is repugnant. It is an act that none of us would find anything other than disgusting. Yet the question is, shall we amend the Constitution of the United States? As I said on two previous occasions, I have voted against a constitutional amendment to prohibit the desecration of the flag, not because I believe the flag is not worth protecting, but because I believe the Constitution should be altered only rarely and only in circumstances where it is the only method available to achieve a desired result.

The Constitution was written by 55 men over a couple of centuries ago. The room in which they wrote that document still exists, the assembly room in Constitution Hall. I was privileged to go back there for the 200th birthday of the writing of the Constitution. On that day, 55 of us went back into the chamber where they wrote the Constitution. Men, women, and minorities were among the 55 of us who went into that room. Sitting in that room, I got the chills because I saw the chair where George Washington sat presided over the Constitutional Convention. You can see where Ben Franklin, Mason, Madison, and others sat as they discussed the development of a constitution for this new democracy of ours. That Constitution begins with three words: We the people. Then it describes the framework for self-govern, representative democracy.

That framework has served this country very, very well over a very long period of time, and it, there have been over 11,000 proposals to change the Constitution since the Bill of Rights. There have been 11,000 different ideas on how to alter the U.S. Constitution. Fortunately, over two centuries, 17 have prevailed. The framers of the Constitution actually made it very difficult to amend the Constitution. They did that for good reason. Only 17 of the 11,000 proposals have actually prevailed. Those 17, of course, the significant. Three of them are Reconstruction-era amendments that abolished slavery and gave African Americans and women the right to vote. There have been amendments...
limiting the President to two terms and establishing an order of succession for a President's death or departure from office.

We have had proposals, for example, to amend the Constitution to provide that the Presidency shall be divided among the various states, with a one term by President from the southern part of the United States and then the next term by a President from the northern part. That is just one example of the 11,000 proposals to change the U.S. Constitution. It has been done only very rarely.

I indicated to those who support a constitutional amendment that when we are confronted with this question again—I greatly respect their views; I know they have great passion in doing so; they are patriots—I would do a significant review once again, and I have. I reviewed virtually all of the writings of the constitutional scholars on this issue. I read almost anything anyone has written about it, evaluated all of the relevant material, and concluded once again that I think the best approach would be to pass a statute of the type described by the Senator from Kentucky and the Senator from Utah, and provide protection for the flag in that manner. Constitutional scholars of the Congressional Research Service say will be upheld by the Supreme Court. I believe that is the more appropriate and right approach as opposed to amending the Constitution.

I would like to read a letter from Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff. He puts it probably better than I can. I read it only to describe again that there are some who say, well, if you are not supporting a constitutional amendment to prohibit desecration of the flag somehow you don't support the flag or you are un worthy. That is not the case at all. I hope all of us will respect the various positions on this.

Let me read the letter from Gen. Colin Powell:

He said:

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense. Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol. We are outraged when anyone attacks or desecrates our flag. Few Americans do such things when they do they are subject to the rightful condemnation of their peers. They may be destroyed piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment.

I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression is not just a right with which we agree or disagree, but also that which we find outrageous.

I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.

Finally, I shudder to think of the legal morass we would create trying to implement the body of law that will emerge from such an amendment.

If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

I think this letter from Gen. Colin Powell says it well, particularly when he says:

I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.

The statute that has been introduced by my colleagues from Utah and Kentucky, co sponsored by myself, Senator CONRAD and others, is a statute that offers some protection. I am convinced that it would, if amended constitutionally, and the constitutional scholars of the Congressional Research Service have written us with their opinion that it would be upheld as well.

I believe in every circumstance we ought to find ways to do that which is necessary and which is important without the resulting desire to change the framework of this democracy, the Constitution.

I greatly respect those who disagree with me, but I believe that over a long period of time—a decade, a half a century, a century—America will be better off when we resist the impulse to amend the Constitution in ways that will create unintended consequences.

Once again, that room in which GEORGE WASHINGTON, FRANKLIN, and others wrote the Constitution of the United States with the advice and consent of Thomas Jefferson, who was serving in Europe at the time and contributed most to the Bill of Rights, contains a great sense of history for those of us who have been there as well as an understanding that the framework for our democracy, the U.S. Constitution, is a very special and very precious document. It should be approached with care in all circumstances, and even only when it is the last method available for achieving a result we deem imperative for this country.

I believe the statute that has been offered as an amendment is a statutory approach that will solve this issue in an appropriate way. We will at the same time preserve the Constitution as intended, especially with the Bill of Rights and most especially with the care that Congress and the American people have nurtured over nearly two centuries.

Mr. President, let me commend the Senator from Kentucky. I know this amendment has been offered before on the floor of the Senate. I heard the debate by the Senator from Kentucky and the Senator from Utah. I concur with that discussion and hope we can achieve a positive vote on this proposal when it is voted on.

I yield the floor.

THE PRESIDING OFFICER (Mr. GRAMS). The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank the Senator from North Dakota for his remarks. I listened carefully to them and am glad to have him cosponsor the amendment. I hope the amendment will prevail this time, as opposed to the constitutional amendment.

I thank my friend from North Dakota. THE PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, this is one of those issues that is very emotional. We have people on both sides who truly have the same goals. We believe alike—that those who burn the flag or desecrate the flag in any way are despicable people for whom we should have no sympathy.

I say up front, before I make my remarks, that I certainly have the deep respect for all those who believe that we do not need a constitutional amendment, especially Senator MCCONNELL for whom I have the greatest respect.

I think we need to look very carefully at this issue. The Constitution has been amended. Actually, it has been amended 27 times—not 17—once with the first 10 amendments, of course, and 17 times later. When it was amended, it was amended to clarify, to make clear. That is why we have an amendment process. That is why the founders put it in there.

I do not think the constitutional Republic will tremble, shake, and fall because we decide to deal with an issue such as flag desecration with an amendment. That means to the gist of what we are hearing, perhaps in an overly legalistic argument that somehow the constitutional Republic will have acted irresponsibly to pass an amendment to the Constitution which would stop the desecration of the flag.

I am an original cosponsor of the constitutional amendment introduced by Senator HATCH, S.J. Res. 14. I am proud to be a cosponsor of that amendment.

The act of the desecration of the U.S. flag is an aggressive and a provocative act. It is also an act of violence against a symbol of America, our flag. Even more disturbing, it is an act of violence against our country’s values and principles.

The Constitution guarantees freedom. There is no question about it. It guarantees freedom of speech. But it also seeks to ensure, in the words of the Preamble, “domestic tranquility.”

I believe Americans have given their lives to protect this country as symbolized by that flag. My own family, as thousands of other families, endured
the same thing. My dad died in World War II, and my family has that flag. It is a very important item in our home, as it is in Senator McConnell's home when he mentioned his father.

I believe the flag deserves the constitutional protection because it is more than just a flag. It is more than just a symbol.

I use the example of a $5 bill which I happen to have in my hand. If this is merely a symbol and has no other meaning, then supposedly, I would ask millions of Americans to send me $5 bills and I will be happy to send them back plain pieces of paper because it is just paper. This is paper, therefore it is a symbol, and it doesn't have any meaning. So I can take all these pieces of paper and send them back to you in return for $5 bills.

If anybody does choose to do this, I will be happy to provide it to some charity. I am not looking for $5 bills to be mailed to me.

There is something beyond the meaning of just this piece of paper on this $5 bill, and there is something beyond the meaning of just a piece of cloth with the flag of the United States. Some people believe outlawing the desecration, which this amendment would authorize Congress to do, will lead somehow to the destruction of freedom. I disagree. Our Constitution was carefully crafted to protect our freedoms, not to destroy them. It was meant to promote responsibility. We are stepping on very dangerous ground when we allow reckless behavior such as flag desecration, whether burning, trampling, or whatever the desecration may be.

This Constitution has served the test of time very well. It has been amended on 27 occasions. Interestingly enough, the first ten amendments, the Bill of Rights, passed shortly after the Constitution itself was passed. Why? Because they prohibited the government from interfering with the freedoms such as the freedom of speech, freedom of religion; the second amendment, the right to keep and bear arms, and so forth.

Oftentimes in the debates on the floor of the Senate many of my colleagues pick and choose which amendments they choose to support and which they choose to ignore. It is all the Constitution to me.

Under our discussion, I don't think the Supreme Court has more power than the people. If we were to vote today or tomorrow or the next day on this constitutional amendment on flag desecration, it goes to the people. It goes to the State legislatures. We are not making a final judgment. This is a constitutional process. It was very carefully laid out by the founders so that amendments would be very difficult to pass. If the American people support Congress if it passes, then we will have an amendment to the Constitution, No. 28. If they don't, it will not happen. All we are asking is the opportunity to let the people make the decision.

Amending the Constitution is serious, but a simple statute is not enough. We tried that and the Court struck down the statute.

A little history on the legal history of flag burning is relevant. Over the years, Congress and the States have recognized the devotion our diverse people have for the flag and they have enacted statutes over the years that both promote respect for the flag and protect the flag from desecration.

In the Texas v. Johnson case in 1989, by 5-4 vote, referred to earlier in the debate, the Supreme Court overturned a conviction of Gregory Lee Johnson who desecrated an American flag. Johnson burned an American flag at the 1984 Republican National Convention. A fellow protester had taken a flag from a flagpole and had given the flag to Johnson. At Dallas City Hall, Johnson stripped off the flag, poured kerosene on it and burned it.

That is not speech, I say in all humbleness, candor, and with respect to my colleagues. That is not speech. That is an action. That is a direct action of defacing the flag, the symbol of America. While the flag burned, protesters chanted "America, the red white and blue, we spit on you."

A few moments ago, my colleague from Utah, Senator Bennett, was saying he didn't know whether or not Congress would be able to determine whether or not somebody who takes the flag with respect and disposes of it the way we are supposed to dispose of it under law -- burning it in a respectful way -- whether there would be any confusion. I do not think there is any confusion between that act and what I just referred to, "America, the red white and blue, we spit on you."

When the flag was torn down from a flagpole and kerosene was poured on it, I don't know why anybody would be confused by that. Johnson was convicted of desecration of a venerated object, in violation of section 42.09 of the Texas Penal Code which, among other things, made illegal the intentional or knowing desecration of a national flag. The Court held the government's interest did not outweigh the interest of the flag burner. The act was not oral or written political speech; it was conduct. It was conduct, not speech. There is a difference.

Justice Rehnquist, for himself and Justices White and O'Connor, stated in dissent: For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning in the way respondent Johnson did here.

The constitutional amendment would enable Congress to outlaw the next flag burner or the next flag desecrator. In 1989, Congress enacted a fairly neutral statute, the Flag Protection Act of 1989, with an exception for the disposal of worn or soiled flags as a response to the Johnson decision. Based on the new rule announced in Johnson, the Supreme Court struck down the statute by a 5-4 vote in United States v. Eichman in 1990. S.J. Res. 14 would restore the traditional balance to the Court's first amendment interpretation.

That is all it does. Only a constitutional amendment can restore the traditional balance between a society's interest and the actor's interest concerning the flag. The amendment prohibits abridgement of freedom of speech. There is always a balancing of society's interest with the individual's interest in expression.

A few examples have been used many times on the floor in debate. Here is a good example: Can you yell "fire" in a crowded theater? Could anyone yell something out now? You would be removed if you were in the galleries making a loud noise that disrupted the proceedings. You would be removed.

There are limits on speech. It is simply incorrect to say there are no limits to free speech. There are limits to free speech, and it has been held as being unconstitutional for any organized theater to be held in unconstitututional in Schenk v. U.S. in 1919.

There is no constitutional right to disclose State secrets. Some have gotten away with it, but we don't have the same constitutional right to go out to the media and announce all the national secrets that we have access to as Senators, along with many individuals who work for the U.S. Government who have access to U.S. secrets. They don't go out and hold press conferences, nor do they tell our enemies what those secrets are. There is not a constitutional right to disclose those secrets.

There is no constitutional right to defame or libel a person's character. That was upheld in Gertz v. Welch. There is no constitutional right to engage in partisan political activity in working for the Federal Government.

There is no constitutional right to commercially promote promiscuous activity by minors.

The American flag has not been given that protection by the Supreme Court. Congress has a compelling interest in protecting the flag. Congress needs to preserve the values embodied by the flag -- liberty, equality, freedom, and justice for all.

The flag enhances national unity and our bond to one another in our aspiration for national unity. If we read history about the fall of the Roman Empire, it is when Rome lost the glue that held it together. When they became too big, they became so splintered and there was no unity, no cohesion, that they lost their symbol of what the Roman Empire meant.

The flag is the symbolic of what we are about, we will lose this country. The flag enhances national unity. It enhances the bond. Even if we are wrong, even if we do not need the...
amendment—and I do not make that case—even if perhaps Senator McConnell and others are correct that we do not need this amendment, so what? We err on the side of caution.

We survived an amendment on prohibition which was constitutional, a question which arises in many amendments today. We survived an amendment to repeal prohibition. The Constitution and the constitutional Republic did not fall and die as a result of those amendments which were controversial, to say the least. So good amendments and bad amendments occur, and the Constitution and the Senate are there to choose that is the way it is supposed to be.

Let's err on the side of caution. Let's err on the side of caution. It sends a good message to everyone—to young and old, those who fought and died, those who survived, and those young people in first, second, and third grade classes, and all through our schools all across America, that the flag is more than just a symbol. It represents that cohesion, that bond, that special thing that makes us Americans. We can carry it into battle. We can have it standing behind the Presiding Officer. We salute it every morning, as Senator McConnell said, before we start our proceedings. If we can salute it, we can protect it, and we can argue with it. The late Senator J. William Fulbright said it was the only thing we can really argue with.

I repeat for emphasis, err on the side of caution. It is not going to cause the destruction of America because we re-inforce something we believe in by amending the Constitution.

James Madison stated that desecration of the flag is "a dire invasion of sovereignty."

Thomas Jefferson considered violation of the flag worthy of a "systematic and severe course of punishment."

S.J. Res. 14 would remove the Government sanction of flag desecration and flag burning. The Judiciary Committee found in hearings that there have been between 40 and several hundred acts of flag desecration over the past 50 years. The Supreme Court has granted the flag burner a sanction under the first amendment to engage in the conduct of burning an American flag.

FORTY-NINE STATE LEGISLATURES and most of the American people want an amendment to protect the American flag. All we are doing, if we can get the requisite number of votes, is to pass an amendment on to the people and the legislatures to make a final decision. Our heritage, our sovereignty, and values are uniquely represented by this flag.

The flag of the United States of America has long unified our countrymen during times of great strife, upheaval, and during the more common times of prosperity and pride. It inspired men and women to win our independence in the Revolutionary War. Over the years, it has represented to a people of all nations freedom and all the values that has made America the envy of the world.

I say to my colleagues, regardless of the technical/legal aspect of this, as to whether or not it is legal, whether or not it is constitutional, whether it is necessary or not, what is the message we send to the world? They will not understand that the Congress of the United States, the Senate, refused to pass an amendment to protect the flag. It will be misperceived, in my view.

It is an inspiration that has been praised in verse. It has been honored with a day of its own—Flag Day—and its own code of etiquette on how to store it, how to salute it, and what to do with it. It has been given allegiance by our schoolchildren and given honor by the Supreme Court. The Supreme Court recognizes "love both of common country and of State will diminish in proportion as respect for the flag is weakened." That was a Nebraska case in 1907.

How can one say it any better than that? Unfortunately, more recent court decisions have struck down State and Federal statutes banning the desecration of Old Glory.

So we debate again. We have done this before, but we are going to do it again. We debate a constitutional amendment. We should remember the important relationship over the years the American flag has had with American history, with American freedoms and, indeed, that American conscience.

On June 14, 1777, the Senate Committee of the Second Continental Congress adopted a resolution that read: "Resolved, that the flag of the United States be 13 stripes, alternate red and white, and that the union in the white stripes be a representation of the new stars and stripes; and that the entire be a representation of the new stars and stripes." This new flag made one of its first appearances 2 months later at the Battle of Bennington. On August 16, 1777, the American soldiers faced the dreadful Hessians. While the two forces clashed, American General John Stark rallied his troops by saying: "My men, yonder are the Hessians. They were bought for 7 pounds and 10 pence a man. Are you worth more? Prove it. Tonight the American flag floats from yonder hill or Molly Stark sleeps a widow.

The brave Americans triumphed under their new flag at the Battle of Bennington, and the new stars and stripes floated from the hill which the Hessians once possessed.

It was the first time that liberty and freedom were advanced under the flag and, as we all know, it was most certainly not the last.

I can go on and on. Of course, we all know the story of the "Star-Spangled Banner." How in 1814, Francis Scott Key, a Washington attorney, boarded a British warship in the Chesapeake Bay to negotiate the release of a prisoner taken when British forces burned the Capitol in August. While aboard the ship, the British fleet turned its attention to Baltimore, and that is where Key witnessed the bombardment of Fort McHenry on September 13, 1814. It continued most of the day and night, until the British abandoned their failed attack and withdrew.

Shortly after dawn on the 14th, the morning fog parted and Key saw the flag had survived its night of 1,800 13-inch bombsheells and rockets. Its stripes and stars, he said, were still "gallantly streaming." Although the forces at Fort McHenry were like sitting ducks under the merciless British assault, they withstood the volleys and emerged victorious once again under the besieged but still-standing American flag.

Key was inspired by this. It was not a piece of canvas that inspired Key to write these things. It was not a piece of cloth. It was more than that. It was a flag. There is a difference. It is the same reason the $5 bill is not a piece of paper. It has meaning. The flag has meaning.

In 1931, Congress made the "Star-Spangled Banner" the official national anthem of the United States. We owe our flag, once again under siege, constitutional protection. In May 1961, just before the Civil War that would tear our Nation apart, Henry Ward Beecher gave a speech on "The National Flag." It is worth mentioning a few of the things he said in that 1861 speech, bearing in mind that our Nation was about to be torn asunder in a war that almost destroyed us.

A thoughtful mind, when it sees a nation's flag, sees not the flag, but the nation itself. . . . our flag has streamed abroad among men saw day break bursting on their eyes. For the American flag has been a symbol of Liberty, and men rejoiced in it. . . . one, then, asks me the meaning of our flag. I say to him, it means just what Concord and Lexington meant, what Bunker Hill meant; it means the whole glorious Revolutionary War. . . . [it means] the right of men to their own selves and to their liberties. . . . our flag means, then, all that our fathers meant in the Revolutionary War; all that the Declaration of Independence meant; it means all that the Constitution of our people, organizing for justice, for liberty, and for happiness, meant.

Whatever that meant, that is what the flag meant.

. . . our flag carries American ideas, American history and American feelings. . . .

Again, my colleagues, err on the side of caution. If you truly want the amendment to protect it, we will not rock the Republic that much if we would just make that statement with the amendment.

Henry Ward Beecher said:

Every color [of our flag] means liberty; every thread means liberty; every form of star and beam or stripe of light means liberty; not lawlessness, not license; but organized, institutional liberty—liberty through law, and laws for liberty!

I could not agree more. Because the highest court in the land will not preserve the liberty represented by our
flag from lawlessness and license, we must protect it with a constitutional amendment.

One of the most inspirational and emotional places to visit in Washington, DC, I say for those who are here who are able to go, is the Jefferson Memorial right here in Washington—an image that signifies the steep price of freedom. On February 19, just last month, we remembered the 55th anniversary of the bloody battle. Six thousand Americans gave their lives on Iwo Jima. What were they fighting for? Most of them probably did not know where Iwo Jima was when they went into the service.

After 4 days, some Marines finally made it to the top of Mount Suribachi. They tried twice to plug a wooden flag pole into the ground. Both times it broke, so they wrapped the flag to a metal pole. Later during the battle, the second flag was ordered raised when commanders on the beach could not easily recognize the first one, which was considerably smaller.

A photograph captured the moment, which has become the U.S. Marine Memorial outside Arlington at the National Cemetery.

Marines later said they could see the flag from a quarter of a mile away, and it gave them the courage and inspiration to overcome their exhaustion and fear to keep fighting.

It is amazing. It is not just a flag; it is more than a piece of cloth. Ask those guys who were at Iwo Jima. Go see that memorial, and see how you feel about an amendment after you see that monument.

It goes on. We could talk all day—"Buzz" Aldrin, when he planted the flag on the moon. The only good thing about it, I guess, is there is no oxygen on the moon so no one could burn it there. Maybe we ought to put a few more up there.

Obviously, there have been many treasured moments in American history associated with our flag. History shows our laws have reflected the values represented by our flag and our Government's interest in preserving it.

In 1634, Massachusetts colonists proscribed, tried, and convicted a person who defaced the Massachusetts State flag. The court concluded that defacing the flag was an act of rebellion. This case, called the "Endicott's Case," reflects the traditional balance between the interests of society in preserving the flag and individual expression of protest.

We have early examples of why we can make a strong and powerful case for a constitutional amendment. The colonists saw the need to punish the act, flag desecration, that violated Government sovereignty. The framers of our Constitution, through their words and actions, clearly showed the importance of protecting the flag as essential to American sovereignty.

James Madison, in 1800, an expert certainly of the Constitution, if there ever was one—he wrote it—denounced the hauling down of the American flag from the ship the George Washington as "a dire invasion of [American] sovereignty."

In 1802, Madison pronounced an act of flag defacement in the streets of Philadelphia to be a violation of law. We sometimes overanalyze and overstate what the founders meant. I am amazed by the people in the 20th, now in the 21st century, who know what the founders meant. They know all about what they meant. Even though they said something different, they still know what they meant, which is the way the people say they said it. It seems to me we should go back and look at what the founders said.

Madison wrote the Constitution. I think he had a little understanding about what he meant. If he said something different, it is pretty good support to say: You know, he might have meant what he said. He said that an act of flag defacement in the streets of Philadelphia was a violation of law.

In 1807, when a British ship fired upon and ordered the lowering of an American ship's flag, Madison told the British Ambassador that "the attack on the [ship] was a...flagrant insult to the flag and the sovereignty of the United States."

As the author of the first amendment, Madison knew what freedom of speech was. However, his repeated stands for the integrity of the flag show that he believed that there had been no intent to withdraw the traditional physical protection from the flag.

Thomas Jefferson also believed in the sovereignty and the integrity of the flag. While he was Washington's Secretary of State, there were many foreign wars and naval blockades. The American flag was a neutral flag during this time, and other countries wanted to fly it. Jefferson instructed American consuls to punish "usurpation of our flag."

To prevent the invasion of the sovereignty of the flag, Jefferson did not think that the first amendment was an obstacle to a "systematic and severe" punishment for people who violated the flag.

Both Madison and Jefferson considered protecting the flag and punishing its abusers very important. There are all kinds of examples in American history from our greatest founders, and all kinds of reasons to draw from in support of this amendment. They believed that sovereign treatment for the flag was not inconsistent with protecting free speech.

They consistently demonstrated that they wanted to protect commerce, citizenship, and neutrality rights through the protection of the flag. They did not mean to suppress ideas or views or free speech. That was not what they were seeing just when the Government's interests in protecting the sovereignty of the Nation as personified in the flag. Freedom of speech protects that, not conduct. There is a difference.

William Rehnquist said:

The uniquely deep awe and respect for our flag felt by virtually all of us are bundled off under the rubric of "designated symbols" that the First Amendment protects from the government from "establishing." But the government has not "established" this feeling. A century and a half of history have done that. The government is simply recognizing as a fact the profound regard for the American flag created by that history when it enacts statutes prohibiting the disrespectful public burning of the flag.

We have seen the Supreme Court defy the "deep awe and respect" that the American people, through their elected representatives, have for that flag.

The Supreme Court further denied the American people's right to protect the integrity of the flag in the RAV v. City of St. Paul case in 1992. In that decision, the Court ruled it will no longer balance society's interest in protecting the flag against an individual's interest in desecrating it.

The Court's recent decisions have led us down this path. In order to preserve the values embodied by our flag, in order to enhance national unity, and in order to protect our national sovereignty, we, the people's representatives, have to take the first step here to amend the Constitution. It is going to be a slow and difficult process, as the Founding Fathers intended. They wanted it to be slow and difficult. It was not supposed to be easy.

We should have this debate. We should rise up and take each other on directly. We should have a vote, and we should be recorded. If it prevails with the votes necessary, it will move forward for the people through the legislatures. It is a necessary process in order to remove the Government's seal of approval of flag burning and desecration.

Mr. President, I suggest the absence of quorum and ask unanimous consent that the time be equally deducted from both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. 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. SMITH of New Hampshire. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Hampshire has 25 minutes remaining, and the Senator from Kentucky has 20 minutes remaining.
Mr. SMITH of New Hampshire. I thank the Chair and yield myself 15 minutes.

Turning to the substance of the McConnell amendment, I find that it fails to protect the flag or the people who burn a flag in front of a crowd; proposal. In order to be prosecuted under the statute Senator McConnell has proposed, one must: No. 1, intentionally destroy or damage the flag with an intent to incite or produce imminent violence or breach of the peace; No. 2, one must steal and intentionally destroy a flag belonging to the United States; or, No. 3, one must steal or intentionally destroy someone else's flag on Federal property.

Now if you come to the conclusion that I have—and I think we all have on both sides—that flag desecration is wrong, why limit the desecration to those instances I just cited? Why make it illegal to burn a flag in front of a crowd that loves flag desecration or on television if the safe distance already fails to make it illegal to burn a flag in front of people who would be upset? That is what is happening here.

Let me repeat that. Why make it legal for a lone camper to burn a flag of the United States in front of the hospital across the street? Why make it illegal for a lone camper to burn a flag at a campfire in Yellowstone Park when it is legal to burn a flag before hundreds of children at a public school? To anybody who is interested in protecting the flag from desecration, how does this make sense? It is not common sense.

There are other problems with this statute as proposed. First, the Supreme Court is likely to hold that the amendment’s ability to prohibit flag burning that may breach the peace is unconstitutional. In Texas v. Johnson, the State of Texas defended its flag desecration statute on the ground that it was necessary to prevent breaches of the peace, and the Court rejected the argument because there was no showing that a disturbance of the peace was a likely response to Johnson’s conduct regardless of Johnson’s intent. So in order to qualify for the breach of the peace exception under Brandenburg v. Ohio, the Court said the flag burning must both be directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

Since the McConnell amendment fails to require any showing that the destruction of a flag objectively is likely to incite or produce the breach of peace, the Court will strike it down as unconstitutional. This is a lot of legalistic gobbledygook, but I have to call it. This is what the lawyers like to call it. This is more than a legal issue. Your speech cannot be suppressed because it might breach the peace, even if you believe you are breaching the peace. You must have both intent and the objective likelihood that others nearby will be compelled to violent action because of your speech.

So in this regard, I note that the Court held in Johnson that the flag burning did not threaten to breach the peace, nor was there any finding that Johnson intended to breach the peace. The Court also found that no reasonable onlooker would have considered the flag burning to be an invitation to a fight. In other words, the Court held that flag burning did not constitute fighting words. As a result, the McConnell amendment would not even apply to the flag burning in Johnson.

Even if the McConnell statute satisfied the breach of peace exception to the first amendment, the other sections of the proposed statute wouldn’t. The Johnson and Eichman cases seem to require that the same general analysis apply. And the Government say that all racist fighting words are illegal on Government property but that others are not in some other location? Of course not. The Court has said that this amounts to impermissible content-based discrimination, but this is the effect of the amendment. Senator McConnell offers because it only criminalizes stealing and destroying a flag rather than all Government property and because it only criminalizes the burning of a flag stolen from another Government rather than all other property that could be stolen and destroyed. A lot of legal language, but it is important because this is what we would be dealing with if the statute Senator McConnell proposed were to pass as opposed to the amendment.

Even if these portions of the McConnell amendment could survive constitutional scrutiny, which I doubt they could, they are no substitute for real flag protection. The McConnell amendment would not protect Greg- ory Johnson’s notorious flag burning. When he took it down from that pole, burned it, and spat on it, he didn’t steal the flag from the United States; so he wouldn’t be punished. It was stolen from a bank building; therefore the statute would not apply. Johnson didn’t burn his stolen flag on Federal property; he burned it in front of city hall; therefore the bill would not apply. If the amendment would not punish Johnson, it would not be a meaningful amendment.

Now, really, does that make sense? I think any Senator who can vote for this statute, frankly, can vote for an amendment that authorizes broader protection of our flag. We need to stop fighting hairs here. What are we talking about? What are we talking about? We need to focus on what we are talking about. The Court’s decision that flag desecration as consistent with the first amendment, you cannot logically argue that punishing the desecration of one’s own flag on that same property or other property is inconsistent with the first amendment.

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the McConnell amendment and to vote yes on the constitutional amendment. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. Collins). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. SMITH of New Hampshire. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5½ minutes remaining.

Mr. SMITH of New Hampshire. Madam President, opponents of the amendment like to say that America is not facing an epidemic, that we have a few acts of flag desecration. Depending on how you want to define them, they are usually by some nut, or whatever term you want to apply to it, or someone who is de-moted. But I think opponents try to downplay the number of desecration incidents that we have in this country. They try to develop some ideas about govern-ment to the Constitution that prevents the desecration of our flag. My colleagues, an amendment doesn't change the kind of our consti-tutional Republic. It reinforces what this Senate, this country, this Cong-ress, the people of America, the legis-latures, your parents, their parents, and people all across America say: You don't do that. It is wrong. It can mean that our country may not survive with this kind of disrespect.

The idea that everyone's viewpoint is just as good as anyone's can grow just a little bit too large. Is that free speech? Is that what we want to say in America, that it is free speech for two young people to go into a cemetery where Civil War veterans are buried, take the flags off their graves, desec-rate the flags, and desecrate the tombstones, and say it is OK, free speech? I leave you to your own judgment. I don't think it has one thing to do with speech. It is conduct, and it is conduct for which you should be held account-able.

The fact is, the founders of our coun-try developed some ideas about govern-ment that all Americans believe are the best, that all Americans find some common ground upon the ideals for which this Nation was founded—com-mon ground, cement, glue—to bring us together. As a people we are united in the way that goes right to the essence and to the heart of what our country stands for and what it is. Our flag, those flags, 87 of them on those graves, represent those ideals.

As much as our culture downplays our common beliefs—God knows we hear enough about it—everybody has a right to be a free spirit these days; don't have anything in common; do what you want; instant gratification; you want to go desecrate a cemetery, go ahead; it is just free speech.

As much as our culture downplays those beliefs, it is our duty as Ameri-cans—I am using the word "duty"—to protect those beliefs and our duty to protect the one symbol that unites us. If you don't think desecration of that flag threatens us, then maybe you had better take another look.

It is our responsibility to ensure the integrity of our country. To say that there is at least one principle that unites our society. We divide on every issue. You name it; we divide on it. There is somebody for and somebody against everything we debate.

We need this amendment to say that our flag should be protected under the law. It is not enough to say if some-body walked up here now—a staff mem-ber, anyone—and took that flag, threw it on the floor and began to deface it, stomp on it, in the name of free speech that is OK. It is not speech. I will say again. It is not speech. It is conduct, and conduct you should be responsible for and responsible to someone for doing it. If we can't say that, if it is a threat to our constitutional Republic to have an amendment that includes that action, then I am not sure what we could have a constitution for that really matters.

We have survived amendments that weren't that great. The Constitution survived, the people survived. The American Government survived, because the Founders gave us the oppor-tunity, provided that for us in the Con-stitution.

We have evidence of moral decay and a lack of standards all around. Our fami-lies are breaking down, our commun-ities are divided, our leaders are not providing appropriate moral leadership for the American public. Everyone knows what I am talking about—moral leadership comes from the White House. You can shake it off, you can say it doesn't matter, there is no per-sonal accountability, say whatever you want. The bottom line is, if you are going out for the weekend and you come back and your house has been burglar-ized, most of you say: I don't know if I want to leave her with the President of the United States. That is pretty sad.

I will make people angry saying that, but we are dividing ourselves. We have to stand for something. If we stand for something, we will stand up and be counted as a nation. If we don't stand for something, then we stand for noth-ing.

We can laugh it off. We do it all the time. It is a gun's fault that children are dying. No, it is not the gun's fault the children are dying. The culture of death in this country is not about guns.

Flag desecration of the flag and all of the other things happening is about us as a people. It is because we don't stand up often enough. If we are threatened because we want an amend-ment to the Constitution to stop that, then we have a problem. We have moral decay in this country. We are falling apart at the seams because people should be able to do what they want. There is no personal accountability.
Desecrate the graves, stomp the flag, disrespect the veteran. It is OK. Split on the flag. That is OK, it is free speech.

Look at our culture. If you are a parent, look at movies to which your kids have access, look at video games, look at the music, look at the TV. Our children are bombarded every day with messages of violence, selfishness. The incidence of gun violence, particularly at our public schools, is a predictable result of a culture that is afraid to teach that certain ideas are right and certain ideas are wrong.

That is what this is about. It is wrong to desecrate the flag. Color it up any way you want, hide it any way you want, take another position and say the law is OK, I don’t care. The point is, it is wrong to desecrate the flag for the same reason it is wrong to overturn gravestones, it is wrong to be disrespectful to veterans, and it is wrong to leave your children alone and give them access to this kind of violence. Frankly, it is wrong for some in society to give them access to that violence.

Why don’t we do something about it? No, we take a right, they say, to be free spirits.

Blame somebody else. It is not our fault. It must be the Government’s fault, the church’s fault, our minister’s fault, the Senator’s fault; it has to be somebody else’s fault, not mine. It couldn’t possibly be my fault; I didn’t do anything.

Do you see what is happening to this country? This is just a perfect example of it. It is one symbol of what is wrong with America.

From the 1800s and the 1900s, wave after wave of immigrants came to this country; they built this country. It was the glue. They saw the Statue of Liberty. They became a part of the fabric of America. That flag is the essence of America. We ought to pass a constitutional amendment so it not be desecrated.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. McCONNELL. I yield whatever time the Senator from North Dakota may desire.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair. I thank Senator McConnell.

Madam President, I rise today to support the McConnell-Amended-Dorgan-Conrad effort to pass a statute to protect the flag, rather than to amend the Constitution of the United States for that purpose.

It seems to me that anybody who advances an amendment to the Constitution has to clear a very high threshold. I personally believe the Constitution of the United States is one of the greatest documents in human history. It is not to be amended lightly. It is certainly not to be amended without there being other ways of addressing a problem.

I believe in this circumstance the issue is really quite clear. Flag burning and flag desecration are unacceptable to me and I think unacceptable to a majority of Americans and should not be amended lightly. It is certainly a mistake, and we would look back on it as a mistake, and we would look back on it as a great problem. I believe that would be a doing statute.

The Constitution is a framework. It does not deal with specifics. It deals with the larger framework of how this Government should operate. Individual laws, individual statutes are meant to deal with the specific problems that we encounter as a society within the framework provided by the Constitution. Some would have us change that basic organic document to deal with this problem. I believe that would be a mistake, and we would look back on it in future years and say: My, that was an overreaction.

Yes, it is unacceptable to engage in flag desecration. Yes, it is abhorrent to desecrate the flag. Those are obviously true statements and those are genuine feelings. But we have an alternative. The alternative is to pass a statute. The proponents of the constitutional amendment will say to you: But that will be ruled unconstitutional, as has the previous attempt to pass a statute. This statute has not been ruled unconstitutional, and the American Law Division of the Library of Congress tells us it would be upheld as constitutional.

I ask unanimous consent that the letter from the American Law Division addressed to me be printed in the RECORD.

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


To: Honorable Kent Conrad Attention: Dan Kelly

From: American Law Division

Subject: Analysis of S. 1335, the Flag Protection and Free Speech Act of 1995

This memorandum is furnished in response to your request for an analysis of the constitutionality of S. 1335, the Flag Protection and Free Speech Act of 1995. This bill would amend 18 U.S.C. §700 to criminalize the des-
Subsection (a) reflects both these principles. It requires not only that the conduct be reasonably likely to produce imminent violence or breach of the peace, but that the person engaged in the conduct be actually aware of imminent violence or breach of the peace. Further, nothing in the subsection draws a distinction between approved or disapproved expression that is communicated by the action committed with or on the flag.

There is a question which should be noted concerning this subsection. There is no express line in the application of the provision to acts on lands under Federal jurisdiction, neither is there any specific connection to flags or persons that have been in interest. Therefore, application of this provision to actions which do not have either of these, or some other Federal nexus, might well be found to be beyond the power of Congress under the decision of the Court in United States v. Lopez.10

In conclusion, the judicial precedents establish that the bill, if enacted, while not revising Johnson, and Eichman, should survive constitutional attack on First Amendment grounds. Subsections (b) and (c) are more securely grounded in constitutional terms. Johnson, and Eichman, should survive constitutional attack on First Amendment grounds. Subsection (a) is only a little less secure in constitutional terms. Subsection (a) is only a little less secure in constitutional terms. Subsection (a) is only a little less secure in constitutional terms. Subsection (a) is only a little less secure in constitutional terms.

We hope this information is responsive to your request. If we may be of further assistance, please call.

JOHN R. LUCKEY,
Legislative Attorney,
American Law Division.

FOOTNOTES

5 315 U.S. 568 (1942).
6 Id., at 572.
10 531 U.S. 568 (1942).

Mr. CONRAD. Madam President, here we have the American Law Division of the Library of Congress, which houses the American Law Division, Legislative Attorney, Mr. Luckey, who I believe has drafted this approach. Senator McConnell would be upheld as constitutional. That is the best advice we have available to us as Members of Congress. They are saying to us this statute would be upheld.

Why ever would we go out and amend the Constitution when we have a statute that our own legal advisors inform us would be upheld as Constitutional. Why would we do that? It makes no sense to me. Not only does it make no sense to me, it makes no sense to veterans organizations. I ask unanimous consent that resolutions of support by veterans organizations, some of the finest in our State, have said this is the proper approach; that we ought to attempt to pass this statute rather than amend the Constitution of the United States.

I just got word, just a few minutes ago, that the AMVETS Ladies Auxiliary of the 54th Infantry Association Newsletter, of my State, has contacted my office and agrees with the position that I am taking, that it is not necessary to amend the Constitution of the United States. I think he is exactly right. I would just conclude by saying, not only do veterans organizations back home support the position I am taking, but many who are in the American Legion have contacted me and told me they support the position that I am taking.

Finally, Gen. Colin Powell was quoted at length in a full page ad of a major newspaper in my State today as saying that he does not believe that the appropriate response is to amend the Constitution of the United States. Gen. Colin Powell, former Chairman of the Joint Chiefs of Staff, who led us in Desert Storm, a man for whom I have profound respect, saying to us, yes, it is abhorrent to desecrate the flag, yes, it is abhorrent to desecrate the flag, but that flag is going to survive long after, as he describes it, these miscreants who desecrate the flag are long gone. Long after they are gone, that flag is still going to be flying proudly over this Nation.

One of the reasons this is a great Nation is because of the Constitution of the United States. What a brilliant document, I doubt very much anything we are going to be doing in the next 2 days would improve upon that Constitution, that is the organic law for our country.

I urge my colleagues to take a look—take a serious look—at the work Senator McConnelly has done and that the work that we are offering our colleagues as an alternative to taking the very drastic step of amending the Constitution of the United States.

I hope my colleagues will support this approach. I commend my colleagues who have joined in offering this—with a special thanks to Senator McConnell, who has drafted this approach—Senator Bennett, and Senator Dorgan. I believe this is the wiser course. It is the right course. It is one that will stand the test of time.

I thank the Chair and yield the floor.

EXHIBIT 1

AMVETS LADIES AUXILIARY, DEPARTMENT OF NORTH DAKOTA, RESOLUTION TO SUPPORT THE "FLAG PROTECTION ACT OF 1999".

Whereas: the delegates of the 15th Annual Convention of the AMVETS Ladies Auxiliary, Department of North Dakota, assembled in Minot North Dakota, on the third day of May, 1999, do desire to support Senator Dorgan and Senator Conrad on "The Flag Protection Act of 1999" which they are co-sponsoring, therefore be it

Resolved: We support the "Flag Protection Act of 1999" for the protection of the flag, free speech, and other purposes, to ensure our symbol of national pride and freedom be protected, that the embodiment of our democracy and unity be preserved, especially those values our veterans fought for this freedom, it further be

Resolved: That a copy of this courtesy resolution be spread upon the records of this announcement and a copy be presented to the above mentioned.

ANGIE LEKANDER,
President.
VICKIE TRIMMER,
Secretary.

VIETNAM VETERANS OF AMERICA,
NORTH DAKOTA STATE COUNCIL,

HON. KENT CONRAD,
U.S. Senator, Hart Office Building, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the North Dakota State Council of Vietnam Veterans of America, it is my honor to inform you that at our quarterly meeting on May 8, 1999 in Bismarck, the following action was taken regarding the Flag Protection Act of 1999, cosponsored by Senators Kent Conrad and Senator Dorgan.

"Bob Hanson moved that the North Dakota State Council of the Vietnam Veterans of America support enactment of legislation by Congress to protect the nation's flag, such as that cosponsored by Senators Byron Dorgan and Kent Conrad and that a copy of this resolution be forwarded to our state's entire Congressional delegation. Seconded by Richard Stark. Approved unanimously."

Thank you for continual support of veteran's and we wish you success in your endeavors in this matter.

Sincerely,

BOB HANSON,
State Secretary, ND VVA

RESOLUTION NO. 9911—A RESOLUTION TO SUPPORT THE "FLAG PROTECTION ACT OF 1999"

Whereas, a Constitutional amendment to protect the desecration of the American flag has been before Congress for several years and has failed to garner the votes for passage, and

Whereas, those opposed to the Constitutional amendment believe that a statute can effectively provide protection and be upheld by the Supreme Court.

Whereas, Senator Mitch McConnell of Kentucky has introduced a statute, "The Flag Protection Act of 1999," cosponsored by Senator Kent Conrad of North Dakota, Senator Byron Dorgan of North Dakota, and Senator Bennett of Utah, and have been assured by the Congressional Research Service and constitutional scholars that it would be upheld by the courts, and

Whereas, the AMVETS of North Dakota have consistently supported a statutory remedial over a Constitutional amendment at our annual conventions, now therefore be it

Resolved, that the AMVETS of North Dakota, do hereby, in the absence of any other resolution, support the "Flag Protection Act of 1999" and urge the National Department to also support the Flag Protection Act of 1999.

The PRESIDENT OF FICER. The Senator from Kentucky.

Mr. McCONNELL. I thank the distinguished Senator from North Dakota for his outstanding remarks in support of

Adopted as amended by AMVETS Department of North Dakota in convention at Minot this 16th day of May, 1999.
Mr. SESSIONS. Madam President, I understand that the Senator from West Virginia is not going to use that 30 minutes. So I am authorized to yield back that time. I yield back Senator Byrd’s 30 minutes.

The PRESIDING OFFICER. All time has been yielded back.

Mr. HOLLINGS. Thirty minutes when?

Mr. SESSIONS. Whenever.

Mr. HOLLINGS. Thirty minutes.

Mr. SESSIONS. Thirty minutes when? Thirty minutes when?

Mr. HOLLINGS. Thirty minutes when?

Mr. SESSIONS. When.

The PRESIDING OFFICER. Out of the 2 hours set aside.

Mr. SESSIONS. In the next hour.

The PRESIDING OFFICER. Following Senator Hollings?

Mr. SESSIONS. Yes. If we can finish in 1 hour.

Mr. HOLLINGS. No objection.

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

The Senator from South Carolina.

AMENDMENT NO. 2890

(Purpose: To propose an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections)

Mr. HOLLINGS. Madam President, the amendment has been reported.

The PRESIDING OFFICER. The amendment is at the desk.

Mr. HOLLINGS. I ask that the clerk report the amendment.

The legislative clerk read as follows:

The amendment is as follows:

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ARTICLE —

SECTION 1. Congress shall have power to set reasonable limits on the amount of contributions that may be accepted, and the amount of expenditures that may be made, in support of or in opposition to, a candidate for nomination for election to, or for election to, Federal office.

SECTION 2. A State shall have power to set reasonable limits on the amount of contributions that may be accepted, and the amount of expenditures that may be made, in support of, or in opposition to, a candidate for nomination for election to, or for election to, State or local office.

SECTION 3. Congress shall have power to implement and enforce this article by appropriate legislation.
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Mr. HOLLINGS. Madam President, this amendment is offered on behalf of myself, the distinguished Senator from Pennsylvania, Mr. SPECTER, and the distinguished Senator from Nevada, Mr. REID.

Let me go right to the heart of some comments just made because I want to emphasize what the distinguished Senator from South Carolina said.

One, with respect to the matter of actually passing a statute whereby the statute would suffice, I only refer specifically, because I have been reading it at length, to the decision of the U.S. Supreme Court in Nixon v. Shrink, that for nearly a half century the Court has extended first amendment protection to a multitude of forms of speech, such as making false inflammatory statements, filing lawsuits, dancing nude, exhibiting drive-in movies with naked flags, and wearing military uniforms. It goes on to cite even more examples.

That is why this Senator would not vote for the statute. I think that is because they are being around the fire and a pout on. On the contrary, I intend to support the constitutional amendment. But I do agree with the observation of the distinguished Senator from North Dakota that the Constitution should not be amended lightly, and, as the Senator stated, not amended when there are other ways.

There is a definite difference between the matter of burning the flag—there is really no threat to the Republic. There is no threat to our democracy. There is no corruption. I do not like it; others do not like it. I hope we can pass the amendment.

But there is basis for the concern that the constitutional amendment is not in order because there is no threat to the Republic. We have seen and, unfortunately, been hardened in a sense to observing the flag being burned. I happen to be like the man: Convinced against their will is of the same opinion still. They can keep on saying that is constitutional. I do not believe it.

I think an amendment to the Constitution is necessary. But only look around us. Where is everybody? Out raising money. The Senator from South Carolina is not charging that an individual is bribed. I know of no bribes. That is not my argument.

My argument and position is that this Congress, the process, and the Senate have been bought by the money chase. We all know the amount of money. But all you have to do is have been around here for 30 some years and you get the feel, very definitely, that the money chase has taken over and we are thoroughly corrupted. That is not what that basis that that is Monday. It is really a wash day. There are no votes. There is nobody here to hear you. This is no deliberative body. That is really a nasty joke on all of us because we do not deliberate anymore. I remember over 30 years ago when we would come in on Monday morning and work all day, have votes at 9 o’clock on Monday morning, go throughout Tuesday, Wednesday, Thursday, Friday, and Tuesday morning follows suit because we have to wait for everybody to get back from their Monday evening fundraisers. Then we have Tuesday afternoon, Wednesday, Thursday, and Friday gone.

If you don’t think it is corrupted, go up and ask the majority leader, if you please, to take up a bill. “Oh”, he says, “wait a minute, that might take 3 or 4 days.” It’s a given, that you are not going to call a bill that is going to take 3 or 4 days of consideration and debate by colleagues. It is not going to be called. Nothing is called unless the jury is fixed.

Why haven’t we taken up the budget? Because they have yet been able to fix the vote of the Senator from Texas. They fixed all the others. They got them in line. I don’t know what their budget is. There has been give and take.
among the members on the Budget Committee on the Republican side, but we on the Democratic side have yet to see a budget, even though it is the end of March. We are supposed to have had the markup for several weeks and be ready to vote by this point. We do have notice, but you can bet your boots if we come together tomorrow afternoon and Thursday, they will use Thursday night and the threat of, "wait a minute, you will have to work on Friday, so hurry up, let's vote until 1 o'clock in the morning," whatever it is, because none of your amendments is going to pass; we have the votes.

That is the most deliberative process. That is the corruption the money chase has gotten us into. You can't consider anything here. Come Tuesday, they say, "well, we will have a caucus." In the main, that is about money and how we are going to collect it, and how we will dock each other so many thousands of dollars, and who has been to meet with what the other kind. Otherwise, come evening, "hurry up and let's adjourn early because I have a fundraiser Tuesday evening." Or, on Wednesday we have a window. "Can we make sure; I have to go all the way to Grand Rapids, I can only do it during lunchtime. They have not have any real conduct of the Senate or work of the Congress because I want a window so we can go down and have that fundraiser; or wait until the evening." The same thing occurs on Thursday.

By the way, there is a special Wednesday afternoon set up where we are supposed to go over to our campaign committees and get on the phone for hours in the afternoon. To do what? To call for money. I thought when we got elected, the campaign was over and we were going to work for the people. Instead, we go to work for ourselves. The entire process has been corrupted. That is why we need a constitutional amendment.

No, not likely. We have tried for 25 years to get around Buckley v. Valeo. We got a little squeak from Justice Stevens in the Nixon v. Shrink decision. He said: Money is property, not speech, but they reiterated Nixon v. Shrink, that money is property and not speech, but they reiterated Nixon v. Shrink, that money is speech. My gracious, if you read that dissenting opinion with Scalia and the other two Justices, they read it to go with removing the limits on contributions. I just buy it. This thing is a real disaster; it is an embarrassment. Just coming on the floor, they called my staff and said: Why is the world would you have to amend the Constitution here but not with the flag? Well, of course, I corrected that. I would amend the Constitution with the flag. But those who have some concern about the flag amendment to the Constitution, I hesitate with respect to this particular amendment. Otherwise, they have been living in a cocoon somewhere, or they have been

in China during the last campaign, because all you have to do is look at the primaries and see that the one thing, whether it was Independent, Democratic, Republican or any other kind of votes, that they were trying to clean up this system. Senator GORE, Vice President GORE, got the message. He said: The first thing I will do as President of the United States is introduce McCain-Fenigold and do away with soft money. Gore said that that was a terrible thing. I read that in the news. But I remembermed back to J anuary 23, in his interview with George Will, when Governor Bush said soft money, both corporate and labor, should be banned. I agree. But I will have to agree with the distinguished Senator from Kentucky that it is patently unconstitutional according to the Court. All we are trying to do is constitutionalize McCain-Fenigold or any and every other idea you want, the way the Court found in Buckley v. Valeo, whether you want to give free TV time, whether you want to limit, whether you want to not limit, whether you want to increase the limit—whatever you want to do. Don't give me the ar- gument that this is only to constitutionalize your particular idea.

Let me read exactly what it says:

Congress shall have the power to set reasonable limits on the amount of contributions that may be made by and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for the election to, State or local office.

We have had this up for over 10 years, Senator SPECTER and myself. I have had it up for over 20 years. I can tell you, the States in unanimity, the Governors' conference and all, came and said: Please put us in. We have the same problem. It is not Federal or State Office for State office. It is costing $1 million to get elected to the city council. It has corrupted the entire process over the land, and everybody knows it. Section 2—this is why we added it. A State shall set reasonable limits on the amount of contributions that may be accepted by, and the amount of expenditures that may be made by, in support of, or in opposition to, a candidate for nomination for election to, or for the election to, State or local office.

Of course, Congress is empowered to implement and enforce the article by appropriate legislation. That is a very simple amendment. You can bet your boots it is far more important at this particular hour of our history. The 27th amendment has to do with our pay. Well, it is certainly more important than the Fed raising its pay because if he votes that way, they are going to jump all over him at the next election. So they didn't even need this. This was just puffing and blowing and demonstrating and flagellating. That is all we have been doing up here this year. We figured as long as we could put the people off and sneak back in, we could get the money to buy the time to buy the office.

The 22nd amendment, Presidential term limits. More important than that. The 23rd amendment, D.C. electoral votes. This is more important—this particular corruption to be corrected. The elimination of the tax, the 24th amendment, and the 25th amendment. The 26th amendment, giving 18-year-olds the right to vote. You have taken away the vote of all the people, not just the 18-year-olds.

We ask unanimous consent that this short article be printed in the Record at this point.

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

[From the Washington Post, Mar. 19, 2000]

PANDER GAP

(Perry Morin)

This may be really hard to believe: Neither Congress nor the President panders to public opinion. And they don't craft policy to match the latest poll numbers; they never do.

You scoff. But those are the claims of two political scientists who have documented the gap between what Americans say they want in their political leaders and what they have found a dramatic decline of political responsiveness to the wishes and preferences of the public on major policy decisions in at least the past 50 years—"and to the citizens of the United States is introduce McCain-Feingold and do away with soft money.

"We got a little squeak from Justice Stevens in the Nixon v. Shrink decision. He said: Money is property, not speech, but they reiterated Nixon v. Shrink, that money is property and not speech, but they reiterated Nixon v. Shrink, that money is speech. My gracious, if you read that dissenting opinion with Scalia and the other two Justices, they read it to go with removing the limits on contributions. I just buy it. This thing is a real disaster; it is an embarrassment. Just coming on the floor, they called my staff and said: Why in the world would you have to amend the Constitution here but not with the flag? Well, of course, I corrected that. I would amend the Constitution with the flag. But those who have some concern about the flag amendment to the Constitution, I hesitate with respect to this particular amendment. Otherwise, they have been living in a cocoon somewhere, or they have been
ideological concerns consistently trumped the vox pop. "What a majority of Americans really wanted was never a driving factor," he said.

Jacobs says he's not suggesting that politicians should march in lock step with the polls. "There are times, like Nixon's opening to China, when politicians should disregard public opinion. But it should be part of a larger discussion about why the public will is being ignored. These should be the exceptions."

Mr. HOLLINGS. This is entitled "Pander Gap." We are not pandering to the people. We have taken away the votes of all the people, not just the 18-year-olds. The survey is used to figure out this so-called polling. They say we followed the polls. I am quoting this part of it:

...the surveys are used to figure out how to sell policies that have already been constructed (much as market researchers convene focus groups and sponsor surveys to find new ways to get you to buy soap).

Rather than hewing to the demands of voters...today's lawmakers answer to "the vox pop. "What a majority of Americans want their names to appear, and then this corruption in the process, where we got this distortion which causes free corruption. It was by one vote, 5-4.

"If you want to raid the erudite decisions on this particular matter, read Justice White and Justice Marshall in the dissenting opinion. They foresaw this corruption in the process, where we can't get anything done, where we have the unmitigated gall to stand up and say: I am going to buy this office. Of course, they say: Freedom of speech; freedom of speech. Nobody is listening to this. He said you would come when they would stand on the floor and proudly say, "I am going to buy the office," or a particular party would come and say, "We are going to buy the Presidency." That is exactly what they have done. The Republican Party said: Get out of the way, Steve Forbes, and all the rest of you; we are going to get our candidate, Governor Bush down in Texas, and we are going to raise him $70 million. He has already spent $63 million, and it is far from over. We have spent $7 to $8 million to go before the election. They are not worried about that. We just never did think.

I can see Senator Long of Louisiana. Every mother's son ought to be able to run for the Presidency. That is why we have the checkoff on the income tax return and the matching funds for those who qualify. We thought that was good and plenty. But they spent, by the first of March, $63 million, and they will spend another $63 million very easily. That crowds out democracy.

"If I were going to run for the Presidency, I would run on one particular message: Let the people of America know here and now this office is not for sale. That ought to be a fundamental Americanism—that you can't buy the office.

Now, we have several in the body who had millions in their campaigns and did not consider anything. I look at them from the same breath. I look at them and their service, and they would have done the same without the millions, but they did spend millions to get here. That is the kind of body we are turning it into more and more each year. You can't consider anything but debate anything. You can't take time to speak to your colleagues. It is a veritable money chase. That is exactly why we are not doing anything this year. It is the year 2000, the year that the U.S. Congress squats and does nothing. There is an old political axiom: When in doubt, do nothing, and stay in doubt all the time. That reflects a lot of people. That is what we are motivated by on this particular afternoon.

I am going into the details of the amendment again out of necessity and will emphasize why we need a constitutional amendment, because we have tried it every other way. The Court has 9 men, and they have free speech implications in any and all legislation. Unless we can amend the Constitution to extract this cancer and this corruption from the body politic, we are gonna. I can tell you that democracy is gone.

I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized for up to 30 minutes.

Mr. SESSIONS. Madam President, I always enjoy the remarks of the Senator from South Carolina. I am glad he doesn't speak with an accent. I can understand him better than most around here. He is a straight shooter and a skilled lawyer who understands what the legal system is about and what we are doing in the Senate. I respect that.

I respect his conclusion, which I believe is legally sound, that most of the campaign proposals which have been proposed in recent years run afoul of the Constitution, according to a majority of the U.S. Supreme Court. That is a fact. I believe that is a good fact.

Some would say: Well, you want to limit free speech when you want to stop burning the flag and you want to prohibit that and that is free speech. The Supreme Court, by a 5-4 majority, held that the act of burning a flag is free speech. I don't agree with that. In 1971, the Supreme Court didn't agree with that. For over 200 years they didn't agree with that. Over 40 States have laws against it.

When it passed this time recently, it was a 5-4 majority. But in my view, the flag of the United States is a unique object and prohibiting its desecration will not in any way fundamentally alter the free expression of ideas in this country. You can speak about why the
flag ought to be burned and that sort of thing, but we know the act of it is different from speech. It seems to me if it is speech, and if the Court is correct in saying it is speech, then the people of the United States care deeply about protecting the flag. They have an emotional attachment to the flag and the Constitution that allows and permits the flag to be burned. That is what I think we ought to do.

I think it would be healthy for this country to adopt a constitutional amendment that would allow the protection of the flag because people on the battlefield have died for that flag. More Medals of Honor have been awarded for preserving and fighting to preserve the flag than any other. We know the stories of battle when time after time the soldier carrying the flag is the target of the enemy. When he fell, another one would pick it up. When he fell, another one would pick it up. That is the history.

We pledge allegiance to the flag, not the Constitution, not the Declaration of Independence, and it is understandable to pledge allegiance to the flag because it is a unifying event. It is a unifying symbol for America, and having a special protection for it is quite logical for me. I do not believe we should never amend the Constitution, but I do not think we need the Constitution enough. But we want to have good amendments that are necessary, that are important, that enrich us, and that make us a stronger nation. I support that.

With regard to the amendment of the Senator from South Carolina, I respect his honesty and his direct approach. I think by his amendment he recognizes in the most fundamental sense that when you constrain the right of people in this country to pick up money, and speak out on an issue that they care deeply about, you are indeed affecting independent thought, free debate, and freedom of speech.

The Constitution of the United States says Congress shall make no law abridging the freedom of speech.

I am really surprised to look at this amendment. It goes in just the opposite direction. I think it will allow that in terms of campaign finance. That is a scary thing to me—whatever we want.

What do incumbents want? They want many times to keep down debate. They want to be able to do whatever they may have or made, or the acts they have carried out with which the people do not agree. Many times the only way we can ever know what the truth is, is for people who care about those issues to raise money and speak out against it.

I feel very strongly about this. I think this is a major event. If the flag amendment is a 1 on a constitutional scale, this Hollings amendment is a 9 or a 10. It is the first time in the history of this country I know of where we have submitted a constitutional amendment that does not increase our freedom, our liberties, and our ability to speak out. It will be the first time in the history of where we are proposing a constitutional amendment that would clearly dampen, reduce, and control the free rights of American citizens to speak out on issues they care about.

The Cato Foundation, a conservative think tank, and the ACLU, a liberal group, are horrified at the very thought of this. This is basic constitutional law. We are talking about restricting the right of people to run advertisements during a campaign season to say why they care about issues. What more is free speech about?

Chief Justice Rehnquist, in talking about the flag burning, said, “At best, burning a flag is a grunt or a roar.” It is not really speech at all, if you consider it some sort of expression, which I think is a stretch. But even then, you consider it some sort of expression. That is not of great value compared to the unifying symbol of the flag.

But when you talk about taking away the right of American citizens to speak in an advertisement to buy newspapers, to print handbills and pass them out, and to say they can’t do that; why? Well, you just can’t do it during an election cycle. When do you want to speak out? What good is it if you do not want to do it during an election cycle?

I do not want to use all the time I have. We have two excellent scholars who care deeply about this issue who wanted to speak before I got unanimous consent. I don’t want to take their time.

I will just say this before I yield the floor and ask that my time be given back to them.

We do not need to be retreat from freedom. We do not need to be retreating from free debate. We do not need to be adopting a constitutional amendment that will allow our children and grandchildren not to rise up, raise money, and speak out. And condemn a group of incumbents who they believe are not doing the right thing in America. Sometimes that is the only way you can get the message out.

Frankly, I am not one of those who believes our national news media is fair. I think it is ludicrous to expect and to suggest they are fair and objective. They are clearly, in my view, biased toward big government and liberal activism. I am not going to say I am going to subject my campaigns to constant reinterpretation of what I do to some media outlet that may get worse than it is today. Apparently, they have unlimited rights to run their programs anyway and on what they want to. Somebody who has a different view cannot raise money, buy time on their program, and rebut that?

This is fundamental stuff. This is right to the core of what the first amendment was all about. The first amendment is about intelligent debate, argument, concern over policy issues—not whether or not you have a “grunt” or a “roar” in burning a flag. I don’t believe that was ever intended to be controlled by the Constitution.

If so, we don’t need to go in this direction. It is one of the most adverse steps we could take. It would be an error of colossal proportions if this Senate were to vote to amend the great charter of freedom, the first amendment to the Constitution of the United States, out of some vain, hopeless effort that we are going to suppress the right of free American citizens to raise money and speak out on what they believe in.

I am prepared to vote on reasonable controls on campaign funding as long as it can pass constitutional muster. I believe fundamentally our best protection is to allow people to speak; if people give money, disclose how much money they give, and let everybody know promptly and immediately. If the public knows where the money is coming from, they may judge the value of the ads.

In the Republican primary 3 years ago for the Senate, I had eight opponents. They spent $5 million among them. I spent $1 million. Two of my opponents spent more than $1 million of their own money. I had to raise every dime I could raise, some $900,000. I worked hard, and I won the race. John Connolly, mentioned earlier, spent more money per vote than any man, and he got clobbered. Other senatorial candidates have spent tens of millions of dollars and have been clobbered in races.

I do not believe money always tells the tale. It was difficult for me when I faced the guy spending $1.5 million of his own money on a Republican primary in Alabama, but that is the way it is. I do not know how I can tell that person he cannot spend that money and express what he believes and cares about in that election about why he would be an outstanding candidate. We do not give it to money. They believe I could be an effective voice for their concerns. That is what America is all about. I don’t believe it corrupts politicians. I believe it sucks them into
the system and makes them be participants. They speak, run ads, and attack, sometimes, unfairly. If we can figure out a way to do a better job of disclosing how this money is spent and from whom it comes, I think that will help.

I appreciate the leadership of Senators BENNETT and MCCONNELL, who are scholars on these issues. I believe the Senate should do well to listen to them. I agree with the Senator from South Carolina, this is really important. I do need the Senators need to be paying attention to this crucial issue in our Nation's history.

I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. I thank the Senator from Alabama, who has faithfully participated in the campaign finance debates in the years he has been here, always very skillfully. I am sure some of the things I will say will be repetitive because he was right on the mark in his observations about the Hollings amendment.

It is important to note at the beginning of the last time we had a vote on the Hollings amendment was March 18, 1997. Only 38 Senators voted for the Hollings amendment, an effort to amend the first amendment for the first time in the 200-year history of our country, restricting avenues of political speech. Only 38 of the 100 Senators believe it necessary, no matter what our views on the various campaign finance proposals before the Senate, to carve a chunk out of the first amendment to give the Government this kind of truly draconian power to control everybody's speech.

I know Senator FEINGOLD of McCain-Feingold fame is also going to oppose this amendment. I note that the Washington Post, with which I have essentially never been aligned with on a campaign finance issue, also opposes this amendment.

With due respect to the Senator from South Carolina, he has framed the issue correctly by pointing out that in order to do what many of the so-called reformers have tried to do, you do need to amend the first amendment. Of course, that is a terrible idea, I respectfully suggest.

The campaign finance debate is all about special interest freedom. Soft money, hard money, issue advocacy, express advocacy, PACs, independent expenditures, bundling, and the other terms of art in the campaign finance debate are euphemisms for freedoms of speech and association protected under the first amendment to our Constitution, freedoms belonging to citizens, groups, candidates, and parties. It is no more complicated than that.

The measure before the Senate, the Hollings constitutional amendment, seeks to empower the Federal and 50 State governments to restrict all contributions and expenditures "by, in support of, or in opposition to Federal and State candidates," illustrates this simple fact beautifully and succinctly. The Hollings amendment is a blunt instrument. Where a statutory approach such as a Shays-Meehan or McCain-Feingold and their ilk slices and dices at this constitutional core, the Hollings amendment reaches out and rips the heart right out of the first amendment.

Before this week is out, we could be on our way to getting rid of the first amendment protection for everyone except pornographers. But I rather enjoy this debate. No pretense, no artifice, no question about it: If you believe that the Government, Federal and State, ought to have the unchecked power to restrict all contributions and spending "by, in support of, or in opposition to Federal and State candidates," then, by all means, vote for the Hollings amendment. If you believe that the U.S. Supreme Court should be taken out of the campaign finance equation, then the Hollings constitutional amendment is for you.

If the Hollings amendment had been in place 25 years ago, there would have been no Buckley decision; Congress would have gotten its way. Independent expenditures would be capped at $1,000. Any issue advocacy that the FEC deemed capable of influencing elections would be capped at $1,000. Everyone would be under mandatory spending limits. There would be no tax payer funding. It would not be necessary because spending limits would not have to be voluntary.

That is why the American Civil Liberties Union counsel, Joel Gora, who was part of the legal team in the Buckley case, has called the Hollings constitutional amendment a "recipe for repression."

The media, news and entertainment industries, ought to take note. There is no exemption for them in the Hollings amendment. We are media. We are the press. Under the Hollings constitutional amendment, the Federal and State governments could regulate, restrict, even prohibit the media's own issue advocacy, independent expenditures, and contributions just as long as the restrictions were deemed reasonable.

What we have traditionally done in order to assert what the Congress might consider reasonable is look to the American people and their views. Let's look at their views with regard to the press.

Eighty percent of Americans want newspapers' political coverage regulated. You cannot do that under the first amendment; you could under the Hollings amendment.

Eighty-six percent want mandatory equal coverage of candidates by newspapers. You cannot do that under the first amendment; you could do it under the Hollings amendment.

Eighty percent want newspapers required to give equal space to candidates against whom they editorialize. You can't do that under the first amendment; you could under the Hollings amendment.

Seventy percent believe reporters' personal biases affect campaign and issue coverage. They are right about that. Sixty-eight percent believe newspaper editorials are more important than a $10,000 contribution.

Sixty-one percent believe that a newspaper-preferred candidate trumps the better-funded candidate. Forty-two percent of Americans believe editorial boards ought to be forced to have an equal number of Republicans and Democrats.

I think all of Americans think newspapers should be required to give candidates free ad space. I mention this survey to make the point that if Congress is going to have the power to regulate all of this speech, what the reformers say they want to do, limit "special interest influence," requires limiting the U.S. Constitution which gives special interests—all Americans—the freedom to speak, the freedom to associate, and the freedom to petition the Government for redress of grievances. That is called lobbying.

We have got to gut the first amendment and throw on the trash heap that freedom which the U.S. Supreme Court said six decades ago is the "matrix, the indispensable condition of nearly every other form of freedom."

Some would call that horror reform. A half dozen Senators may even vote for it. As I said, last time 38 voted for it. We can all agree to disagree on campaign finance. We can even agree to disagree on what is reform. But surely we can also agree that this business of amending the Constitution whenever the Supreme Court hands down a result we do not like is wrong and is dangerous. We trivialize that sacred document which so embodies the spirit of America, which guarantees the success of our democracy, if we treat it as if it were a rough draft. To be seriously contemplating chopping off a huge chunk of the Bill of Rights must seem incomprehensible to the casual viewer of this discussion.

This debate, like the debate over Shays-Meehan and McCain-Feingold, is not only about politicians' first amendment freedoms. The "in support of or in opposition to" components of the Hollings constitutional amendment refer to the freedom of everyone in America—private citizens and groups and, yes, as I pointed out, even the media, the entire universe of political speech.
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What makes the Hollings amendment on many orders of magnitude so much more egregious than the statutory proposals is that the Supreme Court cannot intervene and save America from whatever folly we would engage in on the floor in defining what is ‘reasonable’.

As I said, I recoil in horror from the substance of the Hollings amendment while I embrace the clarity of the choice it presents us. It exposes the fallacy of the McCain-Feingold amendment and all other such speech suppression schemes. If one believes that McCain-Feingold is constitutional, as its advocates claim it is, then we do not need the Hollings constitutional amendment. If my colleagues vote for the Hollings constitutional amendment, then they have affirmed what so many of us inside and outside the Senate have been saying: That to do what McCain-Feingold proponents want to do—restrict spending by, in support of, or in opposition to particular candidates—then we need to get rid of the first amendment. That is what the Hollings constitutional amendment does: No more first amendment protection of political speech for anyone, political victory or political defeat.

Fifteen years ago, when I first took the oath of this office to support and defend the Constitution of the United States against all enemies foreign and domestic, I had no idea how much time and energy I would expend doing just that—defending the Constitution, not from foreign enemies, mind you, but from the Congress itself. I certainly could not have imagined that the Senate would spend so much time and energy in publicly discussing whether we should wipe out core political freedoms. We need to stop this, and I am confident and hopeful that the Hollings amendment will be defeated overwhelmingly tomorrow, as it has been defeated overwhelmingly in the past.

I will mention a couple of recent letters in relation to this amendment. One is from Roger Pilon at the Cato Institute who says in pertinent part:

To learn that those who want to ‘reform’ our campaign finance law are admitting that a constitutional amendment is necessary. But that very admission speaks volumes about the unconstitutionality of most of the proposals now in the air. It is not for nothing that the Founders of this nation provided explicitly for unrestrained freedom of political expression and association—which includes, the Court has said, the right to make political contributions and expenditures. That logic leads to the conclusion that the Founders of the Constitution and the Founders of the United States that would grant power to Congress and the states unprecedented, sweeping and undefined authority to restrict speech protected by the First Amendment since 1791.

Because it is vague and overbroad, S.J. Res. 6 would give Congress a virtual “blank check” to enact any measure it may abide a vast array of free speech and free association rights that we now enjoy. In addition, this measure should be opposed because it provides no guarantee that Congress or the states will have the political will, after the amendment’s adoption, to enact legislation that will correct the problems that the current electoral code and the amendment misleads the American people because it tells them that only if they sacrifice their First Amendment right will they correct the problems in our system. Not only is this too high a price to demand in the name of reform, it is unwise to promise the American people such an unachievable goal.

Rather than assuring that the electoral process will be improved, a constitutional amendment
amendment merely places new state and federal campaign finance law beyond the reach of First Amendment jurisprudence. All Congress and the states would have to demonstrate that they had a compelling interest to justify the restriction. As Professor Joel Gora of Brooklyn Law School recently stated, "This constitutional amendment is a recipe for reversion through the hearing and mark-up process." The proposed amendment recognizes that the First Amendment was designed to protect speech. If Congress or the states want to change or abrogate the First Amendment and without the protection of the First Amendment, it should do so. Congress can adopt meaningful federal campaign finance reform measures without abrogating the First Amendment and without the Supreme Court's decision in Buckley v. Valeo. Some of these reform measures include:

- Providing financial incentives to candidates for broadcast advertising.
- Extending the franking privilege to all legally qualified candidates.
- Providing resources for the FEC so that it can provide timely disclosure of contributions and expenditures.
- Providing resources for candidate travel.
- Providing a broader definition of "independent expenditures by individual citizens and groups." The First Amendment was designed to protect speech. If Congress or the states want to change or abrogate the First Amendment and without the protection of the First Amendment, it should do so. Congress can adopt meaningful federal campaign finance reform measures without abrogating the First Amendment and without the Supreme Court's decision in Buckley v. Valeo. Some of these reform measures include:

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... of us on the Hill are familiar. This appeared on March 20, 1997, but it is still applicable. It is talking about campaign finance reform applied in the State of Colorado. The headline is: “Look Before You Leap: Colorado’s Lessons from Reform” and describes the reforms that were established in Colorado, backed by Common Cause and the League of Women Voters, setting limits on candidates and limits on contributions. To quote Rothenberg:

Now, however, most seasoned political operatives and many candidates will tell you privately that they think the law is terrible. They complain that the limits are too low… and they note that the law doesn’t address independent expenditures, which will now balloon.

That is the point I want to make over and over again: “Independent expenditures, which will now balloon.”

He goes on in the column to say:

So instead of making candidates more responsible for the campaign environment, the law actually encourages independent forces to become active.

Here is where they have tried it. They have found that special interest power has gone up, not down, and that candidates have forced out of the equation to a great degree, while special interests have filled the vacuum.

He concludes his column by saying:

Clearly, the voters don’t like the current campaign finance system, and they are eager for change. But they haven’t considered the ramifications of many of the proposals, and most of the suggestions for reform have ignored or reduced political campaigns. Reformers would be well advised to start at the beginning, not at the end.

If I may be a little parochial for a moment, there is an editorial that appeared in the Salt Lake Tribune, my hometown newspaper, entitled “Don’t Ban Soft Money.” The Salt Lake Tribune is not known for its friendliness to Republican candidates. But they have raised this issue, as is their first amendment right as a newspaper. They say:

The campaign-reform prescription of the moment is “ban soft money.” Beware. The cure could be worse than the disease.

They go on to describe all of that, and then they make the same point as Stuart Rothenberg:

A ban on soft money would simply encourage big donors to run issue campaigns themselves. Then a candidate’s supporters could do a hatchet job on an opponent without any accountability to anyone. Some groups already are adept at this tactic.

I do not know if they ever met, but the Salt Lake Tribune and Stuart Rothenberg are making the same point: If you put the campaign finance reform pressure on the candidate, you increase the power of independent expenditures, you increase the power of special interest groups.

Here is a column by Dane Strother, a Democratic political consultant. I am trying to not just quote Republicans here. This appeared in the New York Times on February 1, 1997. He said:

Limiting candidates’ spending usually succeeds only in giving special interests even more clout.

Once again, that is the same statement as these others. I will repeat it: Limiting candidates’ spending usually succeeds only in giving special interests even more clout. Consider recent “reform” efforts in Kentucky and the District of Columbia. We are dealing with actual results here. We are not dealing with theory. He describes how, when he was living in the District of Columbia, campaign contributions were limited. He says:

In 1993, Washington limited contributions in mayoral races to $300.

Boy, that is draconian—down from $2,000 per election cycle. Some candidates struggled mightily to raise even $30,000, and couldn’t get their messages to the public. I lived in the District then, and didn’t receive a single political flier or piece of mail. Some do-gooders would find this an improvement, but information is the basis of an educated vote.

Then here is the punch line—the same point. He said:

Special interests filled the vacuum. Unions and big business set up independent campaigns to help the candidates of their liking, putting more pressure on the candidates than the candidates themselves.

Here is another example. This one had to do with an election in Chicago. It is written by R. Bruce Dold. He talks about the 1984 race where Charles Percy lost his seat to Paul Simon. He said this was brought about, in large measure, because of a campaign run by an outsider whom he identifies as a man named Michael Goland who had no connection whatsoever to Paul Simon but who did not like Charles Percy’s voting record. So he ran a series of TV ads. Simpler than $1 million running his ads, independent of either Percy or Durbin, attacking Percy as a chameleon. He said, if you put pressure on the candidates, you will see far more chameleon ads.

He points out that in 1996, the AFL-CIO spent millions of dollars to run “Mediscare” ads against Republicans; and then, to balance it, he shows that the Christian Coalition and the National Rifle Association tried similar maneuvers. He says, summarizing once again:

If these groups want to express a political opinion, more power to them. But McCain-F Elding would make them more powerful than the candidates themselves.

That is another example, another place. You go to Colorado, you go to Colorado, you go to Washington, DC, you go to Chicago—everywhere it is tried, it is demonstrated again and again, the more pressure you put on the candidates, the more chameleonism you get. Reformers would be well advised to start at the beginning, not at the end.

I have more that I would like to say, but I see my colleague from Washington is here, and I want to close so we can hear from him.

I simply want to commend to the Members of the Senate an article reprinted in the Los Angeles Law Review written by James Bopp, Jr., and Richard E. Coleson, in which I think they summarize it all in the title of their article. The title is: “The First Amendment Is Not A Loophole.” I cannot think of a better summary of the entire debate than that title of this article by these lawyers in this law review: “The First Amendment Is Not A Loophole.” Then they add the subhead: “Protecting Free Expression In The Election Campaign Context.”

I may come back to this article at a later point in the debate. But as I say, now I wish to wind up so we can hear from the Senator from Washington. I cannot think of a better summary than that of this title, and I leave it at that: “The First Amendment Is Not A Loophole.”

Mr. MCCONNELL. Madam President, again I thank my good friend from Utah for his support and important contribution to this debate. I will have another hour in the morning where I hope he will be available and we will discuss that further.

How much time do I have left?

The PRESIDING OFFICER. The Senator from Washington has 21 minutes remaining.

Mr. MCCONNELL. I yield to the distinguished Senator from Washington such time as he may need.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, Members of this body, in speaking against a similar, though not identical, attempt to amend the Constitution of the United States 2 or 3 years ago, I spoke of amending the first amendment again. As I read this short and very simple proposal from the Senators from South Carolina and Arizona with respect to political speech, it does not amend the first amendment. It repeals it. It states that the Congress of the United States has the power reasonably to limit contributions or expenditures with respect to elections for Federal and State offices. That is exactly the power the Congress of the United States would have if there were no amendment to the Constitution of the United States. Our actions in that respect would have to meet some test of reasonableness under the 14th amendment in that field as they do in every other. But for all practical purposes, the first amendment to the Constitution of the United States, ratified by the States 209 years ago, would be repealed with respect to political speech.

Now, it is not deemed that obscenity is such a significant problem that most of the people of the United States to repeal or even to amend the first amendment in that respect. It is not considered important enough to change the first amendment...
amendment with respect to tobacco or alcohol advertising. But it is considered that free and open political speech, through anything other than an individual’s voice, is now such a great threat to the free institutions of the United States that Congress—what is to be feared, if Congress has no power, ought to be able to limit it in any way they deem reasonable. This is clearly, as was its predecessor in 1997, the most profound threat to first amendment rights, literally, since that Constitution was adopted.

The Alien and Sedition Acts in the last decade of the 18th century were, after all, only statutes that were subject to challenge under the Constitution. They also had an automatic termination date to them. They are nonetheless constant examples of how a Congress can misuse its powers to limit speech and are considered such in almost any thorough history of the Constitution and of the United States itself.

Now, what is it that leads us to this moment? Clearly, it is the feeling, the opinion, that too much money is spent on politics, that there is too much political speech, and that it is clearly too free. We have heard colleagues who sit in front of me and were recently a candidate for President was, I think, rightly critical of two Texas millionaires who advertised in a way he considered misleading and false. This proposition, the right of completely untrammeled and totally free political speech, to state that proposition is to defeat.

We should not repeal the first amendment to the Constitution of the United States but that too much money is being spent on regulations of the political speech. We should not modify the first amendment to the Constitution of the United States with respect to free political speech. We should, though, we may lack the imagination of James Madison and his colleagues in the first Congress, at least have the wisdom and the humility not to destroy what they wrought at the very founding of this constitutional Republic.

Mr. MCCONNELL. Madam President, how much time does my side have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 9 minutes remaining.

Mr. MCCONNELL. Madam President, I am not sure I will use the entire 9 minutes. I thank the Senator from Washington for his contribution to this debate once again, and also my friend from Utah, and remind everyone the last time we voted on the Hollings amendment, it only got 38 votes. Even the Washington Post, with whom I am seldom aligned on this subject, opposes the measure. Senator FEINGOLD opposes the measure.

Mr. GORTON. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I yield to the Senator from Washington for a question.

Mr. GORTON. Is it appropriate, I ask my friend from Kentucky, to describe 38 votes to repeal the first amendment to the Constitution?

Mr. MCCONNELL. I say to my friend from Washington, it is discouraging that there were even 38, but I say also to my friend from Washington, in earlier Congresses the Hollings amendment got greater support, including up to 52 votes in favor of the proposition back in 1988. So I prefer to look at the bright side of this, I say to the Senators. It makes progress. We are moving in the right direction and, hopefully, the rest of the time, we have some time remaining. I don’t know whether the Senator from Utah would like to speak further. I would be happy to hear the views of the Senator from Utah.

Mr. MCCONNELL. Is it not yet determined when that would begin, is it?

The PRESIDING OFFICER. At 9:30. Mr. MCCONNELL. Two hours equally divided beginning at 9:30 a.m.

The PRESIDING OFFICER. That’s correct.

Mr. MCCONNELL. I yield the remainder of the time on this side to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, I wish to address another point I made earlier when I said that holding down the ability of candidates to express themselves in terms of the amount of money they can raise and amount of advertising they can do only creates an opportunity for special interests to fill the vacuum. There is one other point I need to make with respect to the perceptions on this issue. The first perception, which I have attacked, is that holding down the expenditures and the contributions will somehow control the special interests. I am sure the results of where it has been tried has been in the opposite direction.

The special interest rule now through campaign contributions—I want to address this with the Senate. A survey was done in Fortune magazine, published in December of 1999, byline Jefrey Birnbaum, who, again, is not normally known for his sympathy of the positions of this Senator, he talks about the impact of money on politics in Washington in this article. Fortune magazine does an annual survey of who has the most clout in Washington, which special interests are the most powerful.

For 3 years running now—and in this article it is the same one—the No. 1 special interest that has the most power in Washington, rated by those who have done the survey, is—the envelope please—the AARP, which is a group that, by its rules, does not give any campaign contributions to anyone. The group that is considered the most powerful special interest in Washington is one that does not give campaign contributions to anyone. One of the individuals involved in pulling together the survey, a man from the Melman Group—Mark Melman is his name—he is one of the
Eugene McCarthy was a tool of special interests bought with special interest money. He raised more money, adjusted for inflation, than George W. Bush has raised this year. And Professor Gora goes on to say: and did so relying on an extremely small handful of extremely wealthy individuals who shared the ideals and values of Senator McCarthy and his supporters. Only in the perverted post-Watergate world of campaign "reforms" would the word "corruption" or "the appearance of corruption" possibly be used to describe that noble endeavor.

I didn't support Eugene McCarthy in 1968, but I agree that nobody would have said that Eugene McCarthy in 1968 was a tool of special interests or that he was part of corruption or the appearance of corruption? Why? He disclosed every dollar immediately when it was received, and everybody knew who his supporters were and why they were with him. They were with him because they opposed the war in Vietnam.

There is much more that can be said, and undoubtedly will be said, but I want to leave it at that. A number of myths have sprung up about this whole debate. We need to look at the reality, which is that every time campaign finance reform has been tried at the State level, the power of special interest groups have gone up, not down, as a result. The reality of it is that we do not have an inordinate amount of money washing through politics today. If you take it on an inflation-adjusted basis, it is the same today as it was back in 1968. We do have a great deal of hysteria in which, if we don’t puncture the balloon of that hysteria, could lead us to make a seriously significant mistake. I don’t want us to do that. That is why I am as vigorous as I can be to see to it that we do not pass the Hol-llings amendment and we do not, subse-quent to that, pass McCain-Fingold.

I yield the floor.

The PRESIDING OFFICER. The distin-guished Senator from Pennsylvania.

Mr. SPECTER. I yield the floor.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. HOLLINGS. I yield such time as is necessary.

The PRESIDING OFFICER. The Sen-a-tor is recognized.

Mr. SPECTER. I thank my dis-tinguished colleague from South Carolina.

Mr. President, on January 30, 1976, the Supreme Court of the United States handed down a most extraordinary decision equating freedom of speech with money. That was a shock to me on the day the decision came down, and it remains a shock, because in a democracy political power ought not to be determined by who has the most money.

Since 1988, for more than 12 years, Senator HOLLINGS and I have pursued this constitutional amendment. This is the 108th Congress. It was the 105th Congress and the 104th Congress, et cetera. I believe it is a very important amendment if we are to eliminate cer-tain dangers, and certainly the percep-tion of dangers, in our election system.

In the 1996 Presidential campaign, the expenditures were some $400 million. In the congressional campaigns in 1996, there was almost $300 million in the Senate, and more than $477 million in the House. In the 1998 congressional campaigns, the Senate spending level remained at about the same, while the House went down. The time that it takes Members of Congress to raise the money has been well docu-mented. There is a perception in the land that Members of Congress—Sen-ators and Representatives—are for sale. I think that votes are not for sale, but I believe there is no doubt of the public perception to the contrary.

The amendment which has been pre-sented is necessary because of the deci-sion in the Buckley case, and it is im-properly characterized as an amend-ment to the first amendment of the U.S. Constitution. In my personal view, the first amendment to the U.S. Con-stitution is inviolate. Those words have stood this country tremendously well, and I would fight any effort to change the language of the first amendment. But a decision by the Supreme Court of the United States in inter-pretting the first amendment is not inviolate. It is not Holy Writ. These judgments are handed down by individ-uals who are serving as Members of Congress in the Senate, and they write opinions because that is their opinion as to what the first amendment means.
I submit that to say speech is equivalent to money is basically outrageous. But until that is changed and our Constitution requires that in the form of a constitutional amendment, it ought more accurately to be said that it is the Congress by a two-thirds vote backed up by the opinion of the State legislatures, three-fourths of which are necessary to have the amendment come through, that the opinion of the Supreme Court is not correct.

We are debating at the same time a constitutional amendment on the flag-burning issue. Here again, it is not the Constitution which says that in the first amendment a citizen or anyone has a constitutional right to burn a flag. But five Justices said in opinions the first amendment raises that implication. Four Justices said the first amendment did not raise that implication. They are opinions. With all due respect to the men and women who occupy the Supreme Court, with the columns lining directly up with the Senate Chamber, having participated in my tenure in eight confirmation proceedings, their opinions are not in viole. And their opinions are qualified. If our Constitution is written, they have the last word unless the provisions of the Constitution are followed to have a change and an amendment.

When the Constitution was formulated, the Congress was in the primary article I body. The executive branch came in in article II. The Court came in in article III. There is nothing in the Constitution which says the Supreme Court of the United States has the power to invalidate an act of Congress. There is nothing in the Constitution which says that. But the Supreme Court of the United States, in 1903, in a series of cases, in a series of Supreme Court decisions, in Brown v. Board of Education—perhaps some others—said that the Supreme Court had that authority. I believe it was a wise decision because someone has to have the last word. But their pronouncements are not statements from the tabernacles, from the Ten Commandants, or Holy Writ. They are their opinions. It is a very tough mountain to climb to raise that amendment. It is a very tough mountain to climb to have the amendment adopted because it brings together a coalition of people who do not have the sanctity of the amendment really misstating it as the sanctity of the opinions of the Justices.

Buckley v. Valeo was a split decision. Those individuals, institutions, agencies, are combined with the people who want to maintain the money chase for elective office the way it is at the present time, so there is no doubt it is a very tough proposition.

Go into the Cloakrooms of both parties and you find in common parlance the people who say they are for campaign finance reform really are not but say so because it will not pass. It is like the constitutional amendment for a balanced budget that requires 67 votes. There are people who say they are going to vote for it, but until it gets to 66, nobody will cast that 67th vote, so there is a fair amount of posturing on the issue before anything can be adopted.

It is important to focus on the fact that this provision, this amendment, this change in the opinions of the Justices of the Supreme Court in Buckley v. Valeo does not adopt any specific kind of change in the campaign laws. It does not say what will happen to soft money, it does not say what will happen to corporate contributions, it does not say what will happen to the union money, it does not say what will happen to money of millionaires or billionaires.

As we speak, there are campaigns underway for $25 million in one State in a primary. Is a seat in the Senate something that ought to be up for sale? I think $25 million for a primary is too high. Our seats ought not to be up for sale. There is too much of a public trust here for any individual to buy a seat in the Senate or the House of Representatives. That is the practical fact of life.

When the Supreme Court of the United States decided Buckley v. Valeo—and it is one of the most challenging opinions to read; it goes on for 128 pages of single-spaced opinions—the Court said at one point:

We agree that in order to preserve the provision against invalidation on vagueness grounds, section 608(e)(1) must be construed to apply only to expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for Federal office.

Then they have a footnote which says: The Constitution would restrict the application to communications containing the words of advocacy of election or defeat such as “vote for, elect, support, cast your ballot for, Smith for Congress, vote against, defeat, reject,” etc. et cetera.

That interpretation, on what is called express advocacy, has led to extraordinary approval of political advertisements, so-called “issue advertisements,” not regulatable by campaign finance and which can be paid for by soft money which corporations or individuals or unions or anyone can put up in large amounts—millions of dollars.

Let me read a couple of commercials from the 1996 election early on purchased with soft money, which really turned the election. This is not a Democrat issue or a Republican issue. Both sides comport themselves about the same.

This is a commercial for President Clinton’s reelection.

American values. Do our duty to our parents. Protect families. President Clinton’s plan meets our challenges, protects our values.

Could anybody with hearing and sanity say that is not an advertisement for President Clinton? The Supreme Court of the United States says it is not. That is an issue ad. Why? Because it doesn’t say “elect Clinton.” It doesn’t say “defeat Dole.” But it says President Clinton protects Medicare. It says Dole and Gingrich lied to raise taxes on 8 million citizens.

Try another one:

60,000 felons and fugitives tried to buy handguns—but couldn’t—because President Clinton passed the Brady bill—five-day waits, background checks. But Dole and Gingrich voted no. One hundred thousand new police because President Clinton delivered. Dole and Gingrich? Vote no, want to repeal ’em. Strengthen school anti-drug programs, President Clinton did it. Dole and Gingrich? No, again. Their old ways don’t protect America. President Clinton has a new way. Meeting our challenges, protecting our values.

Try this one on for size:

Protecting families. For millions of working families, President Clinton cut taxes. The Dole-Gingrich budget, which would raise taxes on eight million. The Dole-Gingrich budget would have slashed Medicare 270 billion. Cut college scholarships. The President defended our values, protected Medicare. And now, a tax cut of 1,500 a year for the first two years of college. Most community college are free. Help adults go back to school. The President’s plan protects our values.

That is not a commercial for President Clinton, that is an issue advertisement, so says the law of the land handed down by the Supreme Court of the United States. To say it is ridiculous or to say it is outrageous or to say it is nonsensical, to say it is stupid is an understatement. Those are the laws we are operating under now.

We face very determined opposition. I have had a lot of questions about myths and facts, arguments that the Constitution’s right to freedom of speech would be changed by what Senator Hollings and I and others are proposing. That is not so. It doesn’t deal with the right to freedom of speech under the Constitution. It deals with campaign contributions and campaign expenditures.

When you talk about a good bit of the legislation which is pending, it is working to do the job that is not enacted. Better to try than not to try, but if you are dealing with soft money, it is going to be rejected under the clear-cut language of Buckley v. Valeo on what is express advocacy contrasted with what is issue advocacy.

The only way to get this job done is to adopt an amendment. We call it a constitutional amendment, but it really is not a constitutional amendment. It is not a constitutional amendment because it does not seek to change the words of the Constitution. It does not seek to change the words of the first amendment. It seeks only to say the opinions of the Justices in a split Court...
We worked the full time. We worked the full months. We did not have January off and then another big break in February and another break in March and another break in April and another break in May-June and another break of a month in August. Why the breaks? The Senate is not going to raise the money for itself, you are supposed to go out and raise it for your colleagues. The whole process has been corrupted. Recognize it. We cannot get a bill. We cannot get debate. We cannot talk about it. We are not here on serious matters. We debated. The most deliberative body in the world was our reputation.

I do not bring up a serious matter unless it is fixed. We cannot produce a budget unless the vote is fixed in the Budget Committee, and when they can get it through it is late Thursday evening, when it is quite obvious some of the amendments are going to be adopted. The vote is fixed. The jury is fixed. There is no deliberation. They will bring that up, and then they have fixed time on it. Go to the leader and say: We want to take up the Y2K, and it takes 3 or 4 days; and he will look at you as if you are stupid: Don't you know better, we don't have time to deliberate, we don't have time to debate.

The system is corrupted. Get a life. Get along. Go out. Collect some money. After all, it is the money chase. We have to work for ourselves to stay in office or to keep our colleagues in office. That is the name of the game. Important issues, I can go down the list, but when they want money, oh, wait a minute, there is an exception. That sham, that fraud, that charade of Y2K. For 30 years, the computer industry has noticed of the year 2000. For 30 years, they all could have changed. They still have 7 months or so to change. There was a big debate. Why? Because the lawyers got the Chamber of Commerce to gin up Silicon Valley.

The gentleman from Intel told me they had a measure problem, and everybody else said there was not a real problem. But we had a problem. It was a money chase for getting Silicon Valley's money in Y2K, and the media covered it: How much Bush had received, how much Gore had received, how much this group had received, and we continue to invite Silicon Valley here for special sessions. We are really interested.

That is not middle America, and they are not going to vote to protect our industrial backbone. We admire their ingenuity and their talent. We are not jealous of the money. Let them all make millions. We just want our share.
The Court has forced a substantial amount of political speech underground, as contributors and candidates devise ever more elaborate methods of avoiding contribution limits, in which they now take no account of rising campaign costs. The preferred method has been to conceal the real purpose of the speech.

I issue advocacy, like soft money, is unrestricted, see Buckley, supra, at 42-44, while straightforward speech in the form of financial contributions paid to a candidate, speech subject to full disclosure and prompt evaluation by the public, is not. Thus has the Court's decision given us covert speech. This mock amendment.

That is what Justice Kennedy talks about. That is what I am talking about. Don't give me this: Freedom of speech and first amendment. A shocking thing it is with that black ink like the octopus, putting up all the billboards about the freedom of the press and how people want editorial writers to be equally Democratic and Republican—what kind of nonsense is all of that? And what about getting up and saying: All I want is for you to register and vote.

Quoting further:

The current system would be unfortunate, and suspect under the First Amendment, had it evolved from a deliberate legislative choice; but its unhappy origins are in our earlier decree in Buckley, which by accepting half of what Congress did (limiting contributions), and by allowing the other (lictional expenditures) created a misshapen system, one which distorts the meaning of speech.

The Senator from North Dakota said: Let's do it lightly. Let's don't amend the Constitution willy-nilly. I agree. But what about when you have a threat to the democracy, to the Republic itself, this corruption of the process here, where the Congress does nothing because of the money chase that we are in.

Quoting further:

The irony that we would impose this regime in the name of free speech ought to be sufficient ground to reject Buckley's wooden formula in the present case. The wrong goes deeper, however. By operation of the Buckley rule, a candidate cannot oppose this system in an effective way without selling out his candidacy in the name of free speech ought to be.

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We all have to sell out. I am running around trying to get money to help my colleagues right this minute.

Soft money must be raised to attack the problem of soft money. We have Vice President Gore. He got the message about the corruption. He said: The first thing I will do when I am your President is submit to Congress the McCain-Feingold bill.

The people are tired of this political mess up here. I am tired of being a part of it. I heard it throughout the land and again. The reason you hadn't heard about it is that they forbid a joint resolution from coming up. I studied the calendar and waited for a joint resolution so that my joint resolution won't be objected to on a point of order. It is finally in order and so we can hear it. But then I had to go along or else I wouldn't have had a chance to introduce it at all because then they would have brought the flag amendment up and the cloture vote.

So you bag around here, this most deliberative body, for an hour or 2 hours to get some work done and nobody is here. Nobody wants to be here because they are supposed to be out raising money and having fundraisers and billboards about the freedom of the press and how people want editorial writers to be equally Democratic and Republican—what kind of nonsense is all of that? And what about getting up and saying: All I want is for you to register and vote.

They tell me about the Washington Post; that crowd still calls the deficit a surplus. You tell me about the ACLU and all these other authorities running around and the scare tactics, that octopus defense, and the dark ink and all of those other irrelevant matters. We are talking sense. We are talking law. We are talking about what the Justices have just stated. There is no question we object to on a point of order. It is finally in order and so we can hear it. But then I had to go along or else I wouldn't have had a chance to introduce it at all because then they would have brought the flag amendment up and the cloture vote.

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They sure know embarrassment when they try to equate it with free speech, when they can jump on Vice President Gore and the Buddhist temple. The Christian right, that fellow Pat Robertson with the Christian right, I have had to face that insidious trick in all of us. I think that Bush has that crowd. I am glad it is out from under the radar.

Let me tell you, it has been going on. I wish Senator McCain had had a chance to get organized in the State of Arizona that way. I wish he had. You have to sort of out-organize it. But they had Ralph Reed in there, and he had been working in there since last June. He had it all greased.

They had the poor Senator from Arizona's family in the Mafia. They had him fathering illegitimate children. And he was in prison. They had him getting along with the North Vietnamese and going against the veterans. They had more dirty rumors—totally baseless. They think of it. I mean, you never heard such things. He had no chance.

The Christian right and Pat Robertson: They come on Sunday. They brag. I can show you the statement, 75 million leaflets. They confer out and give them out to the church on Sunday morning. They distort your record, and everything else of that kind. You cannot answer because the vote is on Tuesday.

He said he spent $500,000 carrying Virginia for George W. Bush. Pat Robertson, he gets respect. He's on TV. We think that is great. He is a bum, I can tell you. I know him. I knew his father. He is a real gentleman. Willie Robertson was one of the finest gentlemen you would ever meet. That fellow is a scoundrel, whining and weaseling and dealing around.

But then, of course, the poor Buddhists, they want to get in the act. There is nothing wrong with the Buddhists getting in the act. They tell me now what had happened is that this young lady, she had gotten contributions from everybody and then reimbursed them. They found her guilty of the—what?—contributions, not of free speech.

See, when we find Johnny Huang guilty, that is in violation of the contribution law. That is not free speech. That is money. Oh, boy, I wish I was a lawyer before that with that crowd. When they held the committee here with Charlie Trie, we had the Governmental Affairs Committee conduct the activities. I do not know how many months, but 70 witnesses, 200 witness interviews, 196 depositions under oath, 418 subpoenas. In a final report published in 1998 with six volumes, 9,575 pages—about contributions, not free speech.

But now this afternoon, we pushed that. And the Senator from Texas says, You Democrats have all the labor unions and we have the corporate money. However, in South Carolina, I don't have either one. So let me give you George W. Bush's statement on soft money, because he's an authority on the subject.

This is on January 23. George Will, questioning Governor Bush:

In which case would you veto the McCain-Feingold bill? the Shays-Meehan bill?

Governor Bush:

That is an interesting question. Yes. I would. And the reason why is two for one. And I think it does restrict—

I am quoting it verbatim here as written:

—free speech for individuals. As I understand it, the Shays-Meehan bill was written that there has been two versions of it. But as I understand, the first version restricted individuals and/or groups from being able to express their opinion. I've always said that I think corporate soft money and labor union soft money— which I do not believe is individual free speech, this is collected free speech—ought to be banned.

We have Vice President Gore. He got the message about the corruption. He said: The first thing I will do when I am your President is submit to Congress the McCain-Feingold bill.

The people are tired of this political mess up here. I am tired of being a part of it. I heard it throughout the land and again. The reason you hadn't heard about it is that they forbid a joint resolution from coming up. I studied the calendar and waited for a joint resolution so that my joint resolution won't be objected to on a point of order. It is finally in order and so we can hear it. But then I had to go along or else I wouldn't have had a chance to introduce it at all because then they would have brought the flag amendment up and the cloture vote.

So you bag around here, this most deliberative body, for an hour or 2 hours to get some work done and nobody is here. Nobody wants to be here because they are supposed to be out raising money and having fundraisers and billboards about the freedom of the press and how people want editorial writers to be equally Democratic and Republican—what kind of nonsense is all of that? And what about getting up and saying: All I want is for you to register and vote.
the press. This amendment doesn’t use the word “speech.” It says “contribu-
tions.” It is money. That is exactly what we have controlled throughout
and that is what is intended.

The Senator from Alabama, Mr. Sess-
sions, stood up there and started read-
ing this. He said that is limiting
speech. It is not limiting speech. You
can’t limit speech. But you can limit
the freedom of the contributions. You
and I know that. That is what we are
trying to do.

Under the 1974 act that computed
spending limits by the number of reg-
istered voters, Senator Thurmond
and I would have had $670,000. Double that to
a million or a half a million dollars. That
is a gracious plenty. When I first ran
for office I ran against a mil-
lionaire—a most respected gentleman,
but he had the money. But we out-
worked him, just like we out-organized
my opponent the year before last in
South Carolina. That is why I am still
here and able to talk.

I don’t buy cars in campaigns, but it
was suggested that a lot of other can-
didates do. They rent, lease, and then later buy a piece of property, all
of that is not freedom of speech. That
is money. It is contributions. It is
where you ought to try to control the
spending limits so we don’t become a
bunch of millionaires and instead go
back to what Russell Long said: Every
mother’s son would be able to run for
the highest office in the land.

I could go on and on. The afternoon
is late. To reaveal the first amendment, the Senator from Kentucky and said,
read that word, that is to “repeal” the
first amendment. Now, if you believe
that, you go ahead and vote against
this. But you know and I know, it is to
repeat the corruption. That is vast.
I am about: I am trying to repeal the
corruption. I am trying to get back to
the original intent. Yes, you might say
we had 38 votes. I remember when we
had 52 votes, a majority, for this. I re-
member when I had a dozen Republican
co-sponsors.

I admire my colleague from Pennsyl-
vania for sticking with me on this,
making it bipartisan. But I don’t know
of another one over there, because they
give not been disciplined and put right
into the trough and told: You stick
with us. This is a party vote, and this
is it. It is freedom of speech and don’t
you forget it?

It is not freedom of speech. It is
money. We are trying to control the
purchase of the office. We are trying to
correct the corruption. We are trying to
get back to our work on behalf of the
people, which is very difficult to do
with many interest groups out there
now on Senator Sessions, and I agree
with you, and I want to limit and for
how long your money will take you. If
you do not have the money, you have
the right to get lockjow, shut up, and
sit down, that ends it, because 85 per-
cent of your money goes to television
and you are not there.

The people do not know you are in
the race. They keep talking about re-
pealing the first amendment.

I have gone down five of the last six
amendments; all had to do with elec-
tions, less important than this corrup-
tion to be corrected, far less a threat.
I admit, recognize, agree with the Sen-
ator from North Dakota that we should
not be doing it lightly. If it was only a minor
problem, whereby we could merely pass
a statute, I would do it. But all of these
statutes, McCain-Feingold, as the Sen-
ator from Kentucky has contended with
time. It is unconstitutional. You can tell from reading this
most recent decision on soft money
how they are equating everything with
speech. You can see how they have im-
munized their mistake from change.
Those are not my words. Those are Jus-
tice Kennedy’s words. They have “im-
munized” their mistake from change.
So we have to have a constitutional
amendment. This is written very care-
fully, very reasonably, where we don’t take sides one
way or the other, whether you are for
or against McCain-Feingold, whether you are for or against free TV time,
whether you are for or against public
financing, whether you are for or
against your idea you have on campa-
ign finance. This will constitu-
tionalize it so we can quit this sham of
beating around the bush. It is hit and
run driving with a, yes, I am for free,
knowing good and well that the
Court is going to throw it out when it
gets there. So we can find out who is
who and what is what. I understand
that this corruption should cease.

I want to complete the thought I was
making with respect to various com-
ments of the Senator from Washing-
ton, Mr. Gorton, who said they are being
denied under the Hollings amend-
ment the right to speak at all. Not so. The
right to speak at all. Not so. The
right to speak at all. Not so. The
denied under the Hollings amend-
ment; namely, the Hollings-Specter amend-
ment. This is written very care-
fully, very deliberately, and very rea-
sibly, where we don’t take sides one
side. It is not freedom of speech. It is
freedom of speech and don’t you
forget it.

Although I myself am not under investiga-
tion, I will of course cooperate fully.”

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Sasser and former Tennessee congressman
Gore campaigns in 1992 and 1995, and the Sen-
ate is aware that companies reimbursed
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The indictment charges that Haney
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was not named in the indictment, in-
structed company employees to make
contribution payments of $86,500, said
in the donor cards themselves and then
wrote Haney Company checks to re-
burse the employees.

I ask unanimous consent that the en-
tire article be printed in the RECORD.

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recent testimony before the Senate Commerce
oversight subcommittee, Sasser de-
picted Haney as someone eager to show his
credentials around Washington by hiring people like Sasser and long-time Democratic fund-raiser Peter Knight. Wednesday’s indictment also describes someone who was willing to violate the law in order to make good on his pledge to raise $50,000 for the Clinton-Gore committee.

The indictment charges that Haney and his administrator, who was not named in the indictment, instructed company employees to make contributions of $1,000 apiece, filled out the donor cards themselves and then wrote Haney Co. checks to reimburse the employees.

Justice Department officials indicate they discovered this illegal contribution scheme when Haney came on their radar screen because of reports concerning his hiring of Knight and Sasser. They represented him in efforts to obtain a government lease and private financing for the Portal’s office complex here.

House Republicans have charged that the fees paid by Haney, $1 million to Knight and $1.8 million to Sasser, may have been illegal contingency fees. Government contractors may not pay lobbyists based on whether a contractor wins the contract. Justice Department officials continue to investigate the Portal’s lease.

Campaign finance experts say illegal corporate contributions are seldom discovered unless a company employee blows the whistle or the company comes under scrutiny for another matter.

“It’s a scheme which is extremely difficult to uncover,” said Ellen Miller, executive director of Public Campaign, a group which supports public financing of campaigns.

Gary Burhop, the lobbyist for Memphis-based Harrar’s Inc., said he doubts it’s a frequent practice.

“If it happens, it happens more out of ignorance than a desire to violate the law,” said Burhop, based on his observation of cases before the Federal Election Commission.

Larry Sabato, a University of Virginia political scientist who has studied campaign finance laws for 25 years, said he doesn’t believe the practice “is widespread, but I don’t think they catch everybody who does it, either. It’s very difficult to catch unless somebody snitches. You have a know who to target.”

Haney’s indictment was the second brought by the campaign finance task force. On September 30, Mark Jimenez, then a Miami officials to Miami-based limestone, was charged with funneling $23,000 into the Clinton-Gore campaign, and $16,500 into four other Democratic campaigns, from his company and another controlled by a relative.

Two companies have been prosecuted by local U.S. attorneys for using straw donors to make illegal contributions to the 1996 presidential campaign of former Kansas Republican Bob Dole.

Simon Fireman, a national vice chairman of Dole’s campaign, funneled $100,000 into Dole’s campaign using employees of his company, Aqua Leisure Industries of Avon, MA. He paid a $6 million fine.

Empire Sanitary Landfill of Scranton, PA, pleaded guilty to contributing $110,000 to Dole and other Republican campaigns through employees and paid an $8 million fine.

Independent counsel Donald Smaltz was appointed to investigate Mike Espy, but his four-year probe has produced six convictions for illegal corporate campaign contributions.

In one case, lobbyist Jim Lake arranged for $90,000 to the 1994 Mississippi congressional campaign of Espy’s brother, Henry Espy, and then padded his expense account to get the money back. He was fined $150,000 and ordered to write and send descriptions of the campaign finance law to 2,000 lobbyists.

In another, New Orleans attorney Alvarez Ferrouilet was sentenced to one year in prison for disguising $20,000 in illegal contributions to Espy.

The other cases have resulted in fines of $1.5 million against Sun-Diamond Growers, $480,000 against Sun-Land Products, $80,000 against American Family Life Assurance Company, and $2 million against Crop Growers Corp.

Mr. HOLLINGS. Mr. President, this is the pertinent part.

Simon Fireman, a national vice chairman of Dole’s campaign, funneled $100,000 into Dole’s campaign using employees of his company, Aqua Leisure Industries of Avon, MA. He paid a $6 million fine.

Empire Sanitary Landfill of Scranton, PA, pleaded guilty to contributing $110,000 to Dole and other Republican campaigns through employees and paid an $8 million fine.

Independent counsel Donald Smaltz was appointed to investigate Mike Espy, which we all know about. I don’t happen to Haney, or whether or not he was found innocent. But let’s assume so. I am not trying to disparage. I am just trying to say here is the corruption that actually goes on.

In one case, lobbyist Jim Lake arranged for a $5,000 contribution to the 1994 Mississippi congressional campaign of Espy’s brother and then padded his expense account to get the money back. He was fined $150,000 and ordered to write and send descriptions of the campaign finance law to 2,000 lobbyists.

Another New Orleans attorney, Alvarez Ferrouilet, was sentenced to 1 year in prison for disguising $20,000 in illegal contributions to Espy.

The other cases have resulted in fines of $1.5 million against Sun-Diamond Growers, $480,000 against Sun-Land Products, $80,000 against American Family Life Assurance Company, and $2 million against the Crop Growers Corporation.

This corruption is rampant, and you can’t stop it unless you get this constitutional amendment. Everyone understands what Justice Kennedy said—that you are not going to have this covert speech. You are not going to have contributions by employees, because the name of the game is—I know because I ran for President. I know one State that I believe I could have taken, but the one who succeeded in taking it spent $100,000 for the election. It was 2 years later they found out that he spent over the limit. That was the end of that.

What I am saying is, we can’t control this. It is a Federal election campaign practices commission because it is all ex post facto. It is lost in the past.

This has been going on, particularly with you and I serving in the Senate. We can’t talk sense, we can’t debate, we can’t get measures up, and we can’t deliberate because we have been corrupted by the money chase.

Mondays and Fridays, gone; Tuesday morning, gone; windows here and there and yonder for lunches, dinners, fund raisers, breaks now every month of the year. They can raise some more money, and we are not getting the work of the people done.

I was here when it worked, when we met at 9 o’clock on Monday morning. Nobody was here at 9 o’clock this Monday morning. Nobody was here at 9 o’clock this Monday morning. Nobody was here at 9 o’clock this Monday morning. Ask Senator BYRD. He remembers. He knows how hard we worked in those days when he was leader.

But the system and the Buckley v. Valeo cancer are overtaking all of us. We are all part of it. I have asked for windows, and I have had to chase at holidays. I continue to do so. I am saying to myself and to all of us that it is time we sort of fess up and understand that this has to stop. We have to start working on behalf of the people and not ourselves. Let’s do away with the corruption. Let’s get back to the original intent of Buckley v. Valeo, which was totally bipartisan and overwhelmingly passed. That was to limit spending or stop the buying of the office.

We had that enough in 1978, which I explained because I know what was called upon in cash monies in my particular State. It was listed all over the country. Connolly asked the President, and he went down to collect. They put up with Dick Tuck in the Brinks truck as it turned into the ranch in order to have the barbecue so the President could thank his contributors whom he had not even met.

We all were so embarrassed. It is bad when there is not even any embarrassment in this body. The corruption is exacerbated. I learned that word having come to Washington—exacerbated. I learned that word having come to Washington—exacerbated. I learned that word having come to Washington—exacerbated. I learned that word having come to Washington—exacerbated. I learned that word having come to Washington—exacerbated.

I yield back the remainder of our time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The time is 2:45 o’clock. Senator Sessions?

Mr. SESSIONS. 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. SESSIONS. Mr. President, on behalf of the leader, it is the leader’s hope and intention to have a final vote on the pending concurrent resolution before the Senate adjourns on Tuesday, March 28. However, if a consent agreement cannot be reached, a cloture vote will be necessary on Wednesday morning. With that in mind, I send a cloture motion to the desk and ask for its immediate consideration.
The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

**CLOTURE MOTION**

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 98, S. J. Res. 14, an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

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

**MORNING BUSINESS**

Mr. SESSIONS. Mr. President, I ask consent there be a period for the trans- action of routine morning business with Senators permitted to speak for up to 10 minutes each.

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

**THE OIL CRISIS**

Mr. MURKOWSKI. Mr. President, there has been a great deal of anticipa- tion today on what OPEC might do. For those of you who do not recall the sequence, several weeks ago, our Sec- retary of Energy went over to OPEC, encouraging them to increase produc- tion. The concern was that we were approaching a point of dependence on imported oil. A good portion of that came from OPEC. As we saw with the Northeast Corridor crisis on heating oils, there was concern over the avail- ability of adequate supplies of crude oil. It appears that we are using some- where in the area of 2 million barrels a day more in the world than we are being produced currently. That sent a shock through the oil marketers and re- sulted in our Secretary going over to OPEC and meeting with the Saudis and urging them to increase production.

They indicated they were going to have a meeting on March 27, which is today, and would respond to us at that time. The Secretary indicated that this was a dire emergency, that the prices were increasing and the East Corridor was looking at oil prices in the area of nearly one and a half dollars and he needed relief now. The OPEC nations—particularly the Saudis—indicated they would address it at the March 27 meet- ing. So far, the Secretary was somewhat stiff-armed.

Well, the Secretary, as you know, went to Mexico and encouraged the Mexicans to increase production. The Mexicans listened patiently, but they reminded the Secretary that last year when oil was $10, $11, $12, $13 a barrel, and the Mexican economy was in the bucket, where was the United States?

The Secretary indicated we would help Mexico, but only if they were ensur- ing that they would be bailed out. But to make a long story short, we didn't get any relief from Mexico.

Well, today, we didn't get any relief from OPEC. They would address it tomorrow. So the question of whether or not we are going to get re- lief, I think, points to one thing: We have become addicted to imported oil. We are like somebody on the street who has to have a fix. The fix is more imported oil. And when the supply is disrupted, we look at what it takes to get more.

Well, it takes maybe a higher pay- ment, a shortage of supply. It makes the price go up. That is the position we are in. I encourage my colleagues to look very closely at what OPEC does tomorrow—indeed, if they do anything—because what they have been doing so far is cheating. Who have they been cheating on? They have been cheating on themselves at increased cost because last year they agreed to cut production. They devel- oped a discipline within OPEC to cut production back to 23 million barrels per day. But they did not keep that commitment. They are currently pro- ducing 24.2 million barrels a day. That is about 1.2 million over the agree- ment.

So if they come up tomorrow and an- nounce they are going to come out with a million and a half barrels a day increase, that isn't a million and a half barrels net; the net is 300,000 barrels a day. So we better darn well look at that arithmetic. If they come up with 2 million barrels a day, that is relief, in a sense. But if our demand increase has been a million and a half barrels a day in addition, and I did not take into account my rhetoric. Remember, we are not the only ones in the world who consume oil from OPEC. Those other countries are going to have to share in whatever increased production comes out.

So it is indeed a rather interesting dilemma that we find ourselves in as we now are dependent 56 percent on im- ported oil. I encourage my colleagues to look at what OPEC does tomorrow. They tell us that in the years from 2015 and 2020, we will be 65-percent dependent on imported oil. Well, some people say you learn by history. Others say you do not learn very much. Obviously, we have not learned very much.

There is one other factor I think the American people ought to understand. Where has our current increase been coming from? It has been coming from Iraq. Last year, we imported 300,000 barrels a day currently from Iraq. Today, we are importing 700,000 barrels a day from Iraq. Today, the Department of Com- merce lifted some sanctions off of Iraq to allow the Iraqis to import from the United States certain parts so they could increase—these are refinery parts—refining capacity by 600,000 bar- rels a day in addition.

So here we are, importing 700,000 bar- rels a day currently from Iraq. Some people forget we fought a war over there not so many years ago—in 1991. What happened in that war? We lost 147 American lives; 423 were wounded in action, and we had 26 taken prisoner. In addition, the Saudi taxpayer took it. Where did he take it? He took it in the short term because since the end of the Persian Gulf war in 1991, just to contain Saddam Hussein and keep him within his boundaries, the cost of en- forcing the no-fly zone and other things is costing the American tax- payer $10 billion.

So here we are today looking at OPEC for relief, allowing them to get parts for their refineries so they can increase production. Here we are depend- ing and begging and passing the tin cup for OPEC production. The an- swer lies in decreasing our imports on foreign oil and, as a consequence, pro- ducing more oil and gas in the United States. We can do it safely. We have the American technology. We have the overthrust belt, the Rocky Mountains, Colorado, Wyoming, Utah, Montana, Louisiana, Texas, those States that want OCS activity.

My State of Alaska is perfectly capa- ble of producing more oil. We produce nearly 20 percent of the total crude oil; it used to be 25. We have the tech- nology. We know how to open up the Arctic areas and add more crude oils and the character of the land are protected because we only operate in the wintertime. Our roads are ice roads. They melt in the spring. There is no footprint. If there is no oil there, there is no footprint of any kind. We can do that in those areas. But as a consequence, we have to look for a solu- tion.

I hope my colleagues really pick up on this. If OPEC does increase produc- tion, there are going to be those who claim victory, that we got relief. But it is going to be a hollow victory because that victory simply says our Nation be- comes more dependent on imported oil. I think most Americans are waking up to the reality that that is a very dan- gerous policy. To suggest we got caught by surprise—I will conclude with two little notes. In 1994, Secretary of Commerce Brown requested that the independent petroleum producers do an evaluation on the national energy se- curity of this country and came to the conclusion that we were too dependent on imported oil.

Last March, Members of the Senate wrote a bipartisan letter to the Sec- retary of Commerce, Secretary Daley, asking for an evaluation on the na- tional security interests of our country relative to our increased dependence on imported oil. He released that report in its entirety on Friday. He sat it on his assistant's desk until Friday. They finally re- leased it in a brief overview. The con- clusion was that we have become too
dependent on imported sources of oil and it affects the national security of this country. What do they propose to do about it? They don't have an answer.

I will talk more on this tomorrow when we have further information on OPEC.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, March 24, 2000, the Federal debt stood at $5,730,876,091,058.27 (Five trillion, seven hundred seventy-six million, ninety-one thousand, five hundred eight dollars and twenty-seven cents).

One year ago, March 24, 1999, the Federal debt stood at $5,645,339,000,000 (Five trillion, six hundred forty-five billion, three hundred thirty-nine million).

Five years ago, March 24, 1995, the Federal debt stood at $4,846,988,000,000 (Four trillion, eight hundred forty-eight billion, nine hundred eighty-eight million).

Twenty-five years ago, March 24, 1975, the Federal debt stood at $505,309,000,000 (Five hundred fifty billion, three hundred nine million).

The old century came to an end and the United States, its armed services triumphant from victory in a splendid little war over a technologically inferior adversary, as it was naive and thoughtless to take the major military and economic powers of the world. A former assistant secretary of the Navy, who became a national hero in that war, former Secretary of the Navy, then a young president and use his bully pulpit for, among other things, the building of a Great White Fleet that was the first step in making the United States a naval power "second to none."

That former assistant secretary, later president, Theodore Roosevelt, was a shrewd judge of human nature and a life-long student of American history. He knew that most of his fellow Americans had little if any interest in foreign affairs, or in national-security issues in general. Roosevelt himself was a staunch advocate of the seapower principles postulated by Alfred Thayer Mahan, whom he greatly admired. So to remedy the situation he helped found the Naval League of the United States in 1901, contributing significant financial as well as moral support.

There were many, of course, in the Congress and in the media—indeed, in Roosevelt's own cabinet—who were not sure that the Great White Fleet was needed. It cost too much and, despite its fine appearance, would have little if any practical value for a nation unchallenged in its own hemisphere and unlikely ever to send its sons to fight in Europe's wars. Roosevelt, however, had learned—what one-sided "war" lasted much longer than originally estimated, though. It did not "stop the killings" of ethnic Albanians, the original purpose of the war. And it left Slobodan Milosevic still in power in Belgrade.

It is perhaps inevitable that political leaders will focus almost exclusively on the "victories"—however fleeting and gosamer—that can be claimed. The prudent military commander, though, will focus on the problem areas, the near-defeats and potential disasters, the "What-ifs" and the close calls. There were an abundance of all of these in Kosovo last year—just as there were in the war with Iraq in 1990-91.

Logistics is the first and perhaps most important of those problem areas—and the biggest "What if" as well. In both conflicts, in the war with Iraq the question was "What if" as well. In both conflicts, in the war with Iraq the question was "What if Slobodan Milosevic had invades Kuwait but continued into Saudi Arabia and all the way to Riyadh?" The answer—on this, virtually all military analysts agree—is that the war would have lasted much longer and would have cost much more in both lives and money. As it was, it took the greatest sealift ever. It cost a nuclear shadow over the entire world. Moreover, the young Americans in the new millennium, those forces are the most powerful, most mobile, and most versatile in the world. Moreover, the men in service today are the best-trained, best-equipped, and best-prepared in this nation's history. But that does not mean that they are capable of carrying out all of the numerous difficult and exceedingly complex missions they have been assigned. The victories of the past do not guarantee the future and the future conflicts. And it is not foreordained that the so-called "American century" that has now ended will be extended by another uninterrupted period of U.S. economic and military dominance.

Operation Allied Force, the U.S./NATO air war over Kosovo, is a telling point. The precision strikes against Serbian forces, against the civilian infrastructure of the former Yugoslavia, eventually led to the withdrawal of Serbian troops from Kosovo and the occupation of that battered province by U.S./NATO and Russian peacekeepers. The one-sided "war" lasted much longer than originally estimated, though. It did not "stop the killings" (of ethnic Albanians), the original purpose of the war. And it left Slobodan Milosevic still in power in Belgrade.

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forces accomplished their mission (belatedly), and ground forces did not have to be brought in. It was a close call, though—more so than is generally realized—and the end result was a bipartisan effort to good fortune in the most uncertain and vulnerable part of the world. The ports in the area that might have been available to U.S./NATO shipping were few in number, inefficient, and far from the operating areas of the surface ships and submarines involved. The Heritage Group concluded, as have numerous other studies, that a continuous presence in the most likely areas of conflict is going to require a large number of ships, possibly at least a dozen. 

Nightmares aside, there are other problems, however. For example, the operating tempo is the highest it has been in a generation. In recent years we have learned that in large measure the ships have been considerably overworked, a spare parts shortage has developed, and the maintenance workload has increased significantly, with limited resources to deal with it.

In today's fast-paced era of naval warfare, the Logistics Support Group (LSG) being the principal building block for the nation's air-sea nuclear-missile submarine force continues to be the dominant and most survivable leg of the U.S. strategic-deterrent “triad” of SSBNs, manned and unmanned intercontinental ballistic missiles. There are now 18 Trident SSBNs in the active fleet, but only 14 are likely to be needed in the future. The proposed conversion of the 4 SSBNs (nuclear-powered guided-missile submarine) configuration of the four SSBNs now slated for deactivation would add significantly to the Navy's ability for survivability and compensate for some of the reduced capabilities, in particular for surface managers.

There is more: The U.S. defense structure has suffered, therefore, and there has been a steady decline in the size— and, therefore, responsiveness—of the vital U.S. defense infrastructure. See Table 1. 

Exacerbating the ship-numbers problem is the fact that, because hundreds of Cold War U.S. air and ground bases overseas have now been closed, and hundreds of thousands of troops have returned to CONUS (the Continental United States), a much heavier share of the future burden is being shouldered by the Navy's forward-deployed carrier battle groups (CVBGs) and Navy/Marine Corps amphibious ready groups (ARGs). In many areas of the world the CVBGs and ARGs are now the only combat-ready forces immediately available to the national command authorities. The difficulties imposed on Navy carriers are particularly heavy. The Joint Chiefs of Staff have told Congress that a minimum of 15 active-fleet carriers are needed to maintain a continuous presence in the most likely areas of international crisis—i.e., the Persian Gulf, the Mediterranean, and the Western Pacific (particularly the waters off the Korean Peninsula). More recently, in the Taiwan Strait between the People's Republic of China on the mainland and the Republic of China on Taiwan). With only 12 carriers now available—11 in the active fleet and one reserve carrier used primarily for training purposes—the Navy has had to adopt a "gap-filling" strategy in which more of the "hot spots" without a carrier for several weeks, or sometimes months, at a time. In today's fast-paced era of naval warfare, the Joint Chiefs of Staff by the regional commanders in chief, more than 70 SSNs are needed to meet all of the Navy's worldwide commitments—but there will only be 50 available unless the QDR levels are revised upward. This could pose major risks in areas where unmanned missiles and friendly aircraft make it difficult for carriers and other surface ships to operate close to the littorals.

The Navy's fleet of nuclear-powered attack submarines (SSNs) is the best in the world, but also undersized to meet all current as well as long-range requirements. According to force requirements provided to the Joint Chiefs of Staff by the regional commanders in chief, more than 70 SSNs are needed to meet all of the Navy's worldwide commitments—but there will only be 50 available unless the QDR levels are revised upward. This could pose major risks in areas where nuclear-missile submarine forces make it difficult for carriers and other surface ships to operate close to the littorals.

The various problem areas enumerated above have been summarized and anticipated in a report on current and future Navy needs submitted to the Quadrennial Defense Review. Independent defense analysts say that a more realistic estimate of the future workload of the fleet's various systems requires more research in how the fleet is operated.
the Coast Guard itself has taken the initiative by developing a so-called IDS (Integrated Deepwater System) plan that, if fully funded, would permit an orderly and cost-effective replacement of aging cutters, and other assets over a period of years. Failure of the executive and legislative branches of government to support and fully fund that plan would imperil the Coast Guard's enhanced effectiveness—and would cost the American people in numerous ways.

Even as Americans recognize how dependent the United States is on the U.S.-flag Merchant Marine for national defense and its continued economic well-being, in times of war or international crises that might arise, whether the United States is in a position or not to project weapons, supplies, and equipment needed by U.S. forces overseas must be carried by ship—usually over thousands of miles of ocean. It could not be a military folly to rely on foreign-flag shipping to carry that cargo.

Most innovations in the maritime industries—e.g., containerization, LASH (lighter aboard ship) vessels, and ROROs (roll-on/roll-off ships)—have been of American origin, and the United States has been the greatest trading nation in the entire world. Literally millions of U.S. jobs, and billions of tax dollars, are generated by the import and export of raw materials and finished products into and out of U.S. ports.

The port infrastructure itself is badly in need of renovation and modernization, however. The current U.S. system is not capable of handling economic policies, U.S.-flag ships today carry only a minor fraction of America's two-way foreign trade. The result is the loss of thousands of seafaring jobs, significantly reduced U.S. sealift capacity, and a Merchant Marine that is now in extremis.

The Maritime Security Program was a helpful first step toward recovery, but it will take many years, perhaps decades, before the U.S.-flag fleet can regain its traditional role as the "vital Fourth Arm" of national defense.

Additional funding, and a larger force structure, will resolve or at least ameliorate some of the most difficult problems now facing the nation's armed services, not only in procurement and RDT&E (research, development, test, and evaluation) but also in readiness. New equipment, brought aboard with a lower operating tempo and higher pay, would in turn have a salutary effect on both recruiting and retention.

The intractable problems, though, that all the money in the world will not resolve—and that should be of major concern not only to the nation's armed services and defense decision makers, but to all Americans. The most difficult and most obvious of these problems is the proliferation in recent years of weapons of mass destruction (WMDs), specifically chemical, biological, and nuclear weapons. These weapons, of course, are actually used by terrorists. The only real question here is "if," but "when.

There are other dangers, other problems, other crises. There is an unprecedented threat. Not, that is, until the 20th century, when it became clear that, once aroused to action, the American people can and will unite to defeat any enemy, no matter how long it takes or how much it costs. That history also shows that it takes more than education and persuasion to unite the American people. It takes sudden and painful shock.

The problem here is that, in the past, the nation always had time to recuperate from its initial losses, and even from a Pearl Harbor. That may no longer be the case. There now is a new bipartisan consensus that the United States should build and deploy a national-mission-defense (NMD) system as soon as "practicable." If that consensus had existed several years ago the need today might not be so urgent. As it is, relatively few Americans realize that the United States is still absolutely vulnerable to enemy missile attacks. Another way of saying it is that not one U.S. missile-defense system has yet been deployed that could shoot down even one incoming enemy missile. That is a sobering thought.

The old axiom says that leadership "begins at the top," in a democracy that is not entirely true. If the American people demand a certain course of action loud enough and long enough, the elected "leaders" in the executive and legislative branches of government almost always will follow. In the field of national defense the American people have demanded very little in recent years, and, with a fortitude that is exactly what they have provided.

In his prescient "Prize Essay" (The Foundation of Naval Policy in the April 1941 Naval Institute Proceedings), Lt. Wilfred J. Holmes argued persuasively that the size of the fleet (and, by implication, the size and composition of all naval/military forces) should always be consistent with national policy. "Failure to adjust the size of navies to the needs of external [i.e., national] policy...can only corruptly endanger our national policy." He argued that "the fleet, the aircraft carriers in areas of potential crisis is an invitation to disaster—and, therefore, represents culpable negligence on the part of America's defense decision makers. Eventually, a very high price will have to be paid for these many long years of national lethargy, for the massive underfunding of the Navy's "starship" for the continued mismatch between commitments and resources. When that time comes—sooner or later—many more Americans may well be the darkest day in this nation's history.

Is there still time to reverse course? Perhaps. But not much time. And the leadership may well be those who hold high office in Washington, but from the American people themselves.

If they do provide that leadership, there will indeed be another American century. It will not be another century of violence, but of peace. Peace on earth, for all mankind.

Mr. McCAIN, AN AMERICAN HERO

Mr. CLELAND. Mr. President, I want to take this opportunity to salute my dear friend and colleague, the distinguished Senator from Arizona, John McCain. Although he has suspended his campaign for President, I should nonetheless know that he has scored a great victory in American electoral politics. More so than any other candidate in recent memory, Senator McCain has beaten two of the greatest enemies facing our political system in the twenty-first century—apathy and cynicism. We should all be grateful to him for reminding Americans that "politics" is not a dirty word, that campaigns can be about more than 30 second sound bites, and that heroes can win. We in the Senate should all feel proud to call him one of our own.

I think I and the four other Vietnam veterans in the Senate feel a particular kinship with Senator McCain, for obvious reasons. I have had an experience like combat without being profoundly affected. You recognize a change in yourself when you come home, and you recognize it in others when you meet them for the first time. You are brothers. We are brothers. But how much more reasonable is it than to be asked to support Senator McCain so strongly? Why did the "Straight Talk Express" appear every night on the evening news? Why did so many people want to see Luke Skywalker emerge out of the Death Star? I believe it is because John McCain reacts to challenges the way we wish we would ourselves, but fear we might not. He remained in the Hanoi Hilton for seven years with his fellow P.O.W.'s even though he could have saved himself and his country. He campaigned for the Senate and the presidency for reminding Americans that politics is not a dirty word, that campaigns can be about more than 30 second sound bites, and that heroes can win. That may no longer be the case. There now is a new bipartisan consensus that the United States should build and deploy a national-mission-defense (NMD) system as soon as "practicable." If that consensus had existed several years ago the need today might not be so urgent. As it is, relatively few Americans realize that the United States is still absolutely vulnerable to enemy missile attacks. Another way of saying it is that not one U.S. missile-defense system has yet been deployed that could shoot down even one incoming enemy missile. That is a sobering thought.

The old axiom says that leadership "begins at the top," in a democracy that is not entirely true. If the American people demand a certain course of action loud enough and long enough, the elected "leaders" in the executive and legislative branches of government almost always will follow. In the field of national defense the American people have demanded very little in recent years, and, with a fortitude that is exactly what they have provided.

In his prescient "Prize Essay" (The Foundation of Naval Policy in the April 1941 Naval Institute Proceedings), Lt. Wilfred J. Holmes argued persuasively that the size of the fleet (and, by implication, the size and composition of all naval/military forces) should always be consistent with national policy. "Failure to adjust the size of navies to the needs of external [i.e., national] policy...can only corruptly endanger our national policy." He argued that "the fleet, the aircraft carriers in areas of potential crisis is an invitation to disaster—and, therefore, represents culpable negligence on the part of America's defense decision makers. Eventually, a very high price will have to be paid for these many long years of national lethargy, for the massive underfunding of the Navy's "starship" for the continued mismatch between commitments and resources. When that time comes—sooner or later—many more Americans may well be the darkest day in this nation's history.

Is there still time to reverse course? Perhaps. But not much time. And the leadership may well be those who hold high office in Washington, but from the American people themselves.

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HEROES OF THE STORM

Mr. CLELAND. Mr. President, it is with great pride that I come before my colleagues today to pay tribute to the many brave Georgians who pulled together to support one another in the aftermath of the devastating tornadoes that hit Southwest Georgia earlier this month. On Valentine’s day, February 14th, the town of Camilla, Georgia was hit by a series of brutal tornadoes that took the lives of nearly twenty people. This storm caused not only terrible damage—destroying homes and businesses—but it tested the limits of residents across the Southwest portion of the state. It has been said that “Poor is the nation which has no heroes. Poorer still is the nation which has them, but forgets.” When the storm calmed, true heroes emerged and they should be recognized.

I ask that I may be able to insert into the Congressional Record a list of individuals, organizations, and area businesses that made all the difference in preparing the people of Mitchel, Grady, Colquitt, and Tift counties for recovery from this tragic event. This list reflects only a portion of the many groups and individuals who reached out to our communities in their time of need. There are others who are often lost in the shuffle, whose movements and actions did not attract the media’s spotlight. From the children who doated their own toys, to the families who reached into their savings, to the people who opened their doors for relatives or strangers who needed a place to find refuge.

The people and groups mentioned in this insert are not well known. These are everyday people—everyday Georgians. Individually, they each make a small contribution, collectively they make a tremendous difference.

The list follows:

Governor Roy Barnes and the Georgia Legislator’s Development office from Mitchell, Colquitt, Tift, and Grady Counties; Chatam County Emergency Management; Mitchell County Community Response Team; Mitchell County Chamber of Commerce; Calhoun County Public Works; C-E Minerals Inc. in Andersonville; Mitchell County Ministerial Alliance of Camilla; Lions Club; Search and rescue teams from Albany/Dougherty, Macon, Colquitt, and Worth Counties; United States Marine Corps; MCLB Fire and Rescue; Georgia K-9 Rescue Association of Georgia Department of Student Affairs; Federal Emergency Management Association (FEMA).

Georgia Emergency Management Association (GEMA); U.S. Small Business Administration; Georgia State Highway Patrol; Georgia Legal Services; Georgia Department of Labor; Georgia Department of Family and Children Services; American Red Cross; United Way; Salvation Army; Mitchell County Hospital; Phoebe-Putney Hospital; Homebuilders Association of Georgia; Lowes in Albany; Bank of America in Albany; Adventist Disaster Response; Fort Benning Air Force Command Center; Randolph Southern School; Dry Bank Elementary School; US Air Force Academy; Dothan Department; Church of Gainesville; Camilla Lawn and Garden; The Mennonites.

Georgia Baptist Convention Relief Organization; United Methodist Church of Centreline and Macon; Emmanuel Baptist Church of James County; Chestnut Grove Baptist Church; Pitts Chapel United Methodist Church of Macon; Plainfield Baptist Church; Turner County Special Services School; United Methodist Mission Volunteers from Georgia, Alabama Baptist, and First United Methodist Church, Ebenezer UNC, and Macon Methodist Church; Griffin Church; Chapel Wood United Church of Athens; Zion Hill Baptist Church in Atlanta and Antioch Baptist Church of North Atlanta; County Line Church of Macon.

Waukeenah Methodist Church of Cairo; Calvary Baptist Church; First Baptist of Otofique; First United Methodist Church of Camilla; First United Methodist Church of Camilla; East Pelham Baptist Church; First Baptist Church of Camilla; First Baptist Church of Eufaula, Alabama; Southern Baptist Group of Georgia; Union Baptist Church of Camilla; and First United Methodist Church of Thomasville.

TRIBUTE TO THE NATIONAL EXCHANGE CLUB'S 89TH ANNIVERSARY

Mr. GRAMS. Mr. President, I rise today to commend an organization that has given consistently to our communities over the past 89 years. I am proud to honor the National Exchange Club—an organization that can be characterized by the word “service”—as it celebrates the anniversary of its founding today.

The National Exchange Club is a volunteer group of men and women dedicated to serving their communities. Founded in 1911 by Charles A. Berkey, the organization has grown from a single group in Detroit, Michigan to nearly 1,000 clubs and 33,000 members throughout the United States and Puerto Rico. In my home state of Minnesota, there are more than 20 clubs committed to making our state and nation a better place to live.

In keeping with its rich history of helping others, the Exchange Club has established Child Abuse Prevention as its national project. By utilizing a wide array of educational programs, local clubs work to create public awareness of child abuse and develop relationships with parents to counter abuse. This program has helped more than 140,000 children since 1979.

Exchange members participate in a variety of other services, such as Youth Programs and Americanism. The Exchange Club’s programs encourage and recognize students who display good citizenship, community involvement, and scholastic achievement, and serve as volunteers. Clearly, its efforts are shaping the citizens of the future. Exchange’s Americanism efforts spread pride in our nation and work to foster an awareness of the wonderful freedoms with which our country is blessed.

The numerous other community service activities the National Exchange Club undertakes are focused on helping the largest number of citizens as possible in their respective communities. All individuals in a community benefit from the club’s crime and fire prevention efforts, its Book of Golden Deeds Award, and the Service to Seniors program.

For 89 years, the volunteers of the National Exchange Club have dedicated themselves to the betterment of our communities. I applaud them on their achievements and wish them a prosperous future.

TRIBUTE TO MR. THOMAS BRASHER UPON HIS RETIREMENT FROM THE U.S. POSTAL INSPECTION SERVICE

Mr. BREAUX. Mr. President, I rise to pay tribute to Thomas D. Brasher, a native of my home state of Louisiana, who will be retiring at month’s end after a thirty-five-year career in law enforcement, including thirty years as a postal inspector with the U.S. Postal Inspection Service. At the time of his retirement, he will be sixth in seniority among the nation’s 2,115 postal inspectors. Although a native of Alexandria, Louisiana, Mr. Brasher has served with the U.S. Postal Inspection Service in California.

Tom Brasher began his law enforcement career in Lafayette, Louisiana, in 1964, when he joined that city’s auxiliary police force while attending the University of Southwestern Louisiana. He became a regular officer in 1966 and worked in patrol. He joined the Louisiana State Police in 1966, where he worked until 1970 when he was recruited by the Postal Inspection Service.

Mr. Brasher’s Inspection Service career was in the San Francisco Division, now the Northern California Division. Except for a four-year stint in San Francisco, he worked his entire career in San Jose. Mr. Brasher was primarily involved in investigating external crimes and was the first External Crimes Prevention Specialist for the division. He covered all of seven states and the Pacific Islands in that assignment. He also had assignments in child pornography, embezzlements, and the monitoring of the design and construction of post offices. He also served as an ad-hoc EEO counselor for a four-district area. His last assignments have been on the San Jose External Crimes Team, the San Francisco Bay Area Crimes Team, and the Northern California Workplace Violence Team and a detail to the Postal Service’s robbery task force.

While Mr. Brasher will retire, his wife, Gay Ann, an award-winning school teacher in San Jose, will continue her teaching career. Together they will continue their travels, which so far have taken them to 94 countries around the world.

I know I speak for my Senate colleagues when I wish Tom and Gay Ann Brasher all the best in this new phase of their lives and thank him for thirty years of distinguished service to the United States of America.
S1742

CONGRESSIONAL RECORD Ð SENATE
March 27, 2000

LOUISIANA BUSINESS LEADER BILL RAINNEY TO RETIRE

Mr. BREAUX. Mr. President, I rise today to honor longtime Baton Rouge business and community leader Bill Rainney, site manager of ExxonMobil’s Baton Rouge Chemical Plant. Bill is retiring this month from a 33-year Exxon career that began at the company’s Baton Rouge Refinery in 1966.

Those of us in government who spent parts of our careers in Baton Rouge recognize him as one of the most tireless community leaders and effective problem solvers in the Louisiana capital. Bill’s leadership in the community and direction of ExxonMobil’s philanthropic works will be hard to replace and the company’s more than 4,000 employees in Baton Rouge will miss his steady hand on the ExxonMobil rudder.

A native of Auburn, Alabama, Bill earned a bachelor’s degree in chemical engineering from Auburn University in 1966 before embarking on his Exxon career. He left Baton Rouge in 1973 for a three-year stint in Exxon USA’s Houston but returned to the Refinery in 1976 to accept the first of many management positions in Baton Rouge. In 1985, he became manager of the Exxon Research and Development Laboratories (ERDL) in Baton Rouge before returning to the Refinery as mechanical manager in 1988.

Like many of Exxon’s top performers around the world, he was called to Valdez, Alaska in 1989 where he served as operations manager for Exxon's spill recovery and cleanup operations. In 1992, he was named manager of the Baton Rouge Refinery, where he served with distinction until moving up Scenic Highway to the adjacent Baton Rouge Chemical Plant as site manager in 1996.

While moving up the ranks to ExxonMobil’s two top positions in Baton Rouge, Bill also moved up the ranks in almost every industry and charitable organization in which he was involved. He is a member of the board of directors and the executive committee of the Louisiana Chemical Association and has served with distinction as chairman of the board of directors of the Louisiana Chemical Industry Alliance since 1996. While refinery manager he served on the board of directors of the Louisiana MidContinent Oil and Gas Association and provided outstanding leadership to that organization’s initiatives and responses to various legislative proposals over the years.

One of the organizations that will miss Bill the most is the Capital Area United Way of which he served as board chair in 1996-97. ExxonMobil’s annual combined corporate and employee and annuitant contribution of more than $1 million makes it the largest United Way supporter in the state and says volumes about Bill’s leadership of that essential and worthwhile effort.

Bill also serves currently as a member of the board of directors of the Greater Baton Rouge Chamber of Commerce and the Partnership for Excellence Board of LSU’s E.J. Ourso College of Business Administration and as co-chair of Community Action for Children.

Among Bill’s many awards are the 1998 Alumni Recognition Award for Community Services from the LSU School of Social Work and the 1998 Volunteer CEO of the Year Award from the Volunteer Baton Rouge Corporate Volunteer Council.

Probably Bill’s most notable accomplishment since arriving in Baton Rouge 33 years ago, though, was discovering his lovely wife, the former Emile Steffek of Baton Rouge, and with her raising their three sons—Will, 26, Chase, 22, and Kyle, 25—all of whom make their homes in Baton Rouge.

I know that Bill and Emile will continue to be active in their efforts to help others and I hope to be able to call on Bill from time to time as oil and gas or petrochemical industry issues critical to our state arise.

Bill is a frequent visitor to Washington and I know the entire Louisiana delegation joins me in wishing both him and Emile a long and happy retirement.

CAPTAIN JERRY BURKE, EVERETT POLICE DEPARTMENT

• Mr. GORTON. Mr. President, throughout Washington state there are thousands of people who volunteer their free time to tutor, mentor, support our teachers and make a difference in their communities and in the lives of our children. I would like to take this opportunity to recognize an outstanding volunteer, Captain Jerry Burke of the Everett Police Department who has passed his love of the theater onto a group of elementary students at Madison Elementary in Everett. I am proud to award him with my “Innovation in Education” Awards.

Captain Burke participates in a program in which members of the Police Command Staff adopt an elementary school in the Everett School District. While it is no surprise to see a police officer donating his or her time to a local school, Captain Burke is teaching something a little outside of the ordinary for a cop who used to go undercover to bust drug dealers—he teaches a drama class.

When Captain Burke first approached principal Joyce Stewart, she was intrigued by his Fine Arts Degree in Designing for the Theater and his experience teaching theater arts prior to entering law enforcement. Furthermore, she was already interested in creating a drama program to expose interested students to the fine arts. Though he had no prior experience in creating such a program, or in teaching drama to elementary school students, Captain Burke agreed to take on the challenge.

This program has been a tremendous success. Captain Burke and the school created a drama club open to fourth and fifth graders that meets after school one day a week. The program continues to grow and approximately 35 students are now participating. The program combines lectures with creative drama games that emphasize communication, visualization, creativity, and improvisation. More importantly, the students enjoy the club and Captain Burke. Fourth grader Shawn Cook said, “Police officers are always supposed to be tough. Mr. Burke is funny and tough.”

This spring’s club is limited to 10 weeks since Captain Burke is attending the FBI academy in April, but he and Ms. Stewart are already considering options for spring of 2001 that would create a second creative drama class of third and fourth graders. The more experienced fifth grade students from this year’s club are planning to put on the school’s first ever dramatic production. Clearly, Captain Burke has made a significant contribution to the lives of these students and given them an interest that will last throughout their life.

One remarkable aspect of this program is that it demonstrates the importance of community involvement in our local schools. From this program, students will not only have an appreciation for the fine arts, but will also have an appreciation for police officers and have a greater sense of community. I applaud the work of Captain Burke and wish his students the best of luck in producing their first play. The Everett Police Department is proud to be able to call on all the members of the Everett Police Command staff for your contributions to local elementary schools.

PALADIN DATA SYSTEMS SUPPORT OF THE WEST SOUND CONSORTIUM

• Mr. GORTON. Mr. President, when I travel across Washington state, one of the topics I hear from local businesses and high-tech companies is their need for people with high-tech skills. A Poulsbo company, Paladin Data, has taken their efforts to find skilled employees to a new level by donating its time and expertise to local elementary schools. From this program, students will not only have an appreciation for the fine arts, but will also have an appreciation for police officers and have a greater sense of community. I applaud the work of Captain Burke and wish his students the best of luck in producing their first play. The Everett Police Command staff for your contributions to local elementary schools.

Several years ago, seven school districts in Kitsap, Mason, and Pierce Counties developed the West Sound School-to-Career Consortium which provides approximately 8,000 students with high-tech classes. This year Paladin Data will begin its first year of a three-year project that provides high-tech training to teachers involved with the West Sound School-to-Career program. Paladin Data is also contributing $50,000 in matching funds to a state grant of $100,000 to provide needed curriculum materials and onsite
teacher training in either a Paladin facility in Poulso or at a designated school district site. Moreover, each school district will determine what training their teachers will receive based on the needs of their district and their children.

Paladin is giving our teachers more information and skills that they can take back to their classrooms and shows teachers what skills employers are looking for in perspective employees, giving their students a leg up on the competition. Paladin’s involvement is not only improving the education of our students, but also giving them an accurate picture of what skills they need well before they enter the job market.

The Washington Software Alliance reports that over 64,000 computer-related jobs are currently unfilled in the State of Washington—all for lack of properly trained workers. I find it encouraging to see companies like Paladin data, that are contributing to our booming economy, are taking an active role in ensuring the quality education of our children. I am proud to acknowledge Paladin Data Systems Corporation’s commitment to education and I look forward to hearing about more companies making a contribution to our children’s future.

HONORING DR. WAYNE S. KNUTSON
• Mr. Johnson. Mr. President, I rise today to recognize Dr. Wayne S. Knutson, of Vermillion, South Dakota, a distinguished member of the arts community. On December 11, 1999, the University of South Dakota renamed Theatre I of the Warren M. Lee Center for the Fine Arts in Dr. Knutson’s honor. This is an honor he richly deserves.

Dr. Knutson has had a distinguished career as an educator, artist, and administrator at the University of South Dakota and in the state arts community over the past fifty years. His tenure at USD began in 1952 as Professor of Speech and Dramatic Art and Director of University Theatre. Subsequently, he has also held the positions of Professor and Chair of the Department of English (1966-1971), Dean and Professor of Fine Arts (1972-1980), Vice-President for Academic Affairs and Professor of Fine Arts (1980-1982), and Professor of English and Theatre (1982-1997). In 1987, Dr. Knutson was appointed by the South Dakota Board of Regents as the first University Distinguished Professor.

As a member of the arts community, he has also served on the Literature Panel of the National Endowment for the Arts (1975-1977) and as chairperson of both the South Dakota Arts Council (1971-1978) and the South Dakota Humanities Council (1989-1990).

Dr. Knutson’s honors include a Distinguished Service Award from the Speech Communication Association of South Dakota, the Governor’s Award for Distinction in the Arts, the Burlington-Northern Faculty Achievement Award, a South Dakota Arts Council Senior Fellowship for Play Direction, and an award for Outstanding Achievement in the Humanities from the South Dakota Humanities Council.

In addition to his instrumental work as a professor and an actively involved member of the arts community, Dr. Knutson is also an accomplished author, director, and playwright. He wrote “The Dakota Descendants of Ola and James M. Russell” as well as a number of articles on theatre for Dramatics magazine and a short history of the University of South Dakota. He has directed over sixty-five plays and musicals for USD, the Black Hills Playhouse, Pierre Players, Lewis and Clark Theatre, and the Group Theatre of Rapid City. He has also written ten plays and opera librettos, one of which was aired on Voice of America.

Mr. President, Dr. Knutson has an immense influence on the arts in South Dakota and the honor of having Theatre I at USD renamed the “Wayne S. Knutson” is one he highly deserves. He has been an extraordinary pioneer and supporter of the arts. He is a man of great scholarship and skill and can continue to shape the arts community for years to come. It is an honor for me to share the accomplishments of Dr. Wayne S. Knutson with my colleagues and to publicly commend him on his talent and commitment to the arts and education.

HONORING BRIANNE COX AND GIRL SCOUT TROOP 290
Mr. Johnson. Mr. President, I rise today to publicly commend Girl Scout Troop 290 of Yankton, South Dakota.
• The girls of Troop 290 have worked especially hard this last year, donating their time and energy to the community. They have endeavored to enhance the lives of many unfortunate South Dakotans at Christmas and Thanksgiving, to assist the community’s elderly, to aid impoverished people in Haiti, and to undertake many other key projects has had a very important positive impact in the world around them.

Sadly, on November 24, 1999, Brianne Cox, a member of Troop 290, was killed in a tragic accident. She was active not only in Scouting, but enjoyed soccer, softball, dance, violin, trumpet, cross country, basketball, and many other activities. This young lady had a wonderful spirit that touched everyone who knew her.

In her name, the Troop 290 scouts have undertaken a very special project. These wonderful girls want to keep Brianne’s memory alive and stay close to her family. To this end, they hold a fundraiser every summer to raise money for the ‘Brianne Cox Memorial Fund.’ This effort, in the name of a special girl, will designate funds to other middle school students who wish to participate in the many activities Brianne enjoyed, and who otherwise could not afford it.

Mr. President, these girls are true examples of charity and goodness. Their work to elevate the spirit of their hometown is inspiration in itself, but to those whose daughter, Brianne Cox’s memory alive, is truly extraordinary. I am pleased to be able to share their story with my colleagues and to be able to publicly commend their work.

THE SAGINAW COUNTY COMMISSION ON AGING HONORS MS. HAZEL WILSON
• Mr. Abraham. Mr. President, on March 31, 2000, the Saginaw County Commission on Aging will hold a luncheon honoring four women who have selflessly dedicated a significant amount of their time and their energy to improving the community of Saginaw, Michigan. These efforts over the years have not only touched a great many lives, they have truly changed lives, whether by providing those in need with food and clothing, saving seniors hundreds of dollars in medical insurance payments, monitoring school students, or helping people to understand and accept a culture different from their own. Thus, I rise today on behalf not only of myself, but also of the entire Saginaw County, Michigan, community, to sincerely thank Ms. Hazel Wilson, Ms. Mary Flannery, Ms. Sue Keltenbach, and Ms. Yoko Mossner for their incredible efforts.

Ms. Hazel Wilson has been a Saginaw community leader for more than thirty years. Her charitable endeavors include working for the Family Independence Agency in the 1960s, counseling laid-off auto workers for the UAW-GM Human Resource Center in the late eighties, serving on the Board of Trustees for the Saginaw Public Schools, and also serving on the Board of Directors for the Saginaw Voluntary Action Center. For the last ten years, she has been employed by the Saginaw County Community Mental Health Authority as a Prevention Coordinator.

Ms. Wilson demonstrated her outstanding leadership capabilities, and indelibly left her mark on the Saginaw community, when in the early 1970s she established the Good Neighbors Mission in Saginaw. Wilson’s inspiration in establishing this organization was to provide needy families with food and clothing. But because of her dedication the Good Neighbors Mission has continued to grow, to the point where today it stands as a community resource center, a hub of activity, and, I am told, a virtual clearinghouse, where people can find help fulfilling much more than just their food and clothing needs.

Before she was working as a Prevention Coordinator, Ms. Wilson is also currently a member of the Zion Baptist Church, Zeta Phi Beta sorority, the Michigan T.A.G. Workgroup, and the
Mr. ABRAHAM. Mr. President, on March 31, 2000, the Saginaw County Commission on Aging will hold a luncheon honoring four women who have selflessly dedicated a significant amount of their time and their energy to improving the community of Saginaw, Michigan. Their tremendous efforts over the years have not only touched a great many lives, they have truly changed lives, whether by providing those in need with food and clothing, saving seniors hundreds of dollars in medical insurance payments, mentoring elementary school students, or helping people to understand and accept a culture different from their own. Thus, I rise today on behalf not only of myself, but also of the entire Saginaw County, Michigan, community, to sincerely thank Ms. Hazel Wilson, Ms. Mary Flannery, Ms. Sue Kaltenbach, and Ms. Yoko Mossner for their incredible efforts.

Ms. Yoko Mossner has become involved with numerous organizations. She served as president and treasurer of the Japanese Cultural Center and Tea House, a project that was made possible by her efforts as a member of the Board of Trustees of the Saginaw County Building Fund Committee. She also serves as Special Envoy and Liaison Officer from Saginaw to its Sister City, Tokushima, Japan. Undoubtedly, her efforts in this regard have played a significant role in expanding the cultural awareness of an entire community.

Perhaps the most remarkable thing about Ms. Mossner is that she has managed to do all of this while raising her own three children. Mr. President, on behalf of the entire United States Senate, I applaud Ms. Mossner for her dedication to expanding the cultural knowledge in Michigan. I am sure that the effects of her work are immeasurable.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, 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 withdrawals and sundry nominations which were referred to the appropriate committees. (The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-8146. A communication from the Director, Interagency Task Force on Capital Formation, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Capital Formation Modernization Act of 2000"; to the Committee on Finance.
EC-8147. A communication from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation entitled "Customs Automation Modernization Act of 2000"; to the Committee on Finance.
EC-8148. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Technical Corrections to Customs Forms" (T.D. 00-12), received March 23, 2000; to the Committee on Finance.
EC-8149. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Deduction of Health Care Plan Interest Expenses" (Rev. Rul. 2000-13), received March 21, 2000; to the Committee on Finance.
EC-8150. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Tax Treatments for Valuing Benefits" (RIN 1545-AX58), received March 23, 2000; to the Committee on Finance.
EC-8151. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation entitled "Medicare Modernization Act of 2000"; to the Committee on Finance.
EC-8152. A communication from the Acting Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting a draft of proposed legislation entitled "Melrose Range and Yakima Training Center Transfer Act"; to the Committee on Energy and Natural Resources.
EC-8153. A communication from the Deputy Assistant Administrator, Office of Diversification, Drug Enforcement Agency, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Schedules of Controlled Substances: Addition of Gamma-Hydroxybutyric Acid to Schedule I" (DEA-200F), received March 23, 2000; to the Committee on the Judiciary.
EC-8154. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Backup Power Sources for DOE Facilities" (DOE-ST-3003-2000), received March 23, 2000; to the Committee on Energy and Natural Resources.
EC-8155. A communication from the Assistant General Counsel for Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "The DOE Corporate Lessons Learned Program" (DOE-ST-7001-99), received March 23, 2000; to the Committee on Energy and Natural Resources.
EC-8156. A communication from the Assistant General Counsel for Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Internal Disposability" (DOE-ST-1121-99), received March 23, 2000; to the Committee on Energy and Natural Resources.
EC-8157. A communication from the President and Chairman, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to Turkey; to the Committee on Banking, Housing, and Urban Affairs.
EC-8158. A communication from the Director, Corporate Policy and Research Department, American Chemistry Council, Inc., transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets and Liabilities: Employer Plan Liabilities in Bankruptcies", received March 21, 2000; to the Committee on Finance.
EC-8159. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.
EC-8160. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "VISAS: Nonimmigrant classes; Irish Peace Process Cultural and Training Program"; received March 16, 2000; to the Committee on Foreign Relations.
EC-8161. A communication from the Director, Office of Regulatory Management and Information, Office of Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Elimination of the Significant Deterioration Delegation of Authority to Medocino County Air Pollution Control District to Administer Permits Issued by EPA" (FRL # 6561-8), received March 16, 2000; to the Committee on Environment and Public Works.
EC-8162. A communication from the Director, Office of Regulatory Management and Information, Office of Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Outer Continental Shelf Air Quality Regulations Consistency Update for California" (FRL # 6563-9), received March 21, 2000; to the Committee on Environment and Public Works.
EC-8163. A communication from the Director, Office of Regulatory Management and Information, Office of Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report.
of a rule entitled “Approval of Revisions to Ventura County APCD, Monterey Bay Unified APCD and Santa Barbara County APCD” (FRL # 6663-3), received February 8, 2000; to the Committee on Environment and Public Works.

EC-8160. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Municipal Solid Waste Landfills State Plan for Designated Facilities and Pollutants; Idaho; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills” (FRL # 6666-2), received March 23, 2000; to the Committee on Environment and Public Works.

EC-8166. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Indiana; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills” (FRL # 6566-7), received March 23, 2000; to the Committee on Environment and Public Works.

EC-8167. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Finding of Failure to Submit a Required State Implementation Plan for Carbon Monoxide; Fairbanks, Alaska” (FRL # 6566-5), received March 23, 2000; to the Committee on Environment and Public Works.

EC-8168. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Finding of Failure to Submit a Required State Implementation Plan for Carbon Monoxide; Spokane, Washington” (FRL # 6566-9), received March 23, 2000; to the Committee on Environment and Public Works.

EC-8169. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Oklahoma; Final Authorization of State Hazardous Waste Management Program” (FRL # 6566-6), received March 23, 2000; to the Committee on Environment and Public Works.

EC-8170. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Preparation Guide for U.S. Department of Energy Nonnuclear Nuclear Fuel Facility Safety Analysis Reports” (DOE STD 300-94), received March 23, 2000; to the Committee on Energy and Natural Resources.

EC-8171. A communication from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled “Preparation Guide for U.S. Department of Energy Nonnuclear Nuclear Fuel Facility Safety Analysis Reports” (DOE STD 300-94), received March 23, 2000; to the Committee on Energy and Natural Resources.

EC-8172. A communication from the Under Secretary of Defense, Comptroller reporting a violation of the Antideficiency Act; to the Committee on Appropriations.

EC-8174. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, a report relative to a cost manipulation conducted at Kirtland Air Force Base, NM; to the Committee on Armed Services.

EC-8175. A communication from the Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, a report relative to the DoD Chemical and Biological Defense Program, as of February 2000; to the Committee on Armed Services.

EC-8176. A communication from the Program Manager, Pentagon Renovation Program, Department of Defense transmitting, pursuant to law, a report relative to the renovation of the Pentagon Reservation; to the Committee on Armed Services.

EC-8177. A communication from the Assistant Secretary of Defense, Health Affairs, transmitting, pursuant to law, a report relative to TRICARE Managed Care Support Contractors; to the Committee on Armed Services.


EC-8183. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-269, “‘Raisins Produced from Grapes Grown in California; changes in Grower Requirement’; Docket Number FV 00-989-1 FR”, received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8184. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled “Avocados Grown in South Florida; Relaxation of Container and Pack Requirements” (Docket Number FV 00-936-1 FR), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8185. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled “Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches” (Docket Number FV 00-916-1 IFR), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8187. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Dichlormid: Time-Limited Pesticide Tolerance” (FRL # 6498-7), received March 23, 2000; to the Committee on Governmental Affairs.

EC-8188. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-278, “Long-Term Care Insurance Act of 2000”; to the Committee on Governmental Affairs.


EC-8191. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-289, “University of the District of Columbia Board of Trustees Residency Requirement Amendment Act of 2000”; to the Committee on Governmental Affairs.


EC-8193. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13-269, “University of the District of Columbia Board of Trustees Residency Requirement Amendment Act of 2000”; to the Committee on Governmental Affairs.

EC-8194. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled “Avocados Grown in South Florida; Relaxation of Container and Pack Requirements” (Docket Number FV 00-936-1 FR), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8195. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture transmitting, pursuant to law, the report of a rule entitled “Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches” (Docket Number FV 00-916-1 IFR), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8196. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Dichlormid: Time-Limited Pesticide Tolerance” (FRL # 6498-7), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-8197. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Dichlormid: Time-Limited Pesticide Tolerance” (FRL # 6498-7), received March 23, 2000; to the Committee on Agriculture, Nutrition, and Forestry.
EC-B198. A communication from the Division Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission and Federal Trade Commission transmitting, pursuant to law, the report of a rule entitled “Joint FCC/FTC Policy Statement for the Advertising of Dial-Around and Other Long-Distance Services” (File No. 00-414), received March 22, 2000, to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES
The following reports of committees were submitted:
By Mr. HATCH, from the Committee on Judiciary:
Report to accompany the bill (S. 2251) to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; (Rept. No. 106-249).
By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:
H.R. 1374: A bill to designate the United States Post Office building located at 600 State Highway 130 in Hamilton, New Jersey, as the “John K. Rafferty Hamilton Post Office.”
H.R. 3189: A bill to designate the United States post office located at 34071 Peyton Drive in Chino Hills, California, as the “Joseph Ileto Post Office.”

EXECUTIVE REPORTS OF A COMMITTEE
The following executive reports of a committee were submitted:
By Mr. WARNER for the Committee on Armed Services:
Herschelle S. Challener, of Georgia, to be a Member of the National Security Education Board for a term of four years. (Reappointment)
Rudy de Leon, of California, to be Deputy Secretary of Defense.
Douglas A. Dworkin, of Maryland, to be General Counsel of the Department of Defense. (The above nominations were reported with the recommendation that they be confirmed subject to the nominees’ consent to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS
The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:
By Mr. SANTORUM (for himself, Mr. EDWARDS, Mr. HELMS, Mr. MURKOWSKI, and Mrs. HUTCHISON):
S. 2293. A bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of an established ratio and, after such obligations are satisfied, to provide for receipts to insures depository institutions of such excess reserves; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):
S. 2294. A bill to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.
By Mr. DURBIN:
S. 2255. A bill to provide for the liquidation or relinquishment of certain entries of copper and brass sheet and strip; to the Committee on Finance.
By Mr. CRAPO:
S. 2296. A bill to provide grants for special environmental assistance for the regulation of communities and habitat (SEARCH) to small communities; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mrs. FEINSTEIN (for herself and Mrs. BOXER):
S. 2294. A bill to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:
By Mr. CRAPO:
S. 2296. A bill to provide grants for special environmental assistance for the regulation of communities and habitat (SEARCH) to small communities; to the Committee on Environment and Public Works.

PROJECT SEARCH
Mr. CRAPO. Mr. President, I rise today to introduce legislation to authorize a national environmental grants program for small communities called Project SEARCH.

The national Project SEARCH (Special Environmental Assistance for the Regulation of Communities and Habitat) concept is based on a demonstration program that has been operating with great success in Idaho in 1999 and 2000. In short, the bill establishes a simplified application process for communities of under 2,500 individuals to receive assistance in meeting a broad array of federal or local environmental regulations. Grants would be available for initial feasibility studies, to address unexpected costs arising during the course of a project, or when a community has been turned down or underfunded by traditional sources. The grant program would require no match from the recipient.

Some of the major highlights of the program are:
A simplified application process;
No special grants coordinators required;
No unsolicited bureaucratic intrusions into the decision-making process;
Communities must first attempt to receive funds from traditional sources;
It is open to studies or projects involving any environmental regulation;
Applications are reviewed and approved by citizens panel of volunteers; and
No local match is required to receive the SEARCH funds.

Over the past several years, it has become apparent that small communities are having problems complying with environmental rules and regulations due primarily to lack of funding. The panel chooses number of recipients and size of grants; the panel consists of volunteers representing all regions of the state; and no local match is required to receive the SEARCH funds.

In addition, small communities wishing to pursue unique collaborative efforts might be discouraged by grant administrators who prefer conformity. Some run into unexpected costs during a project and have borrowed and bonded to the maximum. Others are in critical habitat locations and any project may have additional costs, which may not be recognized by traditional financial sources. Still others just need help
for the initial environmental feasibility study so they can identify the most effective path forward.

With these needs in mind, in 1998, I was able to secure $1.3 million through the Environmental Protection Agency (EPA) in the form of a Project SEARCH grant for Idaho's small communities. Idaho’s program does not replace other funding sources, but serves as a final resort when all other means have been exhausted.

The application process was simplified so that any small town mayor, county commissioner, sewer district chairman, or community leader could manage it without hiring a professional grant writer. An independent citizens committee with statewide representation was established to make the selections and get the funds on the ground as quickly as possible. No bureaucratic or political intrusions were permitted.

Although the EPA subsequently insisted that grants be limited to water and wastewater projects, forty-four communities in Idaho ultimately applied, not including two that failed to meet minimum requirements. Ultimately, twenty-one communities were awarded grants in several categories, and ranged in size from $9,000 to $319,000. A Native American community, a migrant community, and several innovative collaborative efforts were included in the successful applicants. The communities that were not selected are being given assistance in exploring other funding sources and other avenues.

The response and feedback from all participants has been overwhelmingly positive. Environmental officials from the state and EPA who witnessed the process have stated that the process worked well and was able to accomplish much on a volunteer basis. There was even extraordinary appreciation from other funding agencies because some communities they were not able to reach were provided funds for feasibility or only needed reimbursement. Applications were from those who wished that the EPA had not limited the program to water and wastewater projects.

The conclusion of all participants was that Project SEARCH is a program worthy of being expanded nationally. So many small communities in so many states can benefit from a program that assists underserved and often overlooked communities. This legislation provides us the opportunity to help small communities throughout the United States.

By Mr. JEFFORDS (for himself, Mr. REED, and Mr. LEAHY):

S. 2298. A bill to amend title XIX of the Social Security Act to clarify the definition of homebound with respect to home health services under the Medicaid program; to the Committee on Finance.

THE HOMEBOUND CLARIFICATION ACT

Mr. JEFFORDS. Mr. President, I am here today to introduce the Homebound Clarification Act of 2000. This important bill has been crafted to protect Medicare beneficiaries from a growing problem that is impeding access to vital home care services. I want to recognize my cosponsors, Senator LEAHY and Senator REED, for their continued effort and dedication to protecting access to home health care.

Federally funded home health care is an often overlooked part of life for America's seniors. Medical treatment can often mean being subjected to a strange and unfamiliar environment. For our nation's elderly, who may have special needs, this inconvenience can be too severe and detrimental to successful recovery. Home health care means that people recovering from surgery can go home sooner—it means that someone recovering from an accident can get physical therapy at home, and friends and family can be more nurturing to recovering patients than the more stressful and unfamiliar surroundings of a hospital. Home health is also a great avenue for education. It empowers families to assist in the care of their loved ones. It is smart policy from human and financial standpoints.

But there are some seniors who are being denied access to this smart policy. An individual must be considered "homebound" to qualify for Medicare reimbursement for home health care. Though an individual is not required to be bed-ridden, the condition of the individual should include "a normal inability to leave the home." Under the current definition, an individual is "homebound" if "leaving the home requires a considerable and taxing effort by the individual, and that absences of the individual from home are infrequent and of short duration, or are attributable to the need to receive medical treatment." This definition allows for "infrequent" or "short duration," recognizing that short excursions may be a part of a successful recovery process, but leaves it up to fiscal intermediaries to interpret exactly what number is frequent and how short an absence must be. Interpretation of this definition has varied widely.

Sadly, there is a ready supply of disturbing examples of how the definition is interpreted. Many seniors have found themselves virtual prisoners in their homes, threatened with loss of coverage if they attend adult day care, weekly religious services, or even visit family members in the hospital. This makes no sense because all of these activities are steps on the road to successful and healthy recovery. Often, health professionals want patients to get outside for fresh air or exercise, as part of their care plan. This helps fight off depression.

Seniors deserve a more consistent standard to depend upon, rather than a completely arbitrary number of absences from the home. In April 1999, Secretary of Health and Human Services Donna Shalala sent a report to Congress on the homebound definition. The report identifies the wide variety of interpretations of that section and that some recommendations to improve uniformity of determination that follow. While the Administration unfortunately stopped short of taking action themselves, Shalala did propose that a clarification be included in the definition of homebound to stop "taxing" it for the patient to leave home. It strikes the clause that states: "that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment." This is consistent with the intent of Congress and the Administration. This will not open the door to wider coverage of home health, but rather protect coverage for those who need it.

In addition, many seniors put their trust in the Medicare program. We are responsible for making sure that the Medicare program lives up to its promise and that home health will be available to those who need it. Once again, I would like to thank my cosponsors, Senators REED and LEAHY for their work. We look forward to working with the rest of Congress to turn this legislation into law.

By Mr. L. CHAFEE (for himself and Ms. SNOWE):

S. 2299. A bill to amend title XIX of the Social Security Act to continue State Medicaid disproportionate share hospital (DSH) allotments for fiscal year 2001 at the levels for fiscal year 2000; to the Committee on Finance.

THE MEDICAID DSH PRESERVATION ACT OF 2000

Mr. CHAFEE. Mr. President, I am proud to be joined today by Senator SNOWE in introducing the Medicaid DSH Preservation Act of 2000. This legislation will freeze Medicaid disproportionate share hospital (DSH) reductions at Fiscal Year 2000 levels, thereby mitigating the forthcoming reductions in Fiscal Years 2001 and 2002. This bill will also provide a growth rate adjustment to help compensate for the increases in the cost of providing care to the most needy and indigent patients.

In addition to the Medicaid disproportionate share hospital (DSH) reductions in the Balanced Budget Act of 1997 (BBA), federal payments to the Medicaid DSH program were also reduced by $10.4 billion over 5 years, with these reductions being absorbed by States and our vulnerable safety net hospitals. Medicaid DSH payments help reimburse hospitals' costs of treating Medicaid patients, particularly those with complex medical needs. These payments also make it possible for hospitals to provide care for the uninsured—a population that is projected to increase considerably during the next few years.
The impact of these financial pressures was not fully anticipated at the time the BBA was enacted. Other financial pressures such as declining Medicaid enrollment have had a significant impact on these safety net hospitals, thereby adding to the rapidly rising number of Americans without health insurance. At a time when our Nation's uninsured rate continues to climb above 44 million, it makes little sense to be reducing much-needed Medicaid DSH payments to our Nation's safety net hospitals.

Hospitals in Rhode Island will absorb $400 million in reductions as a result of changes made to the Medicare and Medicaid programs in the BBA. Ten out of fourteen hospitals in my State had operating losses in 1999. After the BBA was enacted, it was predicted that cuts in federal Medicare and Medicaid payments would cost hospitals in Rhode Island $220 million over 5 years; however, this estimate has proven to be even $380 million off the mark. Every other State is experiencing similar problems. Since the BBA was signed into law, the American Hospital Association commissioned a study by the Lewin Group, which estimated that there would be $71 billion less paid to hospitals nationwide over 5 years. The original estimate of the impact of the BBA was $18 billion. While the Balanced Budget Refinement Act of 1999 provided some relief to our Nation's financially strapped hospitals, that relief was targeted to the Medicare program. Clearly, more needs to be done to keep our vulnerable safety net hospitals from continuing on this downward spiral.

This legislation we are introducing today represents a commonsense compromise that will help prevent the further erosion of our Nation's safety net hospitals and the long-term viability of our country's health care system. I urge my colleagues to join me in supporting this important legislation and I ask unanimous consent that the legislation be printed in the RECORD.

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

S. 2299

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 "Medicaid DSH Preservation Act of 2000".


Section 10203(f) of the Social Security Act (42 U.S.C. 1396r-4(f)), as amended by section 601 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by section 1000(a)(6) of Public Law 106-113 (113 Stat. 1501A-394), is amended—

(1) in paragraph (2)—

(A) in the heading, by striking "2003" and inserting "2002"; and

(B) in the matter preceding the table, by striking "2002" and inserting "2001"; and

(C) in the table in such paragraph, by striking the column labeled "FY 02" relating to fiscal year 2002; and

(2) in paragraph (3)—

(A) in the heading, by striking "2003" and inserting "2002"; and

(B) in subparagraph (A), by striking "2003" and inserting "2002".

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. Thompson, the name of the Senator from Alabama (Mr. Sessions) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 210

At the request of Mr. Moynihan, the name of the Senator from Rhode Island (Mr. Reed) was added as a cosponsor of S. 210, a bill to establish a medical education trust fund, and for other purposes.

S. 512

At the request of Mr. Gorton, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 818, a bill to require the Secretary of Health and Human Services to conduct a study of the mortality and adverse outcome rates of medicare patients related to the provision of anesthesia services.

S. 873

At the request of Mr. DeWine, the name of the Senator from Nevada (Mr. Bryan) was added as a cosponsor of S. 818, a bill to require the Secretary of Health and Human Services to conduct a study of the mortality and adverse outcome rates of medicare patients related to the provision of anesthesia services.

S. 873

At the request of Mr. Durbin, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 873, a bill to close the United States Army School of the Americas.

S. 890

At the request of Mr. Wellstone, the name of the Senator from California (Mrs. Feinstein) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 911

At the request of Mr. McConnell, the name of the Senator from Connecticut (Mr. Lieberman) was added as a cosponsor of S. 911, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 1037

At the request of Mrs. Boxer, the name of the Senator from Wisconsin (Mr. Feingold) was added as a cosponsor of S. 1037, a bill to amend the Toxic Substances Control Act to provide for a gradual reduction in the use of methyl tertiary butyl ether, and for other purposes.

S. 1180

At the request of Mr. Helms, his name was withdrawn as a cosponsor of S. 1180, a bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes.

S. 1196

At the request of Mr. Coverdell, the name of the Senator from Pennsylvania (Mr. Spector) was added as a cosponsor of S. 1196, a bill to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes.

S. 1361

At the request of Mr. Stevens, the name of the Senator from Kentucky (Mr. Bunning) was added as a cosponsor of S. 1361, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1598

At the request of Mr. Baucus, the names of the Senator from Michigan (Mr. Levin) and the Senator from Virginia (Mr. Robb) were added as cosponsors of S. 1598, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for holders of Community Open Space bonds the proceeds of which are used for qualified environmental infrastructure projects, and for other purposes.

S. 1810

At the request of Mrs. Murray, the name of the Senator from Georgia (Mr. Cleland) was added as a cosponsor of S. 1810, a bill to amend title 38, United States Code, to clarify and improve veterans' claims and appellate procedures.

S. 1898

At the request of Mr. Breaux, the name of the Senator from Maryland (Mr. Sarbanes) was added as a cosponsor of S. 1898, a bill to revitalize the international competitiveness of the United States-flag maritime industry through tax relief.

S. 1900

At the request of Mr. Lautenberg, the name of the Senator from North Dakota (Mr. Dorgan) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1938

At the request of Mr. Craig, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 1938, a bill to provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes.

S. 1969

At the request of Mr. Craig, the name of the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 1969, a bill to provide for improved
management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes.

S. 203
At the request of Mr. J. Johnson, the name of the Senator from Utah (Mr. Bennett) was added as a cosponsor of S. 203, a bill to restore health care coverage to retired members of the uniformed services.

S. 208
At the request of Mrs. Hutchison, the names of the Senator from Alabama (Mr. Sessions), the Senator from Nebraska (Mr. Hagel), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of S. 208, a bill to amend the Next Generation Internet Act, and for other purposes.

S. 209
At the request of Mr. Frist, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 209, a bill to reauthorize the Next Generation Internet Act, and for other purposes.

S. 2068
At the request of Mr. Gregg, the names of the Senator from Nevada (Mr. Reid), the Senator from South Carolina (Mr. Thurmond), and the Senator from Oregon (Mr. Smith) were added as cosponsors of S. 2068, a bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

S. 2070
At the request of Mr. Fitzgerald, the names of the Senator from Indiana (Mr. Bayh) and the Senator from Nevada (Mr. Bryan) were added as cosponsors of S. 2070, a bill to improve safety standards for child restraints in motor vehicles.

S. 2132
At the request of Mr. Kerry, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 2132, a bill to create incentives for private sector research related to developing vaccines against widespread diseases and ensure that such vaccines are affordable and widely distributed.

S. 2181
At the request of Mr. Bingaman, the name of the Senator from New Jersey (Mr. Lautenberg) was added as a cosponsor of S. 2181, a bill to amend the Land and Water Conservation Fund Act to provide full funding for the Land and Water Conservation Fund, and to provide dedicated funding for other conservation programs, including coastal stewardship, wildlife habitat protection, State and local park and open space preservation, historic preservation, forestry conservation programs, and youth conservation corps; and for other purposes.

S. 2255
At the request of Mr. Sessions, the name of the Senator from New Hampshire (Mr. Smith) was added as a cosponsor of S. 2255, a bill to clarify the treatment of nonprofit entities as noncommercial educational or public broadcast stations under the Communications Act of 1934.

S. 2277
At the request of Mr. McCain, the name of the Senator from Oregon (Mr. Wyden) was added as a cosponsor of S. 2255, a bill to amend the Internet Tax Freedom Act to extend the moratorium through calendar year 2006.

S. 2281
At the request of Mr. Smith of New Hampshire, the names of the Senator from Arkansas (Mr. Hutchinson) and the Senator from Oklahoma (Mr. Inhofe) were added as cosponsors of S. 2281, a bill to name the United States Army missile range at Kwajalein Atoll in the Marshall Islands for former President Ronald Reagan.

S. 2284
At the request of Mr. Kennedy, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 2284, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. CON. RES. 69
At the request of Ms. Snowe, the name of the Senator from Alabama (Mr. Sessions) was added as a cosponsor of S. Con. Res. 69, a concurrent resolution requesting that the United States Postal Service issue a commemorative postal stamp honoring the 200th anniversary of the naval shipyard system.

S. CON. RES. 98
At the request of Mr. DeWine, the names of the Senator from Vermont (Mr. Leahy), the Senator from Nebraska (Mr. Hagel), and the Senator from Mississippi (Mr. Lott) were added as cosponsors of S. Con. Res. 98, a concurrent resolution urging compliance with the Hague Convention on the Civil Aspects of International Child Abduction.

S. RES. 87
At the request of Mr. Durbin, the name of the Senator from North Carolina (Mr. Edwards) was added as a cosponsor of S. Res. 87, a resolution commemorating the 60th Anniversary of the International Visitors Program.

S. RES. 253
At the request of Mr. Specter, the name of the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. Res. 253, a resolution to express the sense of the Senate that the Federal Investment in biomedical research should be increased by $2,700,000,000 in fiscal year 2001.

S. RES. 271
At the request of Mr. Wellstone, the name of the Senator from Montana (Mr. Baucus) was added as a cosponsor of S. Res. 271, a resolution regarding the bannergang section in the People's Republic of China.

AMENDMENTS SUBMITTED
CONSTITUTIONAL AMENDMENT PROHIBITING THE DESECRATION OF THE FLAG

McConnell (and Others) AMENDMENT NO. 2889
Mr. McConnell (for himself, Mr. Bingaman, Mr. Bennett, Mr. Conrad, Mr. Durbin, Mr. Durbin, Mr. Byrd, and Mr. Lieberman) proposed the following amendment to the joint resolution (S.J. Res. 14) proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Flag Protection and Free Speech Act of 1999”.

SEC. 2. FINDINGS AND PURPOSE.
(a) FINDINGS.—Congress finds that—
(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;
(2) the Bill of Rights is a guarantee of fundamental rights and freedoms which are not absolute and include a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;
(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is directed; and
(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment of the Constitution.

(b) PURPOSE.—The purpose of this Act is to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.
(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:


"700. Incitement; damage or destruction of property involving the flag of the United States"

"(a) Definition of Flag of the United States.—In this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer.

"(b) Actions Promoting Violence.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and under circumstances in which the person knew that it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than $100,000, imprisoned not more than 1 year, or both.

"(c) Damaging a Flag Belonging to the United States.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States, and who intentionally destroys or damages that flag, shall be fined not more than 2 years, or both.

"(d) Damaging a Flag of Another on Federal Land.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and who intentionally destroys or damages that flag, shall be fined not more than $250,000, imprisoned not more than 2 years, or both.

"(e) Construction.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory, or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

"(b) Clerical Amendment.—The analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

"700. Incitement; damage or destruction of property involving the flag of the United States."

HOLLINGS (AND OTHERS) AMENDMENT NO. 2890

Mr. HOLLINGS (for himself, Mr. SPEICHER, and Mr. REID) proposed the following amendment to the joint resolution, S.J. Res. 14, supra; as follows:

On page 2, line 4, strike beginning with "article" through line 10 and insert the following: "articles are proposed as amendments to the Constitution of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and that would be taken to be a flag by the reasonable observer."

"(b) Clerical Amendment.—The analysis for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following:

"700. Incitement; damage or destruction of property involving the flag of the United States."

AUTHORITY FOR COMMITTEE TO MEET SPECIAL COMMITTEE ON AGING

Mr. GRAMS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on March 27, 2000, from 2 p.m. to 4:30 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that Theresa Mullin be allowed to invite privileges during my speech today.

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

CONTINUATION OF FEDERAL WATER POLLUTION CONTROL ACT REPORTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 324, S. 1730.

The PRESIDING OFFICER. The clerk will report the title.

The legislative clerk read as follows: A bill (S. 1730) to amend the Federal Water Pollution Control Act to provide that certain environmental reports shall continue to be required to be submitted. There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

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

The bill (S. 1730) was read the third time and passed, as follows:

S. 1730

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

SECTION 1. CONTINUATION OF SUBMISSION OF CERTAIN ENVIRONMENTAL REPORTS.

(a) Atmospheric Deposition to Great Waters Report.—Section 112(m)(9) of the Clean Air Act (42 U.S.C. 7412(m)(9)) is amended by striking "Within" and inserting "Notwithstanding section 3003 of Public Law 104-66 (31 U.S.C. 1113 note; 109 Stat. 734), within"

(b) Effective Date.—The amendment made by this section takes effect on the earlier of—

(1) the date of enactment of this Act; or

(2) December 19, 1999.

CONTINUATION OF AN ENDANGERED SPECIES ACT REPORT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 329, S. 1744.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows: A bill (S. 1744) to amend the Endangered Species Act of 1973 to provide certain species conservation reports shall continue to be required to be submitted.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the Record.

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

The bill (S. 1744) was read the third time and passed, as follows:

S. 1744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. CONTINUATION OF SUBMISSION OF CERTAIN SPECIES CONSERVATION REPORTS.


(b) **EFFECTIVE DATE.—The amendment made by this section takes effect on the earlier of—

(1) the date of enactment of this Act; or

(2) December 19, 1999.

COMMEMORATING THE 60TH ANNIVERSARY OF THE INTERNATIONAL VISITORS PROGRAM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 442, S. Res. 87.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 87) commemorating the 60th anniversary of the International Visitors Program;

There being no objection, the Senate proceeded to consider the resolution. Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 87) was agreed to.

Whereas each year more than 80,000 volunteers affiliated with community-based member organizations and 7 program agency members of the National Council for International Visitors across the United States actively serve as "citizen diplomats" organizing programs and events that increase the awareness of Americans about foreign societies and cultures, and bring attention to international issues crucial to interests of the United States;

Whereas the International Visitors Program offers emerging foreign leaders a unique view of America, highlighting its vibrant private sector, including both business and nonprofit organizations, through farm stays, home hospitality, and meetings with their professional counterparts; and

Whereas the International Visitors Program introduces foreign leaders, specialists, and scholars to the American tradition of volunteerism through exposure to the daily work of thousands of "citizen diplomats" who share the best of America with those foreign leaders, specialists, and scholars:

Resolved, That the Senate—

(1) commemorates the 60th Anniversary of the International Visitors Program and the remarkable public-private sector partnership that sustains it;

(2) commends the achievements of the thousands of volunteers who are part of the National Council for International Visitors "citizen diplomats" who for 6 decades have daily worked to share the best of America with foreign leaders, specialists, and scholars.

EXPRESSING SENSE OF THE SENATE REGARDING U.S. POSITION OF INCREASING WORLD CRUDE OIL SUPPLIES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 444, S. Res. 263.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 263) expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ("OPEC") cartel and non-OPEC countries that participate in the cartel of crude oil producing countries, before the meeting on March 27, 2000, that the United States is interested in increasing world crude oil supplies so as to achieve stable crude oil prices;

There being no objection, the Senate proceeded to consider the resolution, which was reported by the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause and insert the part printed in italic, as follows:

S. Res. 263

Whereas the United States currently imports roughly 55 percent of its crude oil;

Whereas ensuring access to and stable prices for imported crude oil for the United States and major allies and trading partners of the United States is a continuing critical objective of United States foreign and economic policy for the foreseeable future;

Whereas the 11 countries that make up the Organization of Petroleum Exporting Countries ("OPEC") produce 40 percent of the world's crude oil and control 77 percent of the world's oil reserves, including much of the spare production capacity;

Whereas beginning in March 1998, OPEC instituted 3 tiers of production cuts, which reduced production by 1.5 million barrels per day and have resulted in dramatic increases in crude oil prices;

Whereas in August 1999, crude oil prices reached $21 per barrel and continued rising, exceeding $25 per barrel by the end of 1999 and $27 per barrel during the first week of February 2000;

Whereas crude oil prices in the United States rose $14 per barrel during 1999, the equivalent of 33 cents per gallon;

Whereas the increase has translated into higher prices for gasoline and other refined petroleum products; in the case of gasoline, the increases in crude oil prices have resulted in a penny-for-penny passsthrough of increases at the pump;

Whereas increases in the price of crude oil result in increases in prices paid by United States consumers for refined petroleum products, including home heating oil, gasoline, and diesel fuel; and

Whereas increases in the costs of refined petroleum products have a negative effect on American families, including low-income and individuals of low income (whose home heating oil costs have doubled in the last year), families who must pay higher prices at the gas station, farmers (already hurt by low commodity prices, trying to factor increased costs into their budgets in preparation for the growing season), truckers (who face an almost 10-year high in diesel fuel prices), and manufacturers and retailers (who must factor in increased production and transportation costs into the final price of their goods); Now, therefore:

Resolved, That it is the sense of the Senate that—

(1) the President and Congress should take both a short-term and a long-term approach to reducing and stabilizing crude oil prices as well as reducing dependence on foreign sources of energy;

(2) to address the problem in the short-term, the President should communicate to the members of the Organization of Petroleum Exporting Countries ("OPEC") cartel and non-OPEC countries that participate in the cartel of crude oil producing countries, prior to their scheduled meeting on March 27, 2000, that the United States and its allies maintain strong relations with crude oil producers around the world while promoting international efforts to
Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 1658, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will read the bill by title. The legislative clerk read as follows:

A bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeiture proceedings.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2366, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will read the bill by title. The legislative clerk read as follows:

A bill (H.R. 2366) to provide small business concerns with protections from litigation expenses relating to this resolution be laid upon the table, and any statement relating to this resolution be printed in the RECORD. The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 263), as amended, was agreed to.

The preamble was agreed to.

**CIVIL ASSET FORFEITURE REFORM ACT OF 2000**

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 1658, reported today by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will read the bill by title. The legislative clerk read as follows:

A bill (H.R. 1658) to provide a more just and uniform procedure for Federal civil forfeiture proceedings, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported by the Judiciary Committee with an amendment to strike out all after the enacting clause and insert the part printed in italic, as follows:

H.R. 1658

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Civil Asset Forfeiture Reform Act of 2000".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Creation of general rules relating to civil forfeiture proceedings.

Sec. 3. Compensation for damage to seized property.

Sec. 4. Attorney fees, costs, and interest.

Sec. 5. Seizure warrant requirement.

Sec. 6. Use of forfeited funds to pay restitution to crime victims.

Sec. 7. Civil forfeiture of real property.

Sec. 8. Stay of civil forfeiture case.

Sec. 9. Civil restraining orders.

Sec. 10. Cooperation among Federal prosecutors.

Sec. 11. Statute of limitations for civil forfeiture actions.

Sec. 12. Destruction or removal of property to prevent seizure.

Sec. 13. Civil assets forfeited in property in bank accounts.

Sec. 14. Fugitive disentitlement.

Sec. 15. Enforcement of foreign forfeiture judgments.

Sec. 16. Encouraging use of criminal forfeiture as an alternative to civil forfeiture.

Sec. 17. Access to records in bank secrecy jurisdictions.

Sec. 18. Application to alien smuggling offenses.

Sec. 19. Enhanced visibility of the asset forfeiture program.

Sec. 20. Proceeds.

Sec. 21. Effective date.

SEC. 2. CREATION OF GENERAL RULES RELATING TO CIVIL FORFEITURE PROCEEDINGS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 982 the following:

983. General rules for civil forfeiture proceedings

"(a) NOTICE; CLAIM; COMPLAINT.—

"(1)(A)(a) As soon as practicable after notice of the civil forfeiture proceeding is sent to the person from whom the property is seized, or other property that the person from whom the property is seized may lawfully possess, the Government shall serve a personal notice containing an allegation that the property is subject to forfeiture. The Government shall also serve a personal notice containing an allegation that the property is subject to forfeiture.

"(ii) If the Government does not send notice under subparagraph (A) for a period not to exceed 30 days (which period may not be further extended except by a court), the official determines that the conditions in subparagraph (D) are present.

"(C) Upon motion by the Government, a court may extend the period for sending notice under subparagraph (A) for a period not to exceed 60 days, which period may be further extended by the court for 60-day periods, as necessary, if the court determines, based on a written certification of a supervisory official in the headquarter office of the seizing agency, that the conditions in subparagraph (D) are present.

"(D) The period for sending notice under this paragraph may be extended only if there is reason to believe that notice may have an adverse result, including—

"(i) endangering the life or physical safety of an individual;

"(ii) flight from prosecution;

"(iii) destruction of or tampering with evidence;

"(iv) intimidation of potential witnesses; or

"(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(b) When a Federal seizing agency determines that a nonjudicial civil forfeiture proceeding is necessary or advisable, it shall report periodically to the Committees on the Judiciary of the House of Representatives and the Senate the number of nonjudicial civil forfeiture proceedings authorized, the number of nonjudicial civil forfeiture proceedings commenced, the number of nonjudicial civil forfeiture proceedings pending, and the number of nonjudicial civil forfeiture proceedings concluded.

"(c) The Attorney General shall report periodically to the Committees on the Judiciary with an amendment to section 982 the following:

"(1)(A)(i) Except as provided in clauses (ii) through (vi), in any nonjudicial civil forfeiture proceeding under this section, with respect to which the Government is required to send written notice to interested parties, such notice shall be sent in a manner to achieve prompt delivery, and in no case more than 60 days after the date of the seizure.

"(ii) If the notice is required to be sent before the 60-day period expires, the Government files a civil judicial forfeiture proceeding under a civil forfeiture statute and provides notice of that action as required by law.
\textbf{(iii)} state the claimant's interest in such property (and provide customary documentary evidence of such interest if available) and state that the claim is not frivolous; and
\textbf{(iv)} cause to be made under oath, subject to penalty of perjury.

\textbf{(D) A claim need not be made in any particular form. Each Federal agency conducting nonjudicial civil forfeiture proceedings under this section shall make claim forms generally available on request, which forms shall be written in easily understandable language.}

\textbf{(E) Any person may make a claim under subparagraph \textbf{(A)} without posting bond with respect to the property which is the subject of the claim.}

\textbf{(B)(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.}

\textbf{(B)(B) If the Government does not—}

\textbf{(i) file a complaint for forfeiture or return the property, in accordance with subparagraph \textbf{(A)}; or}

\textbf{(ii) before the time for filing a complaint has expired—}

\textbf{(I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and}

\textbf{(II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute, the Government shall promptly release the property pending the prosecution of a civil forfeiture proceeding instituted by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.}

\textbf{(C) If a claim is filed under the provisions of a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government's right to continue possession of the property shall be governed by the applicable criminal forfeiture statute.}

\textbf{D.} (A) In any case in which the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, except that such claim may be filed not later than 30 days after the date of service of the Government's complaint or, as applicable, not later than 30 days after the date of publication of notice of the filing of the complaint.

\textbf{(B) A person asserting an interest in seized property, in accordance with subparagraph \textbf{(A)}, shall file an answer to the Government's complaint for forfeiture not later than 20 days after the date of the filing of the claim.}

\textbf{(C) REPRESENTATION—}

\textbf{(i) A person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel appointed under section 3006A of this title in connection with a related criminal case, the court may authorize counsel to represent that person in the judicial civil forfeiture proceeding.}

\textbf{(ii) In determining whether to authorize counsel to represent a person under subparagraph \textbf{(A)}, the court shall take into account factors as—}

\textbf{\textbf{(i)}} the person's standing to contest the forfeiture; and

\textbf{\textbf{(ii)}} whether the claim appears to be made in good faith.

\textbf{(2)(A)} If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the property subject to forfeiture is possessed by the person as a primary residence, the court, at the request of the person, shall order that the property shall be forfeited, and the person shall have the right to maintain custody of the property in the manner set forth in paragraph \textbf{\textbf{(i)}} of the above provision. The court shall order the person to take the steps necessary to preserve its right to maintain custody of the property. The person shall be equivalent to that provided for court-appointed representation under section 3006A of this title.

\textbf{(2)(B)} If the Government fails to file a complaint for forfeiture or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties, the Government shall file a complaint for forfeiture not later than 20 days after the date of the filing of the claim.

\textbf{(2)(C) BURDEN OF PROOF—In a suit or action brought under any civil forfeiture statute for the civil forfeiture of any property—}

\textbf{\textbf{(i)}} the burden of proof shall be on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture; and

\textbf{\textbf{(ii)}} the burden of proof shall be on the claimant to establish, by a preponderance of the evidence, that the property was used to commit or facilitate the commission of a criminal offense, or was involved in the commission of a criminal offense, or the property is the Government's property or in which the Government has a substantial connection between the property and the offense.

\textbf{(3) INNOCENT OWNER DEFENSE—}

\textbf{\textbf{(A)}} An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute. The claimant shall have the burden of proving that the person is an innocent owner by a preponderance of the evidence.

\textbf{\textbf{(B)(A)}} With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term 'innocent owner' means an owner who—

\textbf{\textbf{(i)}} did not know of the conduct giving rise to forfeiture; and

\textbf{\textbf{(ii)}} upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

\textbf{\textbf{(B)(B)}} For the purposes of this paragraph, ways in which a person may show that such person did all that reasonably could be expected under the circumstances to terminate such use of the property include demonstrating that such person, to the extent permitted by law—

\textbf{\textbf{(i)}} gave timely notice to an appropriate law enforcement agency of information that led the person to know of the conduct giving rise to the forfeiture or had or could have had knowledge of the property; and

\textbf{\textbf{(ii)}} in a timely fashion regraded or made it a good faith attempt to revoke permission for those entering in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the conduct.

\textbf{\textbf{(B)(C)}} A person is not required by this subparagraph to take steps that the person reasonably believes would be likely to subject any person other than the person responsible for the conduct to physical danger.

\textbf{\textbf{(B)(A)}} With respect to a property interest acquired after the conduct giving rise to the forfeiture took place, the term 'innocent owner' means a person who, at the time that person acquired the interest in the property—

\textbf{\textbf{(i)}} was a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); and

\textbf{\textbf{(ii)}} did not know and was reasonably without cause to believe that the property was subject to forfeiture.

\textbf{\textbf{(B)(B)}} An otherwise valid claim under subparagraph \textbf{(A)} shall not be denied on the ground that such claimant acquired his or her interest in the property by the operation of law, including a gift, descent, devise, or transfer of title in connection with a related criminal case, or any other transaction. The court shall not be required to determine whether the claimant's interest in the property was subject to forfeiture.

\textbf{\textbf{(B)(C)}} If the court determines that the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant, the court shall set aside the declaration of forfeiture as to the claimant as follows:

\textbf{\textbf{(i)}} the property is the primary residence of the claimant;

\textbf{\textbf{(ii)}} depriving the claimant of the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant; and

\textbf{\textbf{(iii)}} the property is not, and is not traceable to, the proceeds of any criminal offense; and

\textbf{\textbf{(D)}} A claim need not be made in any property subject to forfeiture in the property in the property in the manner set forth in paragraph \textbf{\textbf{(i)}} of the above provision. The court shall order the person to take the steps necessary to preserve its right to maintain custody of the property. The person shall be equivalent to that provided for court-appointed representation under section 3006A of this title.

\textbf{(C) MOTION TO SET ASIDE FORFEITURE—}

\textbf{\textbf{(A)}} Any person entitled to written notice in any judicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside a declaration of forfeiture with respect to that person's interest in the property, which motion shall be granted if—

\textbf{\textbf{(i)}} the Government knew, or reasonably should have known, of the moving party's interest in the property; and

\textbf{\textbf{(ii)}} the moving party did not have knowledge of the seizure within sufficient time to file a timely claim.

\textbf{\textbf{(2)(A)}} Notwithstanding the expiration of any applicable statute of limitations, if the court grants a motion under paragraph \textbf{(A)}, the court shall order the declarant to return to the person whose interest in the property moved party without prejudice to the right of the Government to commence

\textbf{(2)(B)}}
(B) Any proceeding described in subparagraph (A) shall be commenced—

(i) if nonjudicial, within 60 days of the entry of the order granting the motion; or

(ii) if judicial, within 6 months of the entry of the order granting the motion.

(3) A motion under paragraph (1) may be filed not later than 5 years after the date of final publication of notice of seizure of the property.

(4) If, at the time a motion made under paragraph (1) is granted, the forfeited property has been disposed of by the Government in accordance with paragraph (2), the Government may institute forfeiture proceedings against a substitute sum of money equal to the value of the moving party’s interest in the property at the time the property was disposed of.

(5) A motion filed under this subsection shall be the exclusive remedy for seeking to set aside a declaration of forfeiture under a civil forfeiture statute.

(f) RELEASE OF SEIZED PROPERTY.—

(1) A claimant under subsection (a)(4) may petition the appropriate official—

(A) the claimant has a possessory interest in the property;

(B) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of trial;

(C) the continued possession by the Government of the property pending the determination of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

(D) the claimant’s likelihood of hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding;

and

(E) none of the conditions set forth in paragraph (8) applies.

(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of clause (A) are met.

(3)(A) If not later than 15 days after the date of a request under paragraph (2) the property has not been seized, the claimant may file a petition in the district court in which the claimant was seized or in the district court in which the property was seized.

(B) The petition described in subparagraph (A) shall set forth—

(i) the basis on which the requirements of paragraph (1) are met; and

(ii) the steps on which the requirements of paragraph (1) are met.

(4) If the Government establishes that the claimant’s claim is frivolous, the court shall deny the petition. In responding to a petition under subsection (h), the Government may institute forfeiture proceedings against a substitute sum of money equal to the value of the property at the time the property was seized.

(5) The court shall order that the property be returned to the claimant, pending completion of proceedings by the Government to obtain forfeiture of the property.

(6) If the court grants a petition under paragraph (3)—

(A) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including—

(i) permitting the inspection, photographing, and inventory of the property;

(ii) fixing a bond in accordance with rule 5 of the Supplemental Rules for Certain Ad

- miredity and Military Claims; and

(iii) requiring the claimant to obtain or maintain insurance on the subject property; and

(B) by filing a lien against the property or filing a lis pendens to ensure that the property is not transferred to another person.

(7) This subsection shall not apply if the seized property—

(A) is contraband, currency, or other mone-

- tary instrument, or electronic funds unless such currency or other monetary instrument or ele-

- tronic funds constitutes the assets of a legiti-

- mate business which has been seized;

(B) is to be used as evidence of a violation of the law;

(C) by reason of design or other character-

- istic, is particularly suited for use in illegal activities; or

(D) is likely to be used to commit additional criminal acts if returned to the claimant.

(8) PROPORTIONALITY.—

(1) The claimant described in clause (A) may petition the court to determine whether the forfeiture was constitutionally excessive.

(2) In making this determination, the court shall compare the forfeiture to the gravity of the offense giving rise to the forfeiture.

(3) The claim shall have the burden of estab-

- lishing that the forfeiture is grossly dispropor-

- tional by a preponderance of the evidence at a hearing conducted by the court without a jury.

(4) If the court finds that the forfeiture is grossly disproportional to the offense it shall reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution.

(h) CIVIL FORFEITURE.—

(1) In any civil forfeiture proceeding under a civil forfeiture statute in which the Government prevails, if the court finds that the claimant’s interests were frivolous, the court may impose a civil fine on the claimant of an amount equal to 10 percent of the value of the forfeited property, but in no event shall the fine be less than $250 or greater than $5,000.

(2) Any civil fine imposed under this subsection shall not preclude the court from imposing sanctions under rule 11 of the Federal Rules of Civil Procedure.

(3) In addition to the limitations of section 1915 of title 28, United States Code, in no event shall a prisoner file a claim under a civil forfeiture statute or appeal a judgment in a civil forfeiture proceeding in accordance with paragraph (2), the” and inserting “; and”.

(4) FORFEITURES IN CONNECTION WITH SEXUAL EXPLOITATION OF CHILDREN.—Paragraphs (4), (6) and (7) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6) and (7)) are each amended by striking “, except that” and all that follows before the period at the end.

(3) AUTOMOBILES.—Section 518 of the Controlled Substances Act (23 U.S.C. 888) is amended—

(1) in paragraph (9), by striking “and” after the semicolon;

(2) in paragraph (10), by striking the period and inserting “; and”; and

(3) by adding at the end following:—

“(11) ensure that an indigent individual whose primary residence is subject to civil forfeiture is represented by an attorney for the Corporation in such civil action.”

SEC. 3. COMPENSATION FOR DAMAGE TO SEIZED PROPERTY.

(a) TORT CLAIMS ACT.—Section 2680(c) of title 28, United States Code, is amended—

(1) by striking “any goods or merchandise” and inserting “any goods, merchandise, or other property”;

(2) by striking “law enforcement” and inserting “law enforcement”; and

(3) by inserting before the period at the end of section 1346(b) the following:

“except that the provisions of this chapter and section 1346(b) of this title apply to any claim on behalf of an individual resident in the District of Columbia and not in the possession of any officer of customs or excise or any other law enforcement officer, if—

(1) the property was seized for the purpose of forfeiture under any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense;

(2) the interest of the claimant was not forfeited;

(3) the interest of the claimant was not remitted or mitigated (if the property was subject to a criminal offense); and

(4) the claimant was not convicted of a crime for which the interest of the claimant in the property was subject to a civil forfeiture under a Federal criminal law enforcement law.”

(b) DEPARTMENT OF JUSTICE.—

(1) IN GENERAL.—With respect to a claim that cannot be settled under chapter 171 of title 28, United States Code, the Attorney General may settle, for not more than $50,000 in any case, a claim for damage to, or loss of, privately owned property caused by an investigative or law enforcement officer (as defined in section 2860h(b) of title 28, United States Code) who is employed by the Department of Justice acting within the scope of his or her employment.

(2) LIMITATIONS.—The Attorney General may not pay a claim under paragraph (1) that—
SEC. 4. ATTORNEY FEES, COSTS, AND INTEREST.
(a) IN GENERAL.—Section 2465 of title 28, United States Code, is amended to read as follows:

"§2465. Return of property to claimant; liability for wrongful seizure; attorney fees, costs, and interest

"(a) Upon the entry of a judgment for the claimant in any proceeding to condemn or forfeit property seized or arrested under any provision of Federal law—

"(1) such property shall be returned forthwith to the claimant or his agent; and

"(2) in the event that there was reasonable cause for the seizure or arrest, the court shall cause a proper certificate thereof to be entered and, in such case, neither the person who made the seizure or arrest nor the prosecutor shall be liable to suit or judgment on account of such suit or prosecution, nor shall the claimant be entitled to costs, except as provided in subsection (b).

"(b)(1) Except as provided in paragraph (2), in any civil proceeding to forfeit property under any provision of Federal law in which the claimant substantially prevails, the United States shall be liable for—

"(i) reasonable attorney fees and other litigation costs incurred by the claimant;

"(ii) post-judgment interest, as set forth in section 1961 of this title; and

"(iii) in cases involving currency, negotiable instruments, or the proceeds of an interdictory sale—

"(A) interest actually paid to the United States; and

"(B) interest of the same character paid by the United States.

"(2) Seizures pursuant to this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure except that a seizure may be made without a warrant if—

"(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims; or

"(B) there is probable cause to believe that the property is subject to forfeiture and—

"(i) the seizure is made pursuant to a lawful arrest or search; or

"(ii) a right of replevin to the Fourth Amendment warrant requirement would apply; or

"(C) the property was lawfully seized by a State or local law enforcement agency and transferred to a Federal agency.

"(3) When the provisions of rules 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a civil forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of a State for service in accordance with any treaty or other international agreement. Any motion for the return of property seized under this section shall not be made in the district in which the property may be located; which is seized or arrested under this section, but shall be filed in the district court for the district in which the property is located or in a district court in any Federal judicial district to which the court shall order the property to be delivered.

"(4)(A) If any person is arrested or charged in a foreign country with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may designate a magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

"(B) The application for an ex parte restraining order shall set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture, and shall contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.

"(5) As used in this section—

"(A) any property subject to forfeiture to the United States under this section; and

"(B) SEIZURE PROCEEDINGS.—Any property subject to forfeiture to the United States under this section may be seized for the purpose of enforcing a forfeiture in the same manner as if it were described in a civil proceeding under this section.

SEC. 5. SEIZURE WARRANT REQUIREMENT.
(a) IN GENERAL.—Section 981(b) of title 18, United States Code, is amended to read as follows:

"(b)(1) Except as provided in this section—

"(A) an arrest warrant under section 3109 of this title for the arrest of a person in respect to one or more of the other claims.

"(B) the provisions of paragraph (1) shall not apply to a seizure or arrest that—

"(i) is made pursuant to a warrant of another country; or

"(ii) is otherwise made in fulfillment of a treaty or an international agreement,

"(2) Seizures pursuant to this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure except that a seizure may be made without a warrant if—

"(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims; or

"(B) there is probable cause to believe that the property is subject to forfeiture and—

"(i) the seizure is made pursuant to a lawful arrest or search; or

"(ii) a right of replevin to the Fourth Amendment warrant requirement would apply; or

"(C) the property was lawfully seized by a State or local law enforcement agency and transferred to a Federal agency.

"(3) When the provisions of rules 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a civil forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of a State for service in accordance with any treaty or other international agreement. Any motion for the return of property seized under this section shall not be made in the district in which the property may be located; which is seized or arrested under this section, but shall be filed in the district court for the district in which the property is located or in a district court in any Federal judicial district to which the court shall order the property to be delivered.

"(4)(A) If any person is arrested or charged in a foreign country with an offense that would give rise to the forfeiture of property in the United States under this section or under the Controlled Substances Act, the Attorney General may designate a magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

"(B) The application for an ex parte restraining order shall set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture, and shall contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.

"(5) As used in this section—

"(A) any property subject to forfeiture to the United States under this section; and

"(B) SEIZURE PROCEEDINGS.—Any property subject to forfeiture to the United States under this section may be seized for the purpose of enforcing a forfeiture in the same manner as if it were described in a civil proceeding under this section.

SEC. 6. USE OF FORFEITED FUNDS TO PAY RESTITUTION TO CRIME VICTIMS.

Section 981(e) of title 18, United States Code, is amended by striking paragraph (6) and inserting the following:

"(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or"

SEC. 7. CIVIL FORFEITURE OF REAL PROPERTY.
(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by inserting after section 984 the following:

"§985. Civil forfeiture of real property

"(a) Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

"(b)(1) Except as provided in this section—

"(A) the Government shall initiate a civil forfeiture action against real property by—

"(i) filing a complaint; and

"(ii) posting a notice of the complaint on the property; and

"(B) serving notice on the property owner, along with a copy of the complaint.

"(2) If the property owner cannot be served with the notice under paragraph (1) because the owner is a fugitive;

"(A) a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing in which the property owner has a meaningful opportunity to contest the basis for the seizure; and

"(B) the court—

"(i) makes an ex parte determination that there is probable cause for the forfeiture and that there are exigent circumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to be heard;

"(ii) issues a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing in which the property owner has a meaningful opportunity to contest the basis for the seizure; and

"(iii) establishes exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not be sufficient to protect the Government’s interests in preventing the sale, destruction, or continued unlawful use of the real property.

"(d) If the court authorizes a seizure of real property under subsection (b)(1)(B), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

"(e) T his section applies only to civil forfeitures of real property and interests in real property;
under this section.''.

United States Code, regarding the stay of a civil forfeiture proceeding described in section 981(a)(1)(C) of such title, is amended to read as follows:

``(i) The provisions of section 981(g) of title 18, United States Code, is amended to read as follows:

SEC. 8. STAY OF CIVIL FORFEITURE PROCEEDING.

(a) SEC. 984(a) of title 18, United States Code, is amended to read as follows:

``(1) Upon application of the United States, the court shall stay the civil forfeiture proceeding if the court determines that the discovery will adversely affect the ability of the Government to conduct a related criminal investigation or the prosecution of a related criminal case.

(2) Upon motion of a claimant, the court shall stay the civil forfeiture proceeding with respect to that claimant if the court determines that--

(A) the claimant is the subject of a related criminal investigation or case;

(B) the claimant has standing to assert a claim to the property; and

(C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related investigation or case.

(3) With respect to the impact of civil discovery described in paragraphs (1) and (2), the court may determine that a stay is unnecessary if a protective order limiting discovery would protect the interest of 1 party without unfairly limiting the ability of the opposing party to pursue the civil case. In no case, however, shall the court enter a protective order as an alternative to a stay if the effect of such protective order would be to allow 1 party to pursue discovery while the other party is substantially unable to do so.

(4) In this subsection, the terms 'related criminal case' and 'related criminal investigation' mean an actual prosecution or investigation in progress at the time at which a request for a stay, or any subsequent motion to lift the stay is made. In determining whether a criminal case or investigation is 'related to a civil forfeiture proceeding', the court shall consider the degree of similarity between the parties, witness, facts, and circumstances involved in the 2 proceedings, without requiring an identity with respect to any 1 or more factors.

(5) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(6) Whenever a civil forfeiture proceeding is stayed pursuant to this subsection, the court shall enter any order necessary to preserve the value of the property or to protect the rights of lienholders or other persons with an interest in the property while the stay is in effect.

(7) A determination by the court that the claimant has standing to request a stay pursuant to paragraph (2) shall apply only to this subsection and shall not preclude the Government from objecting to the standing of the claimant by dispositive motion or at the time of trial.

(b) DRUG FORFEITURES.—Section 984(b) of the Controlled Substances Act (21 U.S.C. 881(i)) is amended to read as follows:

``(1) The provisions of section 984(g) of title 18, United States Code, regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section.''

SEC. 9. CIVIL RESTRAINING ORDERS.

Section 983 of title 18, United States Code, as added by this Act, is amended by adding at the end the following:

``RESTRAINING ORDERS; PROTECTIVE ORDERS.—

(1) Upon application of the United States, the court may issue a restraining order or, if the court determines that the exercise of the authority to issue such an order is necessary in the interest of justice, may enter a restraining order in ex parte proceedings, with respect to any 1 or more factors.

(2) An order entered pursuant to paragraph (1) shall be effective for not more than 90 days, unless extended by the court for good cause shown, or unless a complaint described in paragraph (1)(A) has been filed.

(3) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing if a request or other motion is made for the purpose of preserving the availability of the property for forfeiture or in the interest of justice.

(4) The court may receive and consider, at a hearing requested concerning an order entered under this subsection, evidence of a seizure, condemnation, appointment of a receiver or other property disposition, or to execute a seizure warrant or warrant of arrest in rem.

SEC. 10. COOPERATION AMONG FEDERAL PROSECUTORS.

Section 3232(a) of title 18, United States Code, as added by this Act, is amended—

(1) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(2) in subsection (a), as redesignated—

(A) by striking "or other fungible property" and inserting "or precious metals"; and

(B) in paragraph (2), by striking "subsection (c) and inserting "subsection (b)"; and

(3) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following: "(1) Subsection (a) does not apply to a claim pertaining to a foreign financial institution in an interbank account unless the account holder knowingly engaged in the offense that is the basis for the forfeiture."; and

(B) in paragraph (2), by striking "(2) As used in this section, the term " and inserting the following: "(2) In this section—

(A) the term 'financial institution' includes a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 310(b)(7)); and

(B) the term "; and

(4) by adding at the end the following:

"(D) Nothing in this section may be construed to permit the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

SEC. 14. FUGITIVE DISENTITLEMENT.

(a) IN GENERAL.—Section 984 of title 18, United States Code, is amended—

(1) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(2) in subsection (a), as redesignated—

(A) by striking "or other fungible property" and inserting "or precious metals"; and

(B) in paragraph (2), by striking "subsection (c) and inserting "subsection (b)"; and

(3) in subsection (c), as redesignated—

(A) by striking paragraph (1) and inserting the following: "(1) Subsection (a) does not apply to a claim pertaining to a foreign financial institution in an interbank account unless the account holder knowingly engaged in the offense that is the basis for the forfeiture."; and

(B) in paragraph (2), by striking "(2) As used in this section, the term " and inserting the following: "(2) In this section—

(A) the term 'financial institution' includes a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 310(b)(7)); and

(B) the term "; and

(4) by adding at the end the following:

"(D) Nothing in this section may be construed to permit the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

SEC. 14. FUGITIVE DISENTITLEMENT.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

"(F) Fugitive disentitlement—

"(1) A judicial officer may disallow a person from using the resources of the courts of the United States in furtherance of a claim in any related
civil forfeiture action or a claim in third party proceedings in any related criminal forfeiture action upon a finding that such person—

(1) after notice or knowledge of the fact that a warrant has been issued for his apprehension, in order to avoid criminal prosecution,

(A) purposely leaves the jurisdiction of the United States;

(B) declines to enter or reenter the United States to submit to its jurisdiction; or

(C) otherwise evades the jurisdiction of the court in which the criminal case is pending against the person; and

(2) is not confined or held in custody in any other jurisdiction for the commission of criminal conduct in that jurisdiction.

(b) CONFORMING AMENDMENT.—The analysis for chapter 163 of title 28, United States Code, is amended by adding at the end of the following:

``2466. Fugitive disentitlement.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any case pending on or after the date of enactment of this Act.''

SEC. 15. EFFECTIVE DATE OF FOREIGN FORFEITURE JUDGMENT.

(a) IN GENERAL.—Chapter 163 of title 28, United States Code, is amended by adding at the end the following:

``§2467. Enforcement of foreign judgment
(a) DEFINITIONS.—In this section—
(1) the term `foreign nation' means a country that has become a party to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (referred to in this section as the `United Nations Convention') or a foreign jurisdiction with which the United States has a treaty or other formal international agreement in effect providing for mutual forfeiture assistance; and

(2) the term `forfeiture or confiscation judgment' means any final order of a foreign nation compelling a person or entity—

(A) to pay a sum of money representing the proceeds of an offense described in Article 3, Paragraph 1, of the United Nations Convention, or any foreign offense described in section 956(c)(7)(B) of title 18, or property the value of which corresponds to such proceeds; or

(B) to forfeit property involved in or traceable to the commission of such offense.

(b) REVIEW BY ATTORNEY GENERAL.—
(1) IN GENERAL.—A foreign nation seeking to have a final order of a foreign nation enforcing the forfeiture or confiscation judgment described in that section shall be performed by the Attorney General."

``(1) the judgment was rendered under a system that provides tribunals or procedures incompatible with the requirements of due process of law;

(2) the foreign court lacked personal jurisdiction over the defendant;

(3) the foreign court lacked jurisdiction over the subject matter;

(4) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend; or

(5) the judgment was obtained by fraud.

(2) PROCESS.—Process to enforce a judgment shall be in accordance with rule 69(a) of the Federal Rules of Civil Procedure.

(e) FINALITY OF FOREIGN FINDINGS.—In entering orders to enforce the judgment, the court shall be bound by the findings of fact to the extent that they are stated in the foreign forfeiture or confiscation judgment.

(f) CURRENCY CONVERSION.—The rate of exchange in effect at the time the suit to enforce the foreign nation shall be used in calculating the amount stated in any forfeiture or confiscation judgment requiring the payment of a sum of money submitted for registration.''

``(2) declines to enter or reenter the United States or that such alien had come to, entered, or remained in the United States in violation of law.''

(b) TECHNICAL CORRECTIONS TO EXISTING CRIMINAL FORFEITURE AUTHORITY.—
(1) In paragraph (1)—

(A) by inserting `section 274(a), 274A(a)(1), or 2751(a)(2)' before `section 274(4)' and `(b) of the Immigration and Nationality Act' or `and this section' before `section 1422(a),'

(2) by striking `section 274(4)' and `(b) of the Immigration and Nationality Act' or `and this section' before `section 1422(a),'

(3) with respect to the words `in addition to forfeitures under section 274(4)(B) of the Immigration and Nationality Act' or `and section 1422(a),'

(4) by inserting `section 274(a), 274A(a)(1), or 2751(a)(2)' before `section 274(4)' and `(b) of the Immigration and Nationality Act' or `and this section' before `section 1422(a),'

(5) with respect to any vessel, vehicle, or aircraft, that has been or is being involved in the commission of an offense described in section (a), the gross proceeds of such violation, and any property traceable to such conveyance or proceeds, shall be seized and subject to forfeiture.

(6) APPLICABLE PROCEDURES.—Seizes and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Attorney General.

(7) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, any of the following shall be prima facie evidence that an alien involved in such violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(A) Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.''}
Sec. 21. EFFECTIVE DATE.

SEC. 22. REVISED DEFINITIONS.

(b) In clause (i), by striking "a violation of, or a conspiracy to violate, subsection (a)" and inserting "the offense of which the person is convicted"; and
(c) In subsections (i) and (ii) of clause (ii), by striking "a violation of, or a conspiracy to violate, subsection (a)" and all that follows through "of this title" each place it appears and inserting the offense of which the person is convicted;"

(2) by striking subparagraph (B); and
(3) in the second sentence—
(A) striking "The court, in imposing sentence on such person" and inserting the following:
"(B) The court, in imposing sentence on a person described in subparagraph (A);" and
(B) by striking "this subparagraph" and inserting "that subparagraph."

SEC. 19. ENHANCED VISIBILITY OF THE ASSET FORFEITURE PROGRAM.

Section 524(c)(6) of title 28, United States Code, is amended to read as follows:

(6)(A) The Attorney General shall transmit to Congress and make available to the public, not later than 4 months after the end of each fiscal year, detailed reports for the prior fiscal year as follows:

(i) A report on total deposits to the Fund by State of deposit.

(ii) A report on total expenses paid from the Fund, by category of expense and recipient agency or entity, and sharing payments.

(iii) A report describing the number, value, and types of properties placed into official use by Federal agencies, by recipient agency.

(iv) A report describing the number, value, and types of properties transferred to State and local law enforcement agencies, by recipient agencies.

(v) A report, by type of disposition, describing the number, value, and types of forfeited property disposed of during the year.

(vi) A report on the year-end inventory of properties under seizure, but not yet forfeited, that reflects the type of property, its estimated value, and the estimated value of liens and mortgages outstanding on the property.

(vii) A report listing each property in the year-end inventory, not yet forfeited, with an outstanding equity of not less than $1,000,000.

(6)(B) The Attorney General shall transmit to Congress and make available to the public, not later than 2 months after final issuance, the audited financial statements for each fiscal year for the Fund.

(C) In cases involving fraud in the process of obtaining a loan or extension of credit, the court shall allow the claimant to deduct from the forfeiture to the extent that the loan was repaid, or the debt was satisfied, without any financial loss to the victim.

SEC. 21. EFFECTIVE DATE.

Except as provided in section 14(c), this Act and the amendments made by this Act shall apply to any forfeiture proceeding commenced on or after the date of enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to announce that Chairman Hyde, Senator Leahy and I reached an agreement with the Department of Justice and Senators Sessions and Schumer yesterday on civil forfeiture reform legislation. This is an important issue, and I am proud to support this legislation. While civil forfeiture is a valuable law enforcement tool, it has become increasingly clear that reform of civil forfeiture law is necessary given the numerous controversial seizures of property in the last decade.

Federal civil forfeiture procedures, which are based largely on 19th century admiralty law, provide inadequate protections for private property. For example, under current Federal law, once the government seizes property, the burden of proof is on the property owner to prove that the property is not subject to forfeiture. If the property is seized, the property owner must post a cost bond in order to contest the forfeiture. This bond requirement does not entitle the property owner to the return of the property, but merely allows the claimant to contest the forfeiture. If the property owner files a claim to the property, the government has up to five years to file a complaint for forfeiture.

The legislation agreed to today increases protections for property owners, while respecting the interests of law enforcement. Among other provisions, the bill places the burden of proof in civil forfeiture cases on the government throughout the proceedings; places reasonable time limits on the government in civil forfeiture actions; awards attorney fees and costs to property owners who prevail against the government in civil forfeiture cases; authorizes the court to release property pending trial in appropriate circumstances; provides a bond; and provides a uniform innocent owner defense to all federal civil forfeitures affected by the bill.

All of us here are committed to depriving criminals of the proceeds of crime. To further this goal, the bill increases the ability of the Justice Department to target criminal proceeds. The bill also extends criminal forfeiture authority to all forfeiture proceedings to a certain extent in which civil forfeiture authority exists in order to encourage the use of criminal forfeiture. In addition, the bill contains several mechanisms to deter and punish frivolous claims to seized property. Senator Schumer will describe these provisions in detail.

A broad coalition of organizations support this bill, including the Chamber of Commerce, the American Bankers Association, the National Association of Homebuilders, the National Association of Relators, the Institute for Justice, Americans for Tax Reform, the National Rifle Association, the American Bar Association, and the National Association of Federal Civil Forfeiture Reform. This coalition, including former attorneys general William Barr, Richard Thornburg, Edwin Meese, Benjamin Civiletti, Griffin Bell, and Nicholas Katzenbach—have endorsed the bill.

Finally, I would like to thank Senators Sessions and Schumer for their patience and cooperation. This agreement would not be possible without their hard work and dedication. Senator Sessions is to be especially commended. As a former United States Attorney and state Attorney General, he has more experience in civil forfeiture actions than any member of Congress. Senator Sessions has been an outstanding voice for the law enforcement community, and I am proud to have his support.

Finally, I would like to thank House Judiciary Chairman Henry Hyde. No one has done more to advance the cause of civil forfeiture reform than Chairman Hyde. His 1995 book on civil forfeiture helped draw national attention to the need for reform. Last June, the House overwhelmingly passed the Hyde-Conyers civil forfeiture reform bill. This victory for reform was due in large measure to Henry Hyde’s stature and commitment. Thank you for your attention to this important reform legislation.

Mr. LEAHY. Mr. President, at long last, after years of effort and several weeks of intensive, tedious and seemingly endless negotiations, we have reached agreement on civil asset forfeiture reform legislation. This is a significant improvement over the current system and should go a long way toward stemming the abuses that have so offended Americans across the country and the political spectrum. It is not often that we see the U.S. Chamber of Commerce, the American Bankers Association, the Association of Criminal Defense Lawyers, American Bankers Association, the Institute of Justice, Americans for Tax Reform, and the American Bar Association joining together on the same side of an important legislative effort. Working with Chairman Hatch, Chairman Hyde, Mr. Conyers, Senator Sessions and Senator Schumer, we have crafted a good
A civil asset forfeiture is a powerful crime-fighting tool. It has been a particularly potent weapon in the war on drugs, allowing the government to take the cars and boats and stash houses amassed by drug dealers and put them to honest use. Last year alone, the government was able to seize nearly half a billion dollars worth of assets, cutting a big chunk out of criminals' profit stream and returning it to the law-abiding community.

Unfortunately, our nation's asset forfeiture is not fail-safe; it can be and has been abused. In hearings on this issue, the Judiciary Committee has heard examples of what happens when prosecutorial zeal skirts the boundaries of due process, leading to the taking of private property regardless of whether the owner is innocent of, or even cognizant of, the property's use in an illegal act, or whether the seizure is entirely out of proportion to the criminal conduct alleged.

I am well aware from incidents in Vermont about how aggressive use by Federal and State law enforcement officials of civil asset forfeiture laws can appear unfair and excessive, and thereby fuel public distrust of the government in general and law enforcement in particular. For example, in 1989, federal prosecutors seized a Vermont home and 10.7 acres of a family in Craftsbury Common, Vermont, after the homeowners were convicted in State court of cultivating marijuana and given suspended sentences three years earlier in 1987. Given the fact that in each of these cases, the underlying criminal charges were prosecuted by the State but the forfeiture action was taken federally, one might ask why these related proceedings were divided between the State and federal authorities. The answer is simple: Vermont law does not allow the forfeiture of real property "which is occupied as the primary residence of a person involved in the violation of a member or members of that person's family." § 4241(a)(5).

Moreover, under Vermont law, state law enforcement authorities carry a heavier burden of proving all material facts by clear and convincing evidence. 18 V.S.A. § 4244(c). By contrast, federal forfeiture procedures provide more latitude on the property subject to seizure and more lenient requirements for federal law enforcement authorities to meet.

While federal authorities in Vermont have in recent years avoided such egregious asset forfeiture abuses, that is not the situation in other jurisdictions, prompting increasing and exceedingly sharp criticism from scholars and commentators of the federal asset forfeiture system's general requisites far less from the government than any State forfeiture law.

Federal judges have also added their voices to the growing chorus of concern. In 1992, the Second Circuit Court of Appeals upheld the government's right to seize property subject to forfeiture. The preponderance standard is used in virtually all other civil cases, and we believe it is sufficient to protect the interests of property owners.

The Hyde-Conyers civil asset forfeiture reform bill, H.R. 1698, passed the House by an overwhelming bipartisan majority (375-48) last June. After lengthy negotiations with the Department of Justice, Chairman HATCH and I introduced a Senate asset forfeiture reform bill, S.1931. Our bill addressed every major concern that the Department had raised in our hearings and in the Statement of Administration Policy regarding the Hyde-Conyers bill, and struck a fair compromise on those issues.

For example, the Hyde-Conyers bill put the burden of proof on the Government by clear and convincing evidence. We put the burden of proof on the Government by a preponderance of the evidence. The preponderance standard is used in virtually all other civil cases, and we believe it is sufficient to protect the interests of property owners.

The Hyde-Conyers bill authorized courts to appoint counsel for any indigent person who asserted an interest in seized property. Although I am sympathetic to that proposal—justice should not be only for the wealthy—the Administration said it must do more than modernize the Federal asset forfeiture procedures to meet the interests of property owners. The Hyde-Conyers bill did more than modernize the Federal asset forfeiture procedures to meet the interests of property owners.

We are grateful for the support of so many members of the Committee and others over the last year. The Hatch-Leahy bill was endorsed by the last six Attorneys General of the United States from both parties, William Barr, Richard Thornburgh, Edwin Meese, Benjamin Civiletti, Griffin Bell, and Nicholas Katzenbach, and a wide range of organizations. Although I knew that we had met the Department more than half way in our bill, we did not stop there. We have met with and worked with Senators Sessions and Schumer, who had introduced a different bill, and learned whether we might find common ground. After weeks of intensive efforts, we succeeded in coming together. For our part, Chairman HATCH and I accepted many of the substantive changes to the provisions in the Hatch-Leahy bill, plus about a dozen new sections to the bill that give law enforcement new, but measured, authority.
essence we combined the Hatch-Leahy Civil Asset Forfeiture Reform Act, S. 1931, with suggestions from the Sessions-Schumer bill to form a civil asset forfeiture legislative package that we can all agree to support.

Amendments made by the substitute amendment to H.R. 1658, which the Senate passes today, are the following:

Burden of proof. The substitute amendment puts the burden of proof on the government by a preponderance of the evidence.

Cost bond. Another core reform of the substitute amendment is the elimination of the so-called “cost bond.” Under current law, a property owner who seeks to recover his property after it has been seized by the government must pay for the privilege by posting a bond with the court. No other federal statute requires a cost bond, and no State requires a cost bond in civil forfeiture cases.

The government has defended the cost bond, not as a device for ensuring that its court costs are covered, but as a way of deterring frivolous claims. Of course, we are all in favor of deterring frivolous claims, but there are ways to deter frivolous claims without offending the fundamental principle of equal and open access to the courts, a bedrock of our American system of justice.

The substitute amendment provides that a person who challenges a forfeiture must file his claim on oath, under penalty of perjury. It also provides for imposition of a civil fine, in cases where the claimant’s assertion of an interest in the property was frivolous. In addition, claimants will continue to bear the substantial costs of litigating their claims in court, and they and their attorneys will remain subject to the general sanctions for bad faith in instituting or conducting litigation. Frivolous prisoner claimants will be barred from repeated filings on proper court findings. The added burden of the “cost bond” serves no legitimate purpose.

Legal assistance and attorney fees. The substitute amendment permits courts to authorize counsel to represent an indigent claimant only if the claimant is already represented by a court-appointed attorney in connection with a related federal criminal case. This is both fair and efficient, and eliminates any appearance that the government chose to pursue the forfeiture in a civil proceeding rather than as part of the criminal case in order to deprive the claimant of his right to counsel.

Beyond this, the substitute amendment ensures that when the government seeks to forfeit an indigent person’s primary residence, that person will be afforded representation by the Legal Services Corporation. When a forfeiture action results in a claimant’s eviction and homelessness, there is more at stake than just a property interest, and it is fair and just that the claimant be provided with an attorney if he cannot otherwise afford one. The Legal Services Corporation will be paid by the government for providing representation in these cases.

For claimants who are not provided with the pursuit of a claim allows for the recovery of reasonable attorney fees and costs if they substantially prevail on their claim. The bill also makes the government liable for post-judgment interest on any money judgment, and imposes interest in the case involving currency or negotiable instruments.

Filing deadlines. Under current law, a property owner has only 20 days from the date of first publication of the notice of seizure to file a claim challenging an administrative forfeiture, and only 10 days to file a claim challenging a judicial forfeiture. It is therefore unlikely that anyone who misses the first of three published notices will be able to file a claim. The substitute extends the property owner’s time to file a claim following the commencement of an administrative or judicial forfeiture action to 30 days. The bill also codifies current Department of Justice policy with respect to the timing of filing notice of seizure, and establishes a 90-day period for filing a complaint.

Release of property for hardship. The substitute will allow a property owner to retain an interest in the property following the final disposition of the case, if he can show that continued possession by the government will cause the owner substantial hardship, such as preventing him from working, and that this hardship outweighs the risk that the property will be destroyed or concealed if returned to the owner during the pendency of the case. Unlike H.R. 1658, the substitute adopts the primary safeguards that the Justice Department wanted added to the provision—that a property owner must have sufficient ties to the community to provide assurance that the property will not disappear, and that certain property, such as currency and property particularly outfitted for use in illegal activities, shall not be returned. The government cannot obtain a grand jury subpoena to obtain such documents.

Criminal proceeds. The substitute also brings clarity and fairness to the confused body of case law concerning the government’s authority to forfeit criminal proceeds under the civil asset forfeiture laws.

Fugitive disentitlement. The Supreme Court in 1996 disallowed the judge-made doctrine that a fugitive who evades the jurisdiction of U.S. courts in a criminal case may not contest a civil forfeiture; however, the Court left open the possibility that Congress could establish such doctrine by statute. The Court was responding, in part, to the government’s record of seeking forfeiture of property even though the property is not subject to forfeiture (e.g., because the statute of limitations has expired), when the government believes that the fugitive owner will not be permitted to contest the forfeiture. Opponents of the fugitive disentitlement doctrine say that the prosecutors have gone so far as to indict people whom they know will never return to this country, so that they can invoke the doctrine in civil forfeiture proceedings against such persons’ U.S. assets. The substitute provides a statutory basis for a judge to disallow a civil asset forfeiture claim by a fugitive, while leaving judges discretion to allow such a claim in the interests of justice.

Senator Hatch and I share a long-standing and deeply-held appreciation for law enforcement and the officers who work on the front lines to protect our communities and neighborhoods. We have worked together on a number of crime-related issues in the past. Recently, for example, we have led the Senate in passing a number of legislative initiatives of importance to State and local law enforcement, including the Bulletproof Vests Partnership Act of 1998, Crime Identification Technology Act of 1998, Care for Police Survivors Act of 1998, the Railroad Police Officers Training Act of 1999, and the Methamphetamine Anti-Proliferation Act of 1999. Each of these initiatives is sorely needed to protect the safety of our officers and the citizens they serve.

It has been a privilege to work with Representatives Hyde and Conyers on this important legislation. And we greatly appreciate the contributions made by Senators Sessions and Schumer, both knowledgeable and experienced legislators in this area.

I would also like to thank the Senate and House staff who worked so hard to bring this matter to closure: On my staff, Julie Katzman and Beryl Howell; in addition, George Fishman, who has been dedicated to this project for so many years, Manus Cooney, Rhett DeHart, Ed Haden, Ben Lawsly, Tom Mooney, John Dudas, Julian Epstein, and many others. Their efforts made this day possible. Thanks are also due to Bill Jensen and the other hardworking members of the Senate’s Office of Legislative Counsel.
Finally, I would like to express my gratitude to David Smith, a leading expert on civil asset forfeiture, who gave tirelessly of his time over the past few months. His expertise and good counsel were invaluable in producing the legislation that was passed today.

It is time for Congress to catch up with the American people and the courts and do the right thing on this important issue of fairness. I am glad that the Senate is acting without delay to pass this long overdue reform legislation.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee substitute was agreed to.

The bill (H.R. 1658), as amended, was read a third time and passed.

Mr. SESSIONS. Mr. President, the bill we have just considered is a very important piece of legislation that has been the subject of considerable effort for over a year now in the Judiciary Committee in the House.

Great efforts have been expended by all parties interested in this legislation to achieve a piece of legislation that would provide enhanced protections to private property owners and at the same time would not undermine, in a real and significant and unnecessary way, the ability of law enforcement agencies to seize and forfeit to the interest of the Government assets from illegal drug dealers and other criminal assets that are forfeited.

In the early 1980s, this Congress passed one of its most historic pieces of legislation that attacked crime in America. It was the asset forfeiture law. I was a U.S. attorney in Mobile, AL. This Federal law became a daily part of the work of my office.

We instructed our assistant U.S. attorneys that whenever they were prosecuting a drug case, it was not just enough to sentence and punish the criminal, they ought to be sure the ill-gotten gains, the profits they made from selling illegal substances in this country, would be seized and forfeited to the United States.

On a regular basis that was done all over this country. It was a major, important, historic step against crime, particularly against drug crime in America. Hundreds of millions, perhaps billions of dollars, have been forfeited from illegal enterprises since that day. The forfeitures are conducted under this Federal law, although States have the ability to forfeit assets, too.

In Federal court, the Government had to prove its case, seize the asset; a cost bond would be posted by the defendant if he wished to contest the seizure, and a court would hear the case and make a ruling in that fashion.

A number of people believed strongly that requiring a person to post a cost bond was not a healthy thing under our legal system. They wanted to change that. Chairman HENRY HYDE in the House Judiciary Committee felt that way, too, and Senator HATCH, chairman of the Senate Judiciary Committee. We began to analyze and study what we could do to deal with this problem of asset forfeiture.

At the time, Senators SCHUMER, THURMOND, BIDEN, and myself introduced legislation that has since become law in the Senate. Senators HATCH and LEAHY introduced another piece of legislation that was closer to the Hyde bill.

For some months now, we have worked together to see what we could do to protect legitimate constitutional rights of American citizens, while at the same time protecting this tremendous asset to law enforcement of the seizing and forfeiting of assets.

It is wrong, in my opinion, for a person who has made his money and his livelihood for years selling dope in America to go to jail and leave a mansion out there that he can come back to and the Federal taxpayers having to pay for his time in jail, or to have bank accounts with hundreds of thousands of dollars in them and not have that seized by the Government but, in fact, serving his time in jail and getting out and living high off the ill-gotten gains he achieved as a drug trafficker.

I would say, 98 percent of forfeitures in America today in Federal court are as a result of drug cases.

In my relatively small office in Alabama, when I was a U.S. attorney, we seized probably $8 million to $10 million that we actually turned into the Federal Treasury, after expenses and other items were paid.

In one case, we seized a Corvette automobile that was rumored to be worth hundreds of thousands of dollars because it was a unique Corvette. In fact, the drug dealer's car eventually was sold for $170,000, as I remember. We seized mansions in Florida on the Gulf Coast. We seized bank accounts in foreign countries—big freighters, small boats, expensive sail boats, automobiles of all kinds, and bank accounts into the millions of dollars.

These are effective tools against the drug trafficking industry. In fact, I think the result has been something of which we can all be proud.

I also express my appreciation for the leadership of Senator HATCH who chairs the Judiciary Committee. His skill and knowledge on these issues is unsurpassed, and his dedication to American law is unsurpassed.

I also was extraordinarily impressed with the commitment and knowledge and ability of Chairman HENRY HYDE of the House Judiciary Committee. His insight and commitment to making this law better was remarkable, and I think the result has been something of which we can all be proud.

ORDER FOR STAR PRINT—S. 2285

Mr. SESSIONS. Mr. President, I ask unanimous consent that a star print of S. 2285 be made with the changes that are at the desk.

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

ORDERS FOR TUESDAY, MARCH 28, 2000

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, March 28. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S.J. Res. 14, as under the previous agreement.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that the Senate stand in recess from the hours of 12:30 to 2:15 for the weekly party luncheons.

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

PROGRAM

Mr. SESSIONS. For the information of all Senators, tomorrow morning the Senate will resume consideration of the pending flag desecration resolution. Under the order, there will be 2 hours remaining for debate relating to the Hollings amendment, to be followed by an additional hour for general debate. At 2:15 on Tuesday, following the party luncheons, the Senate will proceed to two consecutive votes on the pending amendments to the flag desecration resolution. It is hoped that following those votes, the Senate will be able to reach a consent agreement regarding the passage vote of S. J. Res. 14. As a reminder, if an agreement is not reached for a vote on passage, then under the provisions of rule XXII, a cloture vote will occur on Wednesday of this week. I thank all the Members for their attention.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order. There being no objection, the Senate, at 6:45 p.m., adjourned until Tuesday, March 28, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 27, 2000:

DEPARTMENT OF STATE
GREGORY G. GOVAN, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS CHIEF U.S. DELEGATE TO THE JOINT CONSULTATIVE GROUP. (NEW POSITION)

THE JUDICIARY
BEVERLY B. MARTIN, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE G. ERNEST TIDWELL, RETIRED.
ROGER L. HUNT, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA, VICE A NEW POSITION CREATED BY PUBLIC LAW 106-113, APPROVED NOVEMBER 29, 1999.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on March 27, 2000, withdrawing from further Senate consideration the following nominations:

THE JUDICIARY
GAIL S. TUSAN, OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE G. ERNEST TIDWELL, RETIRED, WHICH WAS SENT TO THE SENATE ON AUGUST 3, 1999.

DEPARTMENT OF JUSTICE
JOSE ANTONIO PEREZ, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE STEPHEN SIMPSON GREGG, WHICH WAS SENT TO THE SENATE ON JANUARY 6, 1999.
I believe the practice that the Department of Defense has used to abate the federal income tax has deprived many Native Americans of millions of dollars in tax revenues. It is important that the Nation recognizes that it is unfair to tax the income of Native American service members and women who have voluntarily chosen to serve their country in the military.

Section 5517 of the Federal Acquisition Regulation (FAR) specifically authorizes Federal agencies to enter into agreements with states to withhold state income tax from the wages of federal employees who are domiciled on the reservation and are serving their country. However, this section also permits states to withhold state income taxes from the income of Native American service members who reside on the reservation.

I emphasize that the practice of withholding state income taxes from the income of Native American service members who are domiciled on the reservation must be discontinued. The Defense Department must immediately cease the practice of withholding state income taxes from the income of Native American service members who reside on the reservation. If you choose to continue to do so, you will be subject to civil and criminal penalties for violating the law.

Thank you for your time and attention.

Sincerely,

DON YOUNG
Chairman.

EXTENSIONS OF REMARKS

IMPROPER TAXATION OF NATIVE AMERICANS

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. MILLER. Mr. Speaker, I rise to highlight an ongoing injustice: state taxation of the income of Native American servicemen and women.

The law is clear: state may not tax the income of tribal members who live and derive their income from activity within the reservation. Similarly, a state may not tax the income of tribal members who serve in the military and claim their reservation as their home. Nevertheless, these tribal members continue to be taxed by several states. This practice has likely deprived thousands of Native Americans of millions of dollars.

By withholding federal wages of these Native American service personnel for state income taxes, the Department of Defense may unwittingly be assisting this improper taxation. To date, the burden has fallen on individual servicemen and women to press their claims and seek recovery of their federal wages from the state. To redress this wrong on a systemic basis, Mr. Young of Alaska, Chairman of the Committee on Resources, Mr. SKELTON, Ranking Democratic Member of the Committee on Armed Services, and I have asked the Secretary of Defense to ensure that federal withholding procedures do not abet or perpetuate this practice.

I submit for the RECORD the letter to the Secretary of Defense:

HONORING LEBANON CATHOLIC HIGH SCHOOL’S GIRLS’ AND BOYS’ BASKETBALL TEAMS

HON. GEORGE W. GEKAS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEKAS. Mr. Speaker, today I rise to recognize the incredible achievements of the girls’ and boys’ basketball teams of Lebanon Catholic High School in Lebanon, Pennsylvania. For the first time ever, the Lebanon Catholic Beavers have captured district basketball championships with both the boys’ and girls’ teams.

The boys’ basketball team captured their first District Three Class A title after a come-from-behind victory of 51-45. The Beaver girls were also successful in their pursuit of the District 3 title. The girls victory made Lebanon Catholic only the third school in the history of this district’s playoffs to capture the title with both the boys’ and girls’ teams.

Their success was not bought with a short road to victory. The many hours of practice and hard work that these fine young men and women have invested has paid off as they celebrate not only successful seasons, but district championships as well. The athletes on these two extraordinary teams have, undoubtedly, learned valuable lessons of motivation, dedication, and team work.

These young athletes deserve the admiration of their families, teachers, and fellow students for their great accomplishments. I am proud to represent such a fine group of young people from Pennsylvania’s 17th District. I know the entire House of Representatives joins me in congratulating this outstanding group of young people from Lebanon Catholic High School. Congratulations and continued success.

TRIBUTE TO THE EDWIN J. LEYANNA V.F.W. POST 671 HONOR GUARD IN DEWITT MICHIGAN

HON. DAVE CAMP
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. CAMP. Mr. Speaker, today I pay tribute to a group of noble veterans.

There is no more honorable cause or purpose than serving one’s nation. As history illustrates, our nation has enjoyed unwavering support as millions of men and women have answered the call for duty. It is their sacrifice that has helped build and protect our great nation.

For many, service does not end at discharge. For them serving means honoring those Veterans who pass on. The Honor Guard at VFW Post 671 in Dewitt, Michigan, is composed of 35 selfless veterans who are quick to heed the call for their services when one of their compatriots passes on. Since the group was formed in 1986, these men have performed some 720 military funerals. Whether it rains or snows, these veterans—who average 69 years of age—answer the call to duty.

Appreciation for our military and for the many sacrifices of those who serve does not always get the attention it so richly deserves. Post 671’s Honor Guard ensures that proper recognition will be accorded those who so bravely defended our freedom on the occasion of their final internment. Just as the brave men and women being remembered put their country before themselves, the Honor Guard places the needs of the area’s veterans and their families ahead of their own.

Mr. Speaker, please join me and the proud citizens of Dewitt and surrounding communities in saluting these great patriots. I thank the Edwin J. Leyanna V.F.W. Post 671 Honor Guard for their dedication to the fallen heroes of this great nation.

SAVE MONEY FOR PRESCRIPTION DRUG RESEARCH ACT OF 2000

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. STARK. Mr. Speaker, I rise today to introduce the Save Money for Prescription Drug Research Act of 2000.
Research Act of 2000, a bill to deny tax deductions to drug companies for certain gifts and benefits, but not product samples, provided to physicians and to encourage use of such funds for pharmaceutical research and development. Rather than spending pharmaceutical dollars on these very questionable gifts, the tax legislation would devolve these billions of dollars to research and development of life-saving drugs. This bill will enable them to do so.

The magnitude of drug company bribes to doctors is staggering. In its January 19, 2000, issue, the Journal of the American Medical Association (JAMA) concluded that U.S. drug companies spend more than $11 billion per year on drug promotion and marketing—an estimated $8,000 to $13,000 per physician. These “gifts” include free meals, travel subsidies, sponsored teachings, and even recreational benefits such as sporting event tickets and golfing fees, to name just a few. The JAMA article is attached.

JAMA’s analysis warns that the present extent of these practices “appears to affect prescribing and professional behavior and should be further addressed at the level of policy and education.” The $11 billion that drug companies spend lobbying doctors often leads to distorted, inappropriate, overprescribing of drugs.

The money has been written off by drug companies and is not a tax burden. These “gifts” include free meals, travel subsidies, sponsored teachings, and even recreational benefits such as sporting event tickets and golfing fees, to name just a few. The JAMA article is attached.

JAMA’s analysis warns that the present extent of these practices “appears to affect prescribing and professional behavior and should be further addressed at the level of policy and education.” The $11 billion that drug companies spend lobbying doctors often leads to distorted, inappropriate, overprescribing of drugs.

Over the years, I have personally received numerous gifts from drug companies, including drug company gifts sent to physicians. One physician has sent me many particularly outlandish examples of perks he has been offered. The number of gifts offered over the course of 1 week is staggering. One week included an invitation to the races; a round-trip airfare, hotel, and one bar from noon to 3 p.m. Subsequent days of the week featured a free dinner at a fine restaurant where meals averaged $25/plate and major league baseball tickets for the entire family.

I would also like to insert in the RECORD a March 9, 2000, USA Today article. This article describes a growing trend among advertising and marketing firms to sponsor physician continuing medical education courses that doctors in 34 States need to keep their licenses. These courses are paid for by drug companies and often hire faculty to teach courses and educate medical professionals about their sponsors’ products. This provides drug companies with another opportunity to impact physician prescribing practice and increase their company profits—while giving doctors a free, questionable way to meet their recertification requirement.

Drug companies will claim that changes in tax treatment will directly decrease their investment in research. In fact, less than 4 months after Senator Grassley introduced his Research Service (CRS) analyzed the tax treatment of the pharmaceutical industry. That analysis found taxpayer financed credits contribute powerfully to lowering the average effective tax rate for drug companies—by nearly 40 percent—and major industries between 1990 to 1996. While effective tax rate so much lower than that of other industries, it’s hard to feel their pain.

On top of their lowered tax rate, this industry already reaps billions and billions in profits every year. Fortune magazine rates the pharmaceutical industry as one of the most profitable businesses in America. The average compensation for 12 drug company CEO’s was $22 million in 1998. Likewise, CRS reported that after-tax profits for the pharmaceutical industry averaged 17 percent—three times higher than the 5 percent profit margin of other industries. U.S. drug companies claim their exorbitant profits are justified by the high cost of research and development. Yet pharmaceutical companies generally spend twice as much on marketing and administration as they do on research and development. In fact, some companies are guilty of spending even more than that. Merck & Pfizer spent 11 percent of revenues on R&D in 1997, while spending 28 percent on administration and marketing—including gifts and payments to physicians.

The pharmaceutical industry appears to have its priorities backward. Research and development is much more important than drug company promotions. Our nation has reaped great rewards as a result of pharmaceutical research; pharmaceutical and biotech research have led to the discovery of life-saving cures and treatments for ailments that would have cut lives short at one time. But drug companies can do more. Think of all the additional lives that could be saved if the pharmaceutical industry were to reallocate the resources now spent on physician promotions to R&D.

The need for this bill is clear. Denying the pharmaceutical industry the ability to deduct expenditures for gifts (other than product samples) to physicians is a critical step in providing Americans with access to more life-saving drugs. This will discourage drug company gifts that have been shown to sway physician prescribing behavior and free up more pharmaceutical revenue for R&D. By redirecting drug company promotional expenditures to their R&D budgets, the American public would reap the benefits from medical breakthroughs. If the companies choose to keep the $11 billion as company profits, then the additional tax revenue from these increases could be used to provide a much-needed Medicare prescription drug benefit. Any way you look at it, this bill is a winner for the American public.

I look forward to working with my colleagues in support of this legislation to encourage pharmaceutical research and development and to deny drug company tax deductions for gifts to physicians.

[From JAMA, Jan. 19, 2000]

PHYSICIANS AND THE PHARMACEUTICAL INDUSTRY
IS A GIFT EVER JUST A GIFT?
(By Ashley Wazana, MD)

There are few issues in medicine that bring clinicians into heated discussion as rapidly as the interaction between the pharmaceutical industry and the medical profession. More than $11 billion is spent each year by pharmaceutical companies in promotion and marketing, with the lion’s share directed to sales representatives. It has been estimated that $8000 to $13000 is spent per year on each physician. The attitudes about this expensive interaction are also contradictory. One study found that 8% of medical students believe it is improper for politicians to accept a gift, whereas only 46% found it improper for themselves to accept a gift. A similar value from the pharmaceutical company. Most medical associations have published guidelines to address this controversy. Perhaps one of the most important concerns is related to the potential consequences were it confirmed that gifts influence prescription of medication that results in increasing cost or negative consequences. This article addresses the question by way of a critical examination of the evidence.

Two review articles have addressed the factors affecting drug prescribing, but only 1 has focused on the impact of the physician-industry interaction on the behavior of physicians. This article critically examines the literature and highlights articles with rigorous study methods.

METHODS

Studies were identified by searching MEDLINE for articles from 1994 to the present, using the expanded Medical Subject Headings conflict of interest and drug industry, limiting the search to articles in English while excluding review articles, letters, and editorials; each identified study was independently referenced; 24 articles were gathered by the Medical Lobby for Appropriate Marketing was searched; and 5 key informants were sought for their bibliographies on the topic.

A total of 538 studies that provided data on any of the main study questions were targeted for retrieval. Of the 29 studies that were published in peer-reviewed journals and identified as potentially relevant (containing qualitative data on 1 of 3 facets of physician-industry interactions), 10 were from MEDLINE and 19 from other sources. The data extractor (A.W.) was not blinded to the authors of the studies.

Those with an analytical design (having a comparison group) were considered to be of higher methodological quality.

Context: Controversy exists over the fact that physicians have regular contact with the pharmaceutical industry and its sales representatives, who spend a large sum of money each year promoting to them by way of gifts, free meals, travel subsidies, sponsored teachings, and symposia.

Objective: To identify the extent of and attitudes toward the relationship between physicians and the pharmaceutical industry and its representatives and its impact on the knowledge, attitudes, and behavior of physicians.

Data Sources: A MEDLINE search was conducted for English-language articles published from 1994 to present, with review of reference lists from retrieved articles; in addition, an Internet database was searched and 5 key informants were interviewed.

Study Section. A total of 538 of studies that provided data on any of the study questions were targeted for retrieval, 29 of which were included in the analysis.

Data Extraction. Data were extracted by 1 author. Articles using an analytic design were considered to be of high methodological quality.

Data Synthesis. Physician interactions with pharmaceutical representatives were generally endorsed, began in medical school, and continued at a rate of about 4 times per month. Meetings with sales representatives were associated with requests by physicians for adding the drugs to the hospital formulary and changes in prescribing practice. Drug company-sponsored continuing medical education (CME) preferentially highlighted the sponsor’s drug(s) compared with the CME programs. Attending sponsored CME events and accepting funding for travel or lodging for educational symposia were associated with increased prescription rates of the sponsor’s medication. Attending sponsored presentations by pharmaceutical representative speakers was also associated with nonprescribing

Conclusion: The present extent of physician-industry interactions appears to affect prescribing and health care and should be further addressed at the level of policy and education.
March 27, 2000

CONGRESSIONAL RECORD — Extensions of Remarks

E419

Few Physician Complaints

In response to the dispute, Kopelow says, the ACCME has considered requirements that independent monitoring committees oversee all providers. But even with the new standards, critics note that professional problems with the group’s oversight:

Providers get to pick in advance which monitors review courses for objectivity.

No requirements ensure that physicians take courses relevant to their specialties.

No explicit requirement exists for physician involvement in CME planning.

Few rely on faculty professionalism to a large extent,” Kopelow says. Industry participation in medicine is standard practice, he says, citing such examples as for-profit hospitals and health maintenance organizations as “the way we do things in the United States.” Private companies offering CME simply reflect that phenomenon, in his view.

The required disclosure of who finances a course and of any faculty ties to corporate sponsors goes a long way toward ensuring doctors who take CME courses know where advice is coming from, Kopelow says. “We have millions of eyes out there watching” in some 600,000 annual hours of accredited courses.

Over the past three years his organization has received 56 complaints about programs, 14 resulting in warning letters. But some providers say that doctors renew their medical licenses have little incentive to call into question a program that helps them reach that goal. “Patients should be concerned about this,” Glotzer says. “The job and responsibility of these firms is to market drugs, not to teach doctors.”

Disputes over industry involvement in medicine extend into many areas, some physicians note.

“it’s somewhat insulting to think that doctors don’t have inquiring minds that can tell the good from the bad,” says Dolores Bacon of New York Presbyterian Medical Center.

“There’s a huge variability in commercial (CME) programs,” she adds. “Ultimately, as physicians, our job is to be informed consumers.”

HONORING THE AMERICAN ASSOCIATION OF DENTAL SCHOOLS (AADS)

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. NORWOOD. Mr. Speaker, today I recognize the tremendous work performed by a group of dedicated and tireless professionals: the members of the American Association of Dental Schools (AADS). Many members, including those from the 10th Congressional District of Georgia, are gathering at the AADS 77th Annual Meeting here in the nation’s capital. I congratulate the AADS for its achievements.

AADS is the one national organization that speaks exclusively for dental education.

Since 1923 the Association’s institutional membership has trained the nation’s oral health care providers. The Association has done exemplary work in leading the dental education community in addressing the issues influencing education, research, and the health of the public. Members of the Association including all of the dental schools in the United States, Puerto Rico, and Canada, allied dental
education programs, corporations, faculty, and students. The nation owes a great debt to AADS for its unwavering commitment to excellence in dental education.

AADS works to promote the value and improve the quality of dental education, and to expand and strengthen the role of dentistry among other health professions in academia and society. There is currently more focus than ever on oral health and I hope the nation will understand that oral health is a part of total health.

AADS is dedicated to assisting its membership in providing service to patients of limited means and quality education of future practitioners. Dental schools and programs play a major role in access to oral health care, reaching many underserved low-income populations, including individuals covered by Medicaid and the State Children’s Health Insurance Program (CHIP). AADS members play a critical role in meeting the oral health needs of the nation. It is with great pride that I honor my distinguished colleagues of the dental profession.

Mr. Speaker, I honor the American Association of Dental Schools for being the leader in dental education. I urge my colleagues to join me in wishing AADS many more years of continued success.

THE 80TH ANNIVERSARY OF BALTIMORE HEBREW UNIVERSITY

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Monday, March 27, 2000

Mr. CARDIN, Mr. Speaker, I rise today to congratulate Baltimore Hebrew University, a valuable educational institution in my district, on their 80th anniversary.

Following World War I, in response to a community need for Jewish education and teacher training, Baltimore Hebrew University opened its doors as an institution of higher learning devoted solely to Jewish studies. Today Baltimore Hebrew University has more graduate and credit students than any other Hebrew college in the nation. The University has the fourth largest Master of Arts program in Jewish Studies in the country with only Yeshiva University, Hebrew Union College and the Jewish Theological Seminary having larger programs.

In addition to teaching Jewish Studies on their Baltimore City campus, Baltimore Hebrew University professors provide Jewish Studies curriculum in other Maryland colleges, including Goucher College, Towson University, and University of Maryland Baltimore County. Next year, BHU professors will begin a new program at John Hopkins University. In addition, Baltimore Hebrew University has begun to offer in conjunction with The Baltimore Jewish Times courses “on line” to provide special opportunities to students in communities lacking Jewish Studies programs.

Baltimore Hebrew University brings together Jews and non-Jews of all religious backgrounds, providing a diverse, open and community-responsive environment in which students can understand Jewish literary and historical tradition. Baltimore Hebrew University graduates making contributions in many of my colleagues’ communities include:

Stephen Hoffman, president of the Jewish Community Federation of Cleveland; Brain Schreiber, Executive Director of the Jewish Community Center of Greater Pittsburgh; Lesley Weiss, Association Director of the Anti-Defamation League in Washington, D.C; Gail Naron Chalew, editor of the Journal of Jewish Community Service and Larry S. Moses, President of the Wexner Foundation, to name a few.

I ask my colleagues to join me in congratulating Dr. Robert O. Freedman, president of Baltimore Hebrew University, and the members of the Board of Trustees and the Baltimore Jewish community for their fortitude and foresight in establishing and maintaining Baltimore Hebrew University as a premier institution of higher education.

SPEECH OF
HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

The House in Committee of the Whole on the Motion to Recommit had under consideration the concurrent resolution (House Concurrent Resolution 290) establishing the congressional budget for the United States Government for fiscal year 2001, revising the congressional budget for the United States Government for fiscal year 2000, and setting forth appropriate budgetary levels for each of fiscal years 2002 through 2005.

Mr. UDALL of Colorado. Mr. Chairman, I cannot support this resolution, for two reasons. It fails to do what should be done, for our country and for all Americans. And, it would insist on doing what should not be done for our economy and for future generations.

It does not extend the solvency of either Social Security or Medicare, which we need to do as the first step toward preparing those vital programs to meet the challenges of the years ahead when the “baby boom” generation retires in large numbers.

It does not provide for measures to make affordable prescription drugs available to Medicare beneficiaries and other senior citizens.

It doesn’t adequately fund essential education programs including Head Start, Pell grants for college students, and special education—in fact, it cuts their purchasing power.

It does not protect programs that are vital for many working families—such as child care subsidies, emergency heating and cooling assistance, or affordable housing—or to improve their access to health insurance. It also does not adequately assist our communities to respond to the problems of growth and sprawl and fail to provide enough funds for saving open space. And it does not provide enough for veterans’ programs.

And it does not give the proper priority to reducing the public debt.

But what it does do is to mortgage the future to pay for excessive, unfocused tax cuts that would wipe out almost all of the expected surplus outside of Social Security.

It does cut funding for energy research and conservation programs, even as increased prices for gasoline and heating oil are again showing the importance of reducing our dependence on petroleum, while allowing dangerous erosion of funding for many other important scientific research activities.

And it does lay down a blueprint for going back to budget deficits. For all these reasons—and more—we should not make the mistake of passing this budget plan. We can do better, and we should.

That’s why I voted for the alternative plan proposed by Representative JOHN SPRATT and other Democratic members of the Budget Committee.

The Democratic alternative would have extended the solvency of Social Security and Medicare, while making a downpayment on a plan to let the parents of children who are eligible for Medicaid or the State Children’s Health Insurance program gain health-care coverage under these programs. It also would have provided for Medicare prescription drug coverage, beginning next year, while maintaining the funds needed to crack down on Medicare fraud, waste, and abuse. It also would have provided more funds for veterans programs, and would have assisted retirees and people who lose their jobs to keep health insurance.

The Democratic alternative would have increased funding for energy research and development, including energy conservation and the development of alternatives to petroleum. And it would have provided more for science, space, and technology programs. It also would have provided funding to continue assisting local school districts to hire more teachers for overcrowded schools, would have provided nearly $5 billion more for special education funding, would have increased credits and funding for better school buildings. It would have provided for increases in Pell grants, Head Start, special education, and other educational programs.

The Democratic alternative would fully fund the Lands Legacy Initiative, to save endangered open space and to assist our States and local communities in acquiring parks, conserving wildlife habitat, and protecting sensitive areas.

And while the Democratic alternative would have provided for cutting taxes by some $200 billion over the next decade, it still would have dedicated $364 billion over the next decade, it still would have dedicated $364 billion over the next decade, for paying down the publicly held debt, more than could be done under the flawed plan put forth by the Republican leadership.

Mr. Chairman, after I compared the Republican leadership’s budget and the Democratic alternative, my choice was clear. I think that when the American people make the same comparison, they will agree that the Republican leadership’s plan is a collection of wrong choices for the House and for our country.

A PROCLAMATION RECOGNIZING THE 35TH ANNIVERSARY OF PATRICIA AND JIM GLOVER

HON. ROBERT W. NEY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, March 27, 2000

Mr. NEY, Mr. Speaker, I commend the following article to my colleagues:

Whereas, Patricia and Jim Glover will celebrate their 35th Anniversary today, March 27, 2000;
Whereas, Patricia and Jim declared their love in a ceremony before God, family and friends in Bridgeport, Ohio; whereas, 2000 will mark 35 years of sharing, loving, working together and raising a family of two children; whereas, may Patricia and Jim be blessed with all the happiness and love that two can share and that their love grow with each passing year; therefore, Mr. Speaker, I am pleased to congratulate the Grovers on their 35th anniversary. I ask that my colleagues join me in wishing this special couple many more years of happiness together.

CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2001

SPEECH OF
HON. LOIS CAPPS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

The House in Committee of the Whole House on the State of the Union had under consideration the concurrent resolution (House Concurrent Resolution 290) establishing the congressional budget for the United States Government for fiscal year 2001, revising the congressional budget for the United States Government for fiscal year 2000, and setting forth appropriate budgetary levels for each of fiscal years 2002 through 2005.

Mrs. CAPPS. Mr. Chairman, I rise in support of a fiscally responsible budget.

I have been very consistent in what I believe we should be doing with our federal budget and projected surplus.

First, we need to pay down the $3.7 trillion national debt. Last year, we paid $230 billion in interest on the debt—that's almost the size of the Defense budget. Families use times of plenty to pay off debt first—the government should as well. We owe it to our children to get rid of this burden.

We must shore up Social Security and modernize Medicare. Social Security faces a huge challenge due to an impending retirement of baby boomers and we must prepare for that now. Providing prescription drug coverage, and increasing payments to Medicare HMO’s and hospitals will ensure that central coast seniors have the quality health care they deserve.

We must also make critical investments in education, health care, defense, and veteran's programs. Schools on the central coast are overcrowded, putting an extra burden on our teachers and potentially shortchanging our kids. Millions of Americans lack health insurance and this adds to overall health care costs and human misery. Our troops are stretched too thin and we have neglected our veterans’ needs for far too long.

And, of course, we must enact some commonsense tax reform. Fixing the marriage penalty, ending the Social Security earnings limit, lifting the estate tax burden from small businesses and family farms—these are all reforms we can accomplish this year.

To meet these goals I will be supporting the alternative budget presented by Mr. SPRATT. While it does not fully reflect all my goals, it comes close. And if it clearly is superior to the leadership plan.

This mainstream budget puts $364 billion of the non-Social Security surplus toward paying down the debt. The leadership bill puts none of the non-Social Security surplus into debt reduction and may even begin spending the Social Security surplus once again. The mainstream proposal will extend Medicare and Social Security solvency by at least 10 and 15 years, respectively. The leadership bill does not provide the necessary safety net for the future generations of seniors.

The budget I support provides for prescription drug coverage for all our seniors. The leadership bill is silent on who is covered. The Spratt proposal puts $1 billion more into law enforcement. And this mainstream budget allows for responsible increases funding for education, science and medical research and development to insure that we provide our kids with all the opportunities they deserve. The leadership proposal freezes funding for 5 years for all higher education assistance, meaning fewer Pell grants and Head Start slots for our kids. Finally, this mainstream budget provides for critical funding for energy research and conservation programs.

The leadership bill, even in these times of high gas prices, actually cuts these budgetary levels.

Simply put, Mr. Chairman, the budget I support allows us to continue on a path of fiscal responsibility, while continuing to meet the future challenges that face our society.

CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2001

SPEECH OF
HON. CASS BALLENGER
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 23, 2000

The House in Committee of the Whole House on the State of the Union had under consideration the concurrent resolution (House Concurrent Resolution 290) establishing the congressional budget for the United States Government for fiscal year 2001, revising the congressional budget for the United States Government for fiscal year 2000, and setting forth appropriate budgetary levels for each of fiscal years 2002 through 2005.

Mr. BALLenger. Mr. Chairman, I applaud my colleagues on the House Budget Committee for their hard work in crafting a fiscal year 2001 budget which all Americans can embrace today. Chairman KASICH has shown vision and leadership in guiding the Congress out of the Democrat-led forty year period of budget deficits and into the Republican era of budget surpluses.

I also would like to give credit to Chairman KASICH for his efforts to publish a summary of the most recent audits (fiscal year 1998) showed six major agencies could not provide financial statements that reliably account for the hundreds of billions spent in the federal government. The Budget Reform Agenda in defense of Republican budget increases spending for education, national defense, transportation and veterans programs. And, it proposes a $40 billion reserve fund to be used to reform Medicare and provide prescription drug coverage for Medicare beneficiaries who need it.

In addition, the Republican budget proposal contains $150 billion in tax relief over five years, including the elimination of the marriage penalty. It also contains tax relief for small businesses, phases out the estate of “death” tax, establishes tax incentives for educational assistance and tax relief associated with pending health care reform legislation.

Finally, I am pleased to report that the Republican budget increases spending for education, national defense, transportation and veterans programs. In response to many of my constituents; concerns, it also decreases foreign aid expenditures. I believe this budget will help families throughout the central coast. I hope my colleagues will continue to spearhead a campaign of reform, beginning with the adoption of the fiscally responsible Republican budget.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees. It also requires committees to set their own schedules, subject to the rules and procedures of the Senate. The 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 inclusion in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.
Meetings scheduled for Tuesday, March 28, 2000 may be found in the Daily Digest of today’s Record.

MEETINGS SCHEDULED

MARCH 29

9:30 a.m. Appropriations Defense Subcommittee
To hold closed hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense, focusing on Air Force programs, (to be followed by an open session in SD-192).

JUDICIARY
Administrative Oversight and the Courts Subcommittee
To hold oversight hearings on the handling of the investigation of Peter Lee.

SD-226

Commerce, Science, and Transportation
To hold hearings on S. 2267, to make appropriations for the Department of Commerce, Science, and Transportation for the fiscal year ending September 30, 2001, and for other purposes.

SD-215

Rules and Administration
To hold hearings to examine the presidential primaries and campaign finance.

10 a.m. Finance
To resume hearings to examine the inclusion of a prescription drug benefit in the Medicare program.

SD-215

Budget
Business meeting to continue markup a proposed concurrent resolution setting forth the fiscal year 2001 budget for the Federal Government.

SD-608

10:30 a.m. Governmental Affairs
To hold hearings on how to structure government to meet the challenges of the millennium.

SD-342

2 p.m. Intelligence
To hold closed hearings on pending intelligence matters.

SH-219

2:30 p.m. Energy and Natural Resources
To hold hearings on the nominations of the Deputy Secretary of Energy, the Administrator of the Nuclear Regulatory Commission, the Administrator of the Federal Energy Regulatory Commission, the Secretary of the Interior, and the Secretary of Agriculture.

Finance
To hold hearings on the economic condition of the Department of the Interior.

Indian Affairs
To hold hearings on S. 640, the Native American Housing and Community Development Act of 1992.

SD-366

MARCH 30

9 a.m. Appropriations
Treasury and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for Treasury Law Enforcement Bureaus.

SD-192

9:30 a.m. Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Housing and Urban Development.

SD-138

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the National Institutes of Health, Department of Health and Human Services.

SD-124

Energy and Natural Resources

SD-366

Foreign Relations
To hold hearings to examine the need for nonproliferation policy innovations.

SD-430

Rules and Administration
To hold oversight hearings on the operations of the Architect of the Capitol.

SR-301

10 a.m. Judiciary
Business meeting to markup H.R. 2260, to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia; and S. 1854, to reform the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Finance
Business meeting to markup H.R. 6, to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rates applicable to joint returns shall be twice the amounts applicable to unmarried individuals.

SD-342

Governmental Affairs
To hold hearings on the nominations of the Secretary of the Interior, and the Secretaries of Energy and Agriculture.

SD-226

To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of the Interior.

SD-138

10 a.m. Appropriations
Transportation Subcommittee
To hold hearings to examine the implementation of the Driver’s Privacy Protection Act, focusing on the positive notification requirement.

SD-192

APRIL 4

9:30 a.m. Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Bureau of Indian Affairs and Office of the Special Trustee, Department of the Interior.

SD-366

10 a.m. Appropriations
Transportation Subcommittee
To hold hearings to examine the implementation of the Driver’s Privacy Protection Act, focusing on the positive notification requirement.

SD-192

APRIL 5

9:30 a.m. Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of the Interior.

SD-124

Indian Affairs
To hold hearings on S. 612, to provide for periodic Indian needs assessments, to require Federal Indian program evaluations.

SR-485
10 a.m.  
Appropriations  
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense, focusing on Army programs.  
SD–192

APRIL 6
9:30 a.m.  
Appropriations  
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Veterans Affairs.  
SD–138

2:30 p.m.  
Energy and Natural Resources  
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the incinerator component at the proposed Advanced Waste Treatment Facility at the Idaho National Engineering and Environmental Laboratory and its potential impact on the adjacent Yellowstone and Grand Teton National Parks.  
SD–366

APRIL 8
10 a.m.  
Appropriations  
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense, focusing on medical programs.  
SD–192

APRIL 11
9:30 a.m.  
Appropriations  
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Energy.  
SD–138

10 a.m.  
Energy and Natural Resources
To hold hearings on S. 282, to provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978; S. 516, to benefit consumers by promoting competition in the electric power industry; S. 1047, to provide for a more competitive electric power industry; S. 1284, to amend the Federal Power Act to ensure that no State may establish, maintain, or enforce on behalf of any electric utility an exclusive right to sell electric energy or otherwise unduly discriminate against any consumer who seeks to purchase electric energy in interstate commerce from any supplier; S. 1273, to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets; S. 1369, to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency; S. 2071, to benefit electricity consumers by promoting the reliability of the bulk-power system; and S. 2098, to facilitate the transition to more competitive and efficient electric power markets, and to ensure electric reliability.  
SH–216

10 a.m.  
Appropriations  
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Defense.  
SD–192

APRIL 13
9:30 a.m.  
Appropriations  
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Corporation for National and Community Service, Community Development Financial Institutions, and Chemical Safety Board.  
SD–138

Indian Affairs
To hold oversight hearings on the report of the Academy for Public Administration on Bureau of Indian Affairs management reform.  
SR–485

Energy and Natural Resources
To hold hearings on S. 2034, to establish the Canyons of the Ancients National Conservation Area.  
SD–366

APRIL 26
10 a.m.  
Appropriations  
Defence Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Energy.  
SD–138

SEPTEMBER 26
9:30 a.m.  
Veterans' Affairs  
To hold joint hearings with the House Committee on Veterans' Affairs on the Legislative recommendation of the American Legion.  
345 Cannon Building

CANCELLATIONS
MARCH 29
9:30 a.m.  
Energy and Natural Resources  
Business meeting to consider pending calendar business.  
SD–366

POSTPONEMENTS
MARCH 30
10 a.m.  
Health, Education, Labor, and Pensions  
Business meeting to consider pending calendar business.  
SD–430
Health, Education, Labor, and Pensions
To hold hearings on medical records privacy.  
SD–430

APRIL 19
9:30 a.m.  
Indian Affairs  
Business meeting to consider pending calendar business; to be followed by hearings on S. 611, to provide for administrative procedures to extend Federal recognition to certain Indian groups.  
SR–485
D266

Monday, March 27, 2000

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S1695–S1763

Measures Introduced: Seven bills were introduced, as follows: S. 2293–2299.

Measures Reported: Reports were made as follows:
- Report to accompany S. 671, to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions. (S. Rept. No. 106–249)
- H.R. 1374, to designate the United States Post Office building located at 680 State Highway 130 in Hamilton, New Jersey, as the “John K. Rafferty Hamilton Post Office Building”.
- H.R. 3189, to designate the United States post office located at 14071 Peyton Drive in Chino Hills, California, as the “Joseph Ileto Post Office”.

Measures Passed:
- Federal Water Pollution Control Act Amendment: Senate passed S. 1730, to amend the Federal Water Pollution Control Act to provide that certain environmental reports shall continue to be required to be submitted. Pages S1752–S1753
- Clean Air Act Amendment: Senate passed S. 1731, to amend the Clean Air Act to provide that certain environmental reports shall continue to be required to be submitted. Pages S1751
- Endangered Species Act Amendment: Senate passed S. 1744, to amend the Endangered Species Act of 1973 to provide that certain species conservation reports shall continue to be required to be submitted. Pages S1751–S1752
- International Visitors Program: Senate agreed to S. Res. 87, commemorating the 60th Anniversary of the International Visitors Program. Page S1752
- World Crude Oil Supplies: Senate agreed to S. Res. 263, expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries (“OPEC”) cartel and non-OPEC countries that participate in the cartel of crude oil producing countries, before the meeting of the OPEC nations in March 2000, the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices, after agreeing to the committee amendment in the nature of a substitute. Pages S1752–S1753

Civil Asset Forfeiture Reform Act: Senate passed H.R. 1658, to provide a more just and uniform procedure for Federal civil forfeitures, after agreeing to the committee amendment in the nature of a substitute. Pages S1753–S1756

Flag Protection: Senate began consideration of S.J. Res. 14, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States, taking action on the following amendments proposed thereto:

Pending:
- McConnell Amendment No. 2889, in the nature of a substitute. Pages S1752–S1753
- Hollings Amendment No. 2890, to propose an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections. Pages S1722–S1723

A motion was entered to close further debate on S.J. Res. 14 (listed above) and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Wednesday, March 29, 2000, at 10 a.m.

Messages From the President: Senate received the following messages from the President of the United States:
- Transmitting, pursuant to law, a report on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865; to the Committee on Banking, Housing, and Urban Affairs. (PM–96) Page S1755
- Transmitting, pursuant to law, a semiannual report relative to payments to Cuba with respect to telecommunications services; to the Committee on Foreign Relations. (PM–97) Page S1755

Pages S1737–S1738
Nominations Received: Senate received the following nominations:

Gregory G. Govan, of Virginia, for the rank of Ambassador during his tenure of service as Chief U.S. Delegate to the Joint Consultative Group.

Beverly B. Martin, of Georgia, to be United States District Judge for the Northern District of Georgia.

Roger L. Hunt, of Nevada, to be United States District Judge for the District of Nevada. Page S1763

Nominations Withdrawn: Senate received notification of the withdrawal of the following nominations:

Jose Antonio Perez, of California, to be United States Marshal for the Southern District of California, which was sent to the Senate on January 6, 1999.

Gail S. Tusan, of Georgia, to be United States District Judge for the Northern District of Georgia, which was sent to the Senate on August 3, 1999.

Page S1763

Messages From the President: Pages S1744–45

Messages From the House: Page S1745

Measures Referred: Page S1745

Measures Placed on Calendar: Page S1695

Measures Read First Time: Page S1745

Communications: Pages S1745–47

Executive Reports of Committees: Page S1747

Statements on Introduced Bills: Pages S1747–49

Additional Cosponsors: Pages S1749–50

Amendments Submitted: Pages S1750–51

Authority for Committees: Page S1751

Additional Statements: Pages S1738–44

Privileges of the Floor: Page S1751

Adjournment: Senate convened at 12 noon, and adjourned at 6:45 p.m., until 9:30 a.m., on Tuesday, March 28, 2000. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S1763.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—DEFENSE

Committee on Armed Services: On Friday, March 24, Subcommittee on Emerging Threats and Capabilities concluded hearings on proposed legislation authorizing funds for fiscal year 2001 for the Department of Defense and the Future Years Defense Program, focusing on DOD policies and programs to combat terrorism, after receiving testimony from Brian E. Sheridan, Assistant Secretary for Special Operations and Low-Intensity Conflict, Charles L. Cragin, Principal Deputy Assistant Secretary for Reserve Affairs, and Pamela B. Berkowsky, Assistant to the Secretary for Civil Support, all of the Department of Defense; and Adm. Harold W. Gehman Jr., USN, Commander in Chief, U.S. Joint Forces Command.

RISING OIL PRICES

Committee on Governmental Affairs: On Friday, March 24, Committee concluded oversight hearings to examine the status of the global crude oil market and its effects on the U.S. heating oil, diesel fuel, and gasoline markets and prices, and U.S. security implications, David L. Goldwyn, Assistant Secretary for International Affairs, and Jay E. Hakes, Administrator, Energy Information Administration, both of the Department of Energy; William M. Flynn, New York State Energy Research and Development Authority, Albany; Red Cavaney, American Petroleum Institutes, Robert E. Ebel, Center for Strategic and International Studies, and Richard N. Haass, Brookings Institution, all of Washington, D.C.; John P. Holdren, Harvard University Kennedy School of Government and Department of Earth and Planetary Sciences, Cambridge, Massachusetts, on behalf of the President’s Committee of Advisors on Science and Technology; and Adam E. Sieminski, Deutsche Banc Alex. Brown, Baltimore, Maryland.

SOCIAL SECURITY AND MEDICARE FINANCING

Special Committee on Aging: Committee concluded hearings to examine long-term financing challenges confronting Social Security and Medicare programs, focusing on general income tax revenue transfers, after receiving testimony from Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System; David W. Wilcox, Assistant Secretary of the Treasury for Economic Policy; Paul L. Posner, Director, Budget Issues, Accounting and Information Management Division, General Accounting Office; and C. Eugene Steuerle, Urban Institute, Washington, D.C.
House of Representatives

Chamber Action

Bills Introduced: 1 public bill, H.R. 4093 was introduced.

Reports Filed: Reports were filed today as follows:

Filed on March 24, H.R. 7, to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, amended (H. Rept. 106–546); and

H.R. 1089, to require the Securities and Exchange Commission to require the improved disclosure of after-tax returns regarding mutual fund performance, amended (H. Rept. 106–547).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Pease to act as Speaker pro tempore for today.

Senate Messages: Message received from the Senate today appears on page H1409.

Quorum Calls Votes: No quorum calls or recorded votes developed during the proceedings of the House today.

Adjournment: The House met at 2:00 p.m. and adjourned at 2:12 p.m.

Committee Meetings

ENERGY DEPARTMENT'S PROPOSED BUDGET

Committee on Commerce: On March 24, the Subcommittee on Energy and Power held a hearing on the Department of Energy's Proposed Budget for Fiscal Year 2001. Testimony was heard from T. J. Glauthier, Deputy Secretary, Department of Energy.

PUBLIC-PRIVATE SECTOR CIO'S—KEY DIFFERENCES

Committee on Government Reform: On March 24, the Subcommittee on Government Management, Information, and Technology held a hearing on "Key Differences Between Public-Private-Sector CIO's". Testimony was heard from Dave McClure, Associate Director, Governmentwide and Defense Information Systems, GAO; James J. Flyzik, Chief Information Officer; Department of the Treasury; Otto Doll, Commissioner, Bureau of Information and Technology, State of Arizona; and public witnesses.

COMMITTEE MEETINGS FOR TUESDAY,
MARCH 28, 2000

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine issues dealing with mind body and alternative medicines, 9:30 a.m., SD–192.

Subcommittee on Energy and Water Development, to hold hearings on proposed budget estimates for fiscal year 2001 for the Department of Energy, focusing on defense programs, 10 a.m., SD–124.

Subcommittee on Transportation, to hold oversight hearings on proposed budget estimates for fiscal year 2001 for the Department of Transportation, 2 p.m., SD–192.

Committee on the Budget: business meeting to mark up a proposed concurrent resolution setting forth the fiscal year 2001 budget for the Federal Government, 3:30 p.m., SD–608.

Committee on Commerce, Science, and Transportation: Subcommittee on Communications, to hold hearings to examine the current state of deployment of hi-speed Internet technologies, focusing on rural areas, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: with the Committee on Foreign Relations, to hold joint hearings to examine United States dependency on foreign oil, 3 p.m., SH–216.

Committee on Environment and Public Works: Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety, to hold hearings on the President's proposed budget request for fiscal year 2001 for the Environmental Protection Agency's clean air programs and the Army Corps of Engineers wetlands programs, 9:30 a.m., SD–406.

Committee on Foreign Relations: to hold hearings to examine issues dealing with Iran and Iraq, focusing on the future of nonproliferation policy, 2:30 p.m., SD–419.

Full Committee, with the Committee on Energy and Natural Resources, to hold joint hearings to examine United States dependency on foreign oil, 3 p.m., SH–216.

Committee on Governmental Affairs: Permanent Subcommittee on Investigations, to hold oversight hearings to examine Health Care Financing Administration's settlement policies, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families, to hold hearings on child safety on the Internet, 9:30 a.m., SD–450.

Committee on the Judiciary: Subcommittee on Technology, Terrorism, and Government Information, to hold hearings to examine cyber attacks, focusing on removing roadblocks to investigation and information sharing, 10 a.m., SD–226.
Committee on Small Business: to hold hearings to examine the extent of office supply scams, including toner-phoners schemes, 9:30 a.m., SD–562.

House

Committee on Appropriations, Subcommittee on Energy and Water Development, on U.S. Army Corps of Engineers, 10 a.m., 2362–B Rayburn.

Subcommittee on Interior, oversight on Forest Service Research, 10 a.m., B–308 Rayburn.

Subcommittee on Labor, Health and Human Services, and Education, on Departmental Management Panel and Inspectors General Panel, 10 a.m., on the Corporation for Public Broadcasting and the National Labor Relations Board, 2 p.m., 2358 Rayburn.

Subcommittee on Treasury, Postal Service, and General Government, on Office of Management and Budget, 10 a.m., and on National Archives, 2 p.m., 2359 Rayburn.

Subcommittee on VA, HUD, and Independent Agencies, on Selective Service System, 9:30 a.m., on Office of Science and Technology Policy, 10:30 a.m., and on National Credit Union Association, 11:30 a.m., H–143 Capitol.

Committee on Banking and Finance, Subcommittee on Domestic and International Monetary Policy, hearing on the Production and Protection of Money, 10 a.m., 2128 Rayburn.

Committee on Education and the Workforce, Subcommittee on Oversight and Investigations, hearing on “The International Brotherhood of Teamsters One Year After the Election of James P. Hoffa”, 2 p.m., 2175 Rayburn.

Committee on International Relations, hearing on Munitions List Export Licensing Issues, 2 p.m., 2200 Rayburn.


Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the Administration’s Budget Request for NOAA/NMFS for Fiscal Year 2001, 10 a.m., 1334 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on Eleventh Meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 2 p.m., 1334 Longworth.

Subcommittee on Social Security, hearing on H.R. 4021, Dillonwood Giant Sequoia Grove Park Expansion Act, 2 p.m., 1324 Longworth.

Subcommittee on Social Security, hearing on the 2000 Tax Return Filing Season and the IRS Budget for Fiscal Year 2001, 2 p.m., 1100 Longworth.

Committee on Rules, to consider H.R. 3908, making supplemental appropriations for the fiscal year ending September 30, 2000, 5 p.m., H–313 Capitol.

Committee on Small Business, Subcommittee on Empowerment, hearing on Bridging the Technological Gap: Initiatives to Combat the Digital Divide, 2 p.m., 2360 Rayburn.

Committee on Ways and Means, Subcommittee on Oversight, hearing on the 2000 Tax Return Filing Season and the IRS Budget for Fiscal Year 2001, 2 p.m., 1100 Longworth.

Permanent Select Committee on Intelligence, executive, hearing on National Reconnaissance Program Budget 9NRO, etc., 2 p.m., H–405 Capitol.
Next Meeting of the SENATE
9:30 a.m., Tuesday, March 28

Senate Chamber

Program for Tuesday: Senate will continue consideration of S.J. Res. 14, Flag Desecration Prohibition, with votes on or in relation to the pending amendments to occur at 2:15 p.m.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, March 28

House Chamber

Program for Tuesday: Consideration of Suspensions:
1. H. Con. Res. 269, Commending the Library of Congress and its staff encouraging participation in the library's bicentennial activities;
2. H.R. 910, San Gabriel Basin Water Quality Initiative;
5. H. Con. Res. 292, Congratulating President-elect Chen Shui-bian and Vice President-elect Annette Lu of Taiwan;
6. H.R. 3707, American Institute in Taiwan Facilities Enhancement Act; and
7. Agree to the Senate amendment to H.R. 5, Senior Citizens' Freedom to Work Act.

Extensions of Remarks, as inserted in this issue

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