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Senate

The Senate met at 10 a.m., and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

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

Let us pray:

If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land.—II Chronicles 7:14.

God of Mercy, we hear this glorious promise addressed to Your people with its unequivocal conditions. We pray for the church. Forgive its materialism, its preoccupation with success—its love of comfort and wealth, its conformity to the culture it so often criticizes. God of grace, help Your people to turn from their wicked ways—to obey Your command—to quit making scapegoats of government and education, the press and media. Deliver Your people from embracing the very secularism they protest so loudly. Forgive Your church the sin for which she so easily judges others. Grant that Your people will take seriously the mandate "* * * seek first the Kingdom of God and His righteousness * * *"—knowing then the church will have her greatest moral and spiritual influence in the world around her. Help her to realize that her failure to conform to the Kingdom of God compounds confusion and decay in the world. Gracious Lord, remind Your people that You will keep Your promise to heal the land if they will meet Your conditions. In His name who is the way, the truth, and the life, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 2, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time of both leaders be reserved for the time being at least.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 10 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Chair recognizes the Senator from Wisconsin [Mr. PROXMIRE].

WHY IS AN END TO THE ARMS RACE IMPERATIVE NOW?

Mr. PROXMIRE. Mr. President, if this Senator were given the power to have just one wish come true, I would wish that every Member of the Congress and every policymaker in the administration fully understand the implications of the fact that a superpower nuclear war is no longer an alternative. Think about this for 1 or 2 minutes. What would be the consequences of a nuclear war between the Soviet Union and the United States? The answer is sure. It is certain. The answer is the total and I mean total destruction of both countries. Most of the population of both sides would be dead. Most of the rest would be dying. Our country would lie in utter ruins. So would Russia. There would be no chance for the miserable, few American survivors to live in freedom. Ruthless martial law would have to be imposed for generations to come. President Reagan certainly knows this. So does Secretary Gorbachev. Both have said that a nuclear war can never be won and must never be fought.

So what does it mean that a superpower nuclear war must never be fought? First, it means that no war, however limited between these two armed to the teeth nuclear powers must never take place. Why? Because there would be an overwhelming likelihood that in such a war nuclear weapons at some level, perhaps beginning with tactical nukes would be employed by whichever side considered that it was losing. Once the first nuclear weapon was fired by either superpower, the nuclear exchange would rapidly escalate to the finish.

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

Second, if in fact no war will ever be fought between the United States and the U.S.S.R., most of the colossal hundreds of billions of dollars of military buildup on both sides is completely wasted. Both sides will need to maintain a credible nuclear deterrent to forestall an attack from the other. But the enormous navies, armies, air forces of both sides will be unnecessary. Each superpower will have every reason to negotiate a far smaller military force for both sides.

Third, none of this reasonable reduction in sterile military expenditures can prudently take place without reliable, mutual agreement between the Soviet Union and the United States. The first object of such an agreement must be to establish and guarantee the credibility of the nuclear deterrent of each side. The United States must be confident that its nuclear deterrent could survive any attack or any defense by the Soviet Union. Our country must know—not hope, not assume, not guess. It must know that whatever attack the U.S.S.R. might launch, however relentless it might be our retaliatory capability would survive and so would the will of our President to use it. The Soviet Union must have precisely the same confidence and the same will. The verification provisions of the INF Treaty sharply advance the prospects of negotiating exactly the kind of intrusive, detailed verification that military reductions on both sides would require.

So why is it reasonable now to expect the superpowers to achieve something that has never been achieved in human history? Why at long last has the time arrived to negotiate an end to the arms race? The answer is that we have two crucial events occurring at the same time. First, we have the universal realization that a world war today—a superpower war—would be totally destructive. Neither nation could gain. Both nations would lose. Both would lose utterly. The second crucial event is that both superpowers are suffering deeply from the immense burden of the arms race.

In America our deficits have become far and away our most intractable domestic problem. Our enormous Federal deficits can literally destroy our economy. Right at the heart of our huge deficits is our crushing military spending. In the Soviet Union the economic problems are worse, in fact, much worse. Their far less productive economy is staggering under the substantially heavier military spending. The Soviets desperately need relief from this arms race. Secretary Gorbachev and his Politburo thoroughly understand this. So what are we waiting for?

As I said at the beginning of this statement, if I were given one wish, I would wish that all Members of the Congress and all policymaking officials of our Government understood the meaning of the fact that a superpower nuclear war is no longer an alternative. It means we are wasting hundreds of billions of dollars every year in building an ever more powerful military force. So is the Soviet Union. Arms control—as never before—is the only sane way to peace. It is also the only sane way to financial solvency.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Colorado [Mr. WIRTH].

REDRESSING THE CONVENTIONAL BALANCE

Mr. WIRTH. Mr. President, again, this morning, I want to share with my colleagues another excellent analysis of the conventional balance in Europe and our relationship with the Soviet Union.

It is Andrew Hamilton's "Redressing the Conventional Balance," in International Security.

Andrew Hamilton, a well-regarded Washington defense analyst, has studied the issue of redressing the conventional balance in NATO's central region. He contends that NATO is within reach of a highly credible capacity to defend itself successfully, but that currently, NATO's "margin of safety" is too narrow to ensure success. He seeks to demonstrate that NATO has the means with which to correct deficiencies in its defensive capabilities, primarily by forming new operational combat units from available trained military manpower.

Hamilton criticizes two common measures of the European conventional balance: Direct comparison of "raw resources," and such as GNP, population, or defense spending; and, traditional "bean counts" of primary weapons systems. He believes neither of these measures accurately meaningfully assesses relative military capabilities.

According to Hamilton, one can derive more useful measurements of relative capabilities and combat effectiveness from three variables. These are first, the relative values assigned to different military formations and weapons, usually converted into some kind of division equivalent; second, the quantity of resources that each side is assumed to allocate to the central region; and third, the speed with which each side can bring these reinforcements into battle. Hamilton presents three different analyses based on data using these variables.

Although these analyses produce somewhat differing estimates, Hamilton notes that when one converts these into assessments of NATO requirements, all three reach a consistent conclusion: "While NATO lacks a robust conventional defense today, the shortfall between capabilities and requirements is not insurmountable."

This being so, Hamilton pessimistically observes the current NATO plans for ground force improvements do not promise much relative progress by 1990. Assuming that NATO's ground force improvement plans are fully implemented by that time, Hamilton notes that in a crisis or conflict in which NATO mobilizes, its greatest gains will come during the first 2 weeks after mobilization. But by 90 days after mobilization, the Warsaw Pack will have neutralized earlier NATO gains. Hamilton contends that, prior to mobilization, the current conventional balance is basically even, but that after mobilization, the pact progressively gains until NATO is outnumbered by about 2 to 1.

To determine NATO conventional defense requirements, Hamilton contends that one must necessarily make critical assumptions regarding relative pact and NATO buildup capabilities, strategy, and tactical effectiveness. The more optimistic these assumptions are, the less NATO must do to improve its relative position. Hamilton, however, is not very sanguine. He concludes that a successful NATO defense would require relatively "ineffective pact strategy and tactics" and an unfailingly "high degree of NATO tactical effectiveness and efficiency." To correct this thin margin of safety and redress the imbalance, according to Hamilton, NATO must utilize extant trained military reserve manpower by reorganizing and arming it more wisely to exploit its combat potential. Hamilton asserts that NATO largely wastes this manpower in lightly armed and poorly organized reserve forces.

Mr. President, I ask unanimous consent that a summary of Hamilton's article "Redressing the Conventional Balance" in the Summer, 1985, International Security, volume 10, be printed in the RECORD.

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

ANDREW HAMILTON, "REDRESSING THE CONVENTIONAL BALANCE"

Two arguments are advanced in this article. First, the NATO-Warsaw Pact conventional balance in Central Europe today is shaky but not beyond repair. NATO stands within striking distance of a high-confidence capacity to defend successfully, but does not yet have one. Current NATO conventional forces might be able to thwart a Pact attack, but their margin of safety is woefully thin and the possibility of a NATO defeat is quite real. A robust NATO defense would require at least 20 more "division-equivalents" [1] beyond the roughly 52 division-equivalents that will be available two months after mobilization when present NATO modernization plans are completed around 1990.

Second, NATO conventional capabilities can be strengthened dramatically by equipping and reorganizing available trained European military manpower to form new operational combat units. (Most of these formations would be reserve units.) If this were done, the gap between NATO conventional forces and NATO requirements could be erased at a relatively modest cost.

[1] I use the term "division-equivalent" to refer to a Heavy Division Equivalent, defined below as a formation with the military capability of an average American heavy (armored mechanized) division.

THE CONVENTIONAL BALANCE IN CENTRAL EUROPE

Two misleading measures of the NATO-Warsaw Pact balance are commonly seen in public discussions of defense matters. First, the raw resources of NATO and the Pact are compared, without directly measuring their military capabilities. [S]uch comparisons demonstrate that aggregate NATO economic strength and population far exceed those of the Pact, while NATO's defense spending and military manpower roughly match those of the Pact. However, such comparisons paint an unduly optimistic picture because NATO has failed to distill an adequate conventional defense from this ample resource base.

Second, NATO and Pact capabilities are often compared in "bean counts" of principal weapons systems. The worldwide balance of tactical air forces is about even but the figures for ground forces convey an impression of vast Pact material superiority of 2.6:1 in tanks, 2:1 in artillery and multiple rocket launchers and almost 2:1 in anti-aircraft guns and missile-launchers.

Bean counts, however, also have shortcomings as portraits of relative military capabilities. They omit people and organizations—an important omission in the case of ground forces, where people make up nearly three-quarters of the annual cost. NATO has as many men in its active-duty ground forces as the Pact, and ample trained reserves. Bean counts also fail to show how the resources on each side might be concentrated over time in the theater of interest, which most assessments agree is the West German border or, in NATO terminology, the "Central Region."

A better method of estimate lies in directly measuring the combat effectiveness of military formations, and the rates at which these formations can be deployed into a theater of war. Tables 3 and 4 are based on measures of this kind, and are derived from data describing three variables: (1) the relative values assigned to different military formulations and weapons, usually converted into some kind of division-equivalent; (2) the quantity of resources that each side is assumed to allocate to the Central Region; and (3) the speed with which each side can bring these reinforcements into the battle . . .

Tables 3 and 4 present different balance estimates derived from such measures, giving a spread of views on the fighting power of the forces likely to be available on each side at different times during the first four months after mobilization. While diverging somewhat from one another, all three estimates provide a better guide to NATO and Pact capabilities than the simple "bean count". Moreover, when these estimates are transformed into statements about NATO requirements, all three measures point towards the same conclusion, suggesting that while NATO lacks a robust conventional defense today, the shortfall between capabilities and requirements is not insurmountable.

Each of these models estimates the strength of ground forces alone, excluding air forces, but in doing so all focus on the element of the overall theater balance that has caused the most concern. None of the three depicts the balance under the traditional "worse case" of a fully mobilized Warsaw Pact army confronting an unmobilized and indecisive NATO, since this scenario seems relatively unlikely. Each of the three assumes that NATO begins mobilizing three days after the Pact begins.

While differing in detail and in relative optimism about the balance, these three estimates paint a broadly similar picture, as the force ratios in Table 3 show. The balance is about even in peacetime, but after mobilization it shifts more or less rapidly in the Pact's favor until NATO is outnumbered by about 2:1.

Moreover, the table shows that current NATO plans for strengthening ground forces do not promise much relative improvement by 1990. My extrapolations from current plans show that while both sides will add a few Heavy Division Equivalents, the relative balance in 1990 at M+30 (thirty days after the Pact begins mobilizing) will not be greatly changed from today. The principal benefits to NATO from currently planned improvements all come within the first two weeks after mobilization and are primarily due to planned improvements in the peacetime standing forces in Europe and to the more rapid arrival of early U.S. reinforcements.

In a comparison of details, the three estimates agree on some matters and disagree on others. In figures not presented in my tables, they agree that NATO will have about 30 divisions available in the Central Region on the day of mobilization (M-Day) or soon thereafter. By the end of two weeks, NATO will deploy a total of 43-47 divisions. The key issue creating this numerical spread is whether France would commit all of its available armored and mechanized divisions to defend Germany or only the 5 divisions of the First French Army (3 of which are stationed in Germany). During the next 75 days, NATO strength rises to a total of 49-61 divisions, with all of this further increase being supplied by American reinforcements.

In comparison, the Warsaw Pact would deploy roughly 32 Soviet-style divisions on M-Day, and is expected to deploy some 56-57 Soviet-style divisions by M+9 to M+10, rising to 110-120 Soviet-style divisions by M+60 to M+90. The key issues creating these numerical spreads lie in disputes over the rate of Pact buildup and the eventual size of the committed Soviet force.

All three estimates agree, however, that the Pact would gain a substantial lead by M+60 to M+90. All three estimates also agree that the Pact gains its edge over NATO mobilizing reserve manpower to fill out skeleton units. While nearly 80 percent of the reinforcing Pact division formations require mobilization of reserves, this is true of only 40 percent of reinforcing NATO divisions: active duty units make up about 60 percent of the NATO reinforcements to arrive in the first two months.

In sum, the current conventional balance in Central Europe is about even prior to mobilization and shifts more or less rapidly to the Pact's favor after mobilization, until NATO is outnumbered by about 2:1. Most of the improvement in the Pact's relative strength comes from skeleton units filled out with reserve manpower. NATO is not credited with a comparable ability to create additional combat power from its own manpower reserves during the first weeks after mobilizing. Anticipated changes in forces on both sides between now and 1990 will improve NATO's position in the early phases of mobilization but will not fundamentally alter the relative balance.

ESTIMATING NATO'S CONVENTIONAL REQUIREMENTS IN CENTRAL EUROPE

If the more pessimistic buildup curves for the Warsaw Pact and NATO shown in Tables 3 and 4 represent reality, the Pact-NATO force ratio exceeds 2:1 after about two weeks of mobilization. In that situation, most analysts would agree that NATO needs to add forces if it wishes to have a better than even probability of preventing a large-scale conventional attack from achieving a breakthrough in the Central Region, an event that would force NATO to consider using nuclear weapons. The problem is to define how much needs to be added.

The objective in adding forces to the NATO side is to improve the chances of deterring conventional military threats and conventional war by making it appear to the Soviet leadership that a conventional attack probably would not succeed. From a strictly political perspective, equality of forces would appear to offer the best deterrent. [H]owever, equality of forces does not guarantee deterrence and superiority does not guarantee victory. How much more force NATO needs to add depends on one's assessment of the strategy of Pact and NATO forces and of their relative quality.

I have used two concepts to measure quality. The first, and more significant, defines the local ratio of attackers to defenders at which the defense will have a better than even probability of defeating an attack. It is an estimate of the relative effectiveness of the two sides in employing firepower and maneuver to attack and defend terrain, and could be termed an index of relative tactical effectiveness.

The second concept of quality estimates the fraction of available NATO "operational reserve"—divisions not committed to the first line of defense—which can actually be moved quickly to shore up those sectors of the front that are under heaviest attack. The second concept captures the effects of imperfect intelligence, mobility constraints, and bad decisions, and could be termed a NATO efficiency index.

[I]f one rejects the more pessimistic curves shown in Tables 3 and 4, and the more pessimistic estimate of NATO effectiveness, and also assumes a more risk-averse Pact strategy and greater NATO efficiency, then one may conclude that NATO does not need to add any forces. As Table 3 shows, William Mako has estimated that the Pact may not be able to rapidly assemble large numbers of divisions manned mostly by reservists, and could take 90 to 120 days to get its fully mobilized 81 Armored Division Equivalents (ADEs) into place.

To summarize, Table 3 can be used with other assumptions to support arguments that NATO does not need to add divisions or that it needs to add as many as 45 HDEs, in order to have a credible defense posture. Thus, one's definition of a NATO requirement depends heavily on one's assumption not only about comparative buildup rates but also about strategy, tactical effectiveness, and what I have called efficiency, which is a measure of ability to bring available forces to bear where needed.

While NATO's forces might hold today, their margin of safety is thin and successful NATO defense would depend not only on relatively ineffective Pact strategy and tactics, but also on a uniformly high degree of NATO tactical effectiveness and efficiency. In my judgment, the margin is too thin for effective conventional defense.

USING EUROPEAN RESERVES TO MEET NATO REQUIREMENTS

The NATO European allies can meet these requirements at relatively small cost, by reorganizing and arming the trained military manpower that is now largely wasted in lightly armed and poorly orgainzed reserve forces.

Six European states contribute to the defense of the Central Region: Belgium, Britian, Denmark, France, the Netherlands, and West Germany. Together, they have a great deal of under-utilized trained military manpower in their reserves and in their lightly armed active-duty units. This man-

power is now largely relegated to light combat units, most of which are not assigned or committed to NATO, and which serve anachronistic functions such as territorial militia. Indeed, contrary to widespread belief, the European members of NATO probably have enough trained military manpower to more than double their present contributions to alliance ground forces in the Central Region, if this manpower were properly organized into regular NATO reserve formations. What is lacking is the requisite organization, equipment, training, and supplies to convert this manpower—NATO's wasted resource—into combat potential.

European reserves clearly could supply more than enough manpower to create the 20 additional Heavy Division Equivalents that I suggest NATO requires to provide a robust defense in the 1990s.

It is not impractical to create rapidly mobilized heavy combat formations from reserves. The Soviet Union does it. Israel relies on such mobilization. Britian, Denmark, the Netherlands, and West Germany all do so on a smaller scale. What I am suggesting is that these European allies, together with Belgium and France dramatically increase the capabilities of their remaining reserves, and some active duty units, in much the same way.

The addition of the requisite 20 armored and mechanized division-equivalents would absorb less than half of the very large pool of trained but under-utilized European military manpower. Indeed, the European allies appear to have the capability to field as many as 45 additional Heavy Division Equivalents if, as some analysts have argued, they restructure to take more advantage of trained manpower, and use more civilians in support upon mobilization. The addition of these 45 HDEs would bring NATO fairly close to equality with the Pact at M+60.

SUBSTITUTES FOR GROUND FORCES?

Like the United States, the northern European allies will experience declining numbers of 18-year-olds each year during the 1980s and early 1990s. Recent developments in precision-guided, conventional anti-tank submunitions (PGSMs) capable of wide-area coverage have persuaded some that these could be substituted for tactical nuclear weapons in NATO arsenals in sufficient number to compensate for the disparity between Warsaw Pact and NATO ground forces in the Central Region.

However, the costs and military benefits of what NATO calls "emerging technologies" are highly speculative, involve long development lead times, and raise new arms control questions. At present, the emerging technologies are a major focus of European efforts to demonstrate movement towards more reliance on conventional weaponry. As time goes by, however, these weapons are likely to look less attractive as a unique solution to NATO's conventional weakness. In limited numbers they may help to deter short-warning attacks and also to force Pact planners to consider less concentrated, hence higher-risk, conventional attack options. But while they may supplement added ground forces, they cannot provide a full substitute.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to proceed for 11 minutes as though in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Vermont.

CHIEF GEORGE CONNOR

Mr. LEAHY. Mr. President, during the years I was growing up in Montpelier, we always knew that our very special community was protected because of the dedication and concern of Chief George Connor. Even though as youngsters we had the proper respect and awe of the chief of police, we also knew that he was a man who would stop and speak with each one of us and actually knew every single youngster in Montpelier.

Chief Connor was always a good friend of my mother and father and I know how often both my parents spoke of him.

Because so many of us who grew up in Montpelier owe so much to him, I was pleased to see an article recently written about Chief Connor and I am sure his many friends have called him to talk about it.

I would like to share it with my fellow Senators, and I ask unanimous consent that it be printed in the RECORD.

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

GEORGE CONNOR REMEMBERS HIS DAYS ON THE FORCE

(By Mame Ramey)

George Connor, 85 of Montpelier, has influenced his birthplace more than he might imagine. His life, or at least 40 years of it, has been spent keeping the peace in Montpelier. His parents and grandparents were of strong Vermont stock and he learned well the practicality needed for his lifestyle. Grandfathers on both sides of his family served in the Civil War. He recalls one of the gentlemen, his mother's father, was very tall and had a flowing white beard that touched the ground. In the winter he tucked it into his vest for warmth. The man, as did many of George's ancestors, lived well into his nineties.

George's father cut stone, outlived many of his peers and died at 88. He was an outstanding athlete. He gave boxing and wrestling lessons and was a very good ball player—both batter and catcher.

"They used to come from all over the state to drag him off to play," says George proudly. "They used his name in advertisements. My brother was good player too. Once father had to go to England to check out a surface cutting machine for granite. He went by boat and there was some legal hold up. Finally mother went over, three weeks it took, to join him. While he was there waiting for the okay to come home, he organized the first all American baseball league in England."

George's mother born in Moretown. His grandmother made all the family bread without a recipe and her own mincemeat for pie. He says she never could show any of her 12 children how to do it and they never could pass their own good bread off as hers.

"I remember that we were happy children," says George. "We made up our own games and had a good time. I think life was better back then when we farmed in Middlesex."

"I remember one year I shot a deer and tracked it from Middlesex to Waterbury Center," George recalls. "I was afraid someone else was going to shoot it. It went right through a barnyard not six feet from the barn door where a farmer stood plucking a bird, maybe a turkey. He never saw it. As I was pointing out the tracks right next to him we heard two shots and someone else finished off my deer. I walked home through Middlesex Notch Road. I was so tired. I went by a farmhouse and the folks asked me what I was doing out on Thanksgiving day so I told them the story and how far I had walked. They were very friendly and had me come inside to rest and eat. After I did, I headed home and shot and killed a big spikehorn at dusk right within sight of my house. I took those nice people a hunk of that deer.

"It was very different then. If a man took sick, all his neighbors chipped in to do his work and they did it just the way he would. When the thresher came each year to do the wheat, it came to each farm and all the men and women worked together. I tell you, if the food wasn't good they wouldn't come back next time to help out.

"About the time there was a shortage of wheat, my folks moved to Montpelier. My wife, Lillian and I stayed and farmed a while. She was 18 and I was 19. Then we moved to Montpelier. My folks ran a poor farm in Montpelier. There were people there who had had money and lost it and people who had never had it. My folks ran a good farm. All the food that went on the table was good and the very same food my family ate, not like some other places.

"I sold the farm in Middlesex and went to work for Dad," says George. "I was waiting for a job in the Lane Shops. The pay there was good. Father had been on the police force twice but it didn't pay well and he didn't stay with it. I was trapping with a friend who had an automobile. We made over $200 a year which, in those days was enough to buy a small farm. So things were pretty good.

"We had been setting fox traps in springs and I remember it was a pretty dry fall because it was hard to find springs for the traps. It had rained steadily all one day and we thought it would help with trapping. I started for home with the car and realized the water in the culvert was boiling. When I tried to cross it, the car sunk in and got stuck. I got out and walked the rest of the way home. Every bridge was out. I couldn't get across the river to get to my family so I borrowed a plank from a farmer and walked over the water. The farmer thought I was crazy but my wife was on the other side. The next morning I walked back across and down to where I had left the car. Someone had pulled it with a team of horses so I got back into it and drove to town.

"When I got to the city hall," says George, "there was a lawyer on the front steps named Deavitt. He asked me what I was doing for work and I told him I hoped to work in the Lane Shops soon. He said, 'No you won't. From now on you are a policeman.' I tried every way out of it but it was Marshall Law and there was nothing I could do. That was November 4, 1927. I retired from the force 40 years later in 1967 and had served for 15 years as the Chief of Police of Montpelier. I knew enough about

it I guess, they said use common sense and that is what I did. After a while the money got better. The people of Montpelier were very good to me. I had gone to school with many of them and I think it helped that they knew me.

"We used to work 11 hour shifts and every 15th day we got a day off. The men on the day shift got $27.50 a month but some of us worked special assignment and we were paid better. We got $1.25 a day. I didn't have any schooling for the job, but a local banker took me under his wing and talked to me a lot about common sense. I think I used it pretty good. One time I almost messed up.

"I was standing on the corner and a car came around wobbling back and forth," he says. "I stopped the car and had the driver get out. He was staggering all over the place so I took him down to jail. The next morning when I went to get him out, he was still staggering. I asked him if he was sick or something and he said no. He had two artificial legs! I told his wife right away, I would go talk to the judge and get it straightened out but she said no. She said he had been drinking heavily and they both felt he deserved what had happened. They had a pretty good sized boy with them and he drove home.

"Back then you didn't get arrested for intoxication unless you broke the peace. It was a serious offense to have on your record and it could keep you from getting a job. So unless you were making a lot of trouble, you didn't get arrested. We didn't have cars on the force then and I've carried quite a few men home on my back. I could always tell the drifters would make trouble when they were drinking. They wanted to go to jail where it was warm and dry and where they would get food. For the first offense it was 10 days in jail, for the second it was 30 days, and for the third it was six months in Windsor State Prison. I always thought those men were better off because they would be in long enough to get dried out."

In 1922, George married Lillian Holmes, whom he found out later, he had gone to kindergarten with. Lillian's father was from Maine and as a child she moved there while her father worked as a carpenter building houses. When the family got homesick they returned to Vermont. Later Lillian, who had two sisters, moved to Massachusetts with a married sister and worked in an office job for a time. The money was very good but she soon got homesick and returned to Vermont. George met her again at a dance and, thinking they "were fully grown," they soon married. They raised a son and daughter and were married for 64 years.

"Lillian was very handy, "George says fondly. "She worked in a store some and she could make any kind of clothing and people would think it has come from the store. Back then, she had to wear uniforms made of 16-ounce serge. They were double-breasted with a military color. They were brutal in the summer. One night, she didn't say anything to me but she moved all the buttons, opened up the neck and let the whole thing out. I didn't know if it would make trouble or not but I wore it to work. The chief took one look at it and said, 'That looks good.' He got permission to order open-collar, single-breasted coats. I'm sure we were the first in the state of Vermont to wear open collars. Later we even went to shirt sleeves in the summer."

George's children both live in California and he has flown out to spend time with each of them. He now has six grandchildren and 12 great-grandchildren. He feels he has been blessed with a healthy and fortunate life. He never has been very sick except for the time as a child when he broke some ribs in a sleighing accident and the time a year ago when he fell and broke a couple more. He spends three days a week at the Montpelier Senior Center where he socializes and plays some serious pool. George thinks his good health is due to all of the exercise he gets and a very slow heart rate. His hobbies are hunting and fishing and although he couldn't pursue either this year, he plans to next. He is concerned about the obvious effort of acid rain on the streams and ponds and isn't sure where he might find fish next summer but intends to look for them.

NORIEGA HAS TO GO

Mr. LEAHY. Mr. President, I come to the floor on a very serious matter this morning.

Mr. President, I would like to take a look at a few facts about the turmoil in Panama.

Panama is the main transshipment point for cocaine from Colombia coming into the United States. It is also the world banking center for laundering billions of dollars of drug money that comes from the poisoning of the youth of the United States.

Gen. Manuel Noriega and his cronies have institutionalized corruption, putting Panama's military services, banks and even airfields at the service of drug traffickers. It is nothing less than the prostitution of an entire country.

And their payoff? Kickbacks in the hundreds of million of dollars going into Swiss bank accounts and French villas.

Yesterday, President Reagan signed an order penalizing Panama for failing to cooperate effectively in the fight against the drug trade.

The United States Government gave Panama every chance—in fact, too, many chances for too many years a lot of us would say—to throw out its corrupt officers and officials. We waited and waited for Panama to find its national honor and get rid of this common criminal, Manuel Noriega.

I welcome President Reagan's action yesterday. But I am deeply concerned that he gave Noriega such a light tap in terms of real pressures on the Panamanian economy.

The President stopped short of imposing the maximum penalties allowed under the law. In fact, the sanctions he imposed—cutoff of Panama's sugar quota and a 50-percent cut in United States aid—fall short of actions that we here in Congress had already legislated.

Congress had directed that United States directors on international banks vote against loans to Panama. We ordered all economic and military assistance terminated, not just cut in half, but terminated, cut off entirely. We stopped the importation of Panamanian sugar. And, we barred any funding of joint military exercises with the Panamanian military.

Congress did this last year.

The President drew back from applying full trade sanctions, even though the law gave him the authority to do so. He apparently was not willing to be as tough as Congress already had been.

It was as if he found Noriega guilty of murder and then let him off with probation.

This is not a time to pull punches.

It is ironic that a President who declared war on drugs now refuses to use his power to punish a murderous military dictatorship that made its country the hub of the South American drug trade.

It is doubly ironic that this decision comes just days after General Noriega refused dismissal by the constitutional President, Eric Delvalle, after he staged a coup to oust the legitimate government and after he was indicted by two U.S. grand juries on Federal drug and racketeering charges.

Mr. President, this administration talks tough on drugs until it is time to start being tough. Then it acts like its hands are tied. It is delighted to impose a complete trade embargo against Nicaragua and spend half a billion dollars of the taxpayers' money to overthrow the Sandinistas.

But it cannot bring itself to institute even partial trade sanctions against a vicious military dictator who poses a far greater threat to this country than bankrupt Nicaragua.

Drugs are pouring into this country from South America through Panama and Mexico. Efforts to eradicate cocaine at the source have failed. Drugs are killing thousands of young Americans every year.

And what does the President say? That we have "turned the corner" on drugs. He seems to believe the "just say no" campaign is actually working—when all the evidence is that we are in the middle of a nationwide drug epidemic.

Remember that it was a courageous U.S. attorney in Florida who indicted Noriega on drug trafficking, not the Drug Enforcement Agency which cozied up to him for years.

And it was our colleagues, Senators KERRY and D'AMATO, who held the hearings that tore the veil off the drug dealing by Noriega and his henchmen, not an administration that turned a blind eye until it could no longer be ignored.

The Latin drug trade—not the ragtag Sandinistas—is the most serious threat we face in our own hemisphere. There is no better place to demonstrate our resolve than to destroy the drug empire that is strangling Panama.

The fight against drugs goes hand-in-hand with the fight for democracy in Panama. Last summer, thousands of Panamanians took to the streets and called for an end to oppression, an end to crime and corruption, and a return to democracy and the rule of law. They have had enough of seeing their country raped and pillaged by drug kingpins and power-crazed colonels.

The United States shares the blame for this crisis. Until the evidence for

his corruption just became overwhelming, this administration was more interested in Noriega's support for the Contras through Oliver North than his subversion of democracy in Panama.

The White House cannot have it both ways. It cannot claim it is carrying on a war against drugs while softpedaling the thugs in Panama who funnel the drugs into our schools and our streets.

How can anyone argue against imposing the strongest sanctions possible? President Eric Arturo Delvalle, still in hiding in Panama, has called on the United States and the world's democracies to levy tough sanctions on Panama as long as Noriega stays.

General Noriega himself may be beyond pressure. But the colonels who keep him in power are not. We can show them just how painful things can get as long as Noriega is in power.

Sixty percent of Panama's exports come to the United States. The President has the power to impose a 50-percent tax on those exports, to cut off preferential tariffs, and bar airline flights between Panama and the United States.

The President could order an immediate cutoff of short-term loans by United States banks or other financial institutions to the government or Panamanian banks. This would have an obvious and severe impact on Panamanian financial activity very quickly without harming United States banks unduly. Our banks are rapidly backing away from making these short-term loans to Panama anyway, and we would accelerate a process already underway.

Even more draconian financial sanctions are possible, though we need to do more study to determine their impact before we make decisions. We do not want to harm ourselves more than Noriega or the power brokers who back him.

Ultimately, if the colonels in Panama will not force Noriega to go quietly, the President could even impose a complete economic embargo—just as he has done against Nicaragua.

Mr. President, I want to make a final point.

Some political leaders, including, I am sorry to say, senior Members of this body from the other side of the aisle, have started talking about the United States abrogating the Panama Canal treaties.

This is irresponsible, and plays right into the hands of Noriega and his gang. They are claiming that this is nothing more than a plot by the United States to get out of the treaties and take over the Canal Zone again. They are trying to pose as the nationalist defenders of Panama's sovereignty over the canal.

I urge all Senators and indeed all responsible Americans to stop such talk. The treaties are permanent. We are not going to tear them up and go back to a dead past. The days when the United States could own a strip right through the center of another country are gone forever.

Let us all join together for the common goal—kick out Noriega, restore democracy to Panama, and save our children from the drug empire.

You know, Mr. President, I spent 8½ years as a prosecutor. I know that if you want real law enforcement, you do not talk tough, you have to act tough. We cannot stop drug traffic in this country by just asking everybody to stand up and say, "Just say no." It has not worked in the past. It is not working now. It is not going to work in the future.

Let us stop it at the source. The quickest way to do that is to stop General Noriega.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, has morning business closed?

The ACTING PRESIDENT pro tempore. The Chair will respond that morning business is now closed.

Mr. BYRD. I understand Senator KARNES wishes to speak in morning business.

Mr. KARNES. Yes.

The ACTING PRESIDENT pro tempore. The Chair will recognize the Senator from Nebraska. Does he seek unanimous consent to extend the time for morning business?

Mr. BYRD. No. I would object to that.

How much morning business time remains?

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator we have 30 seconds left for morning business.

Mr. BYRD. I do not want business to extend beyond 10:30.

The ACTING PRESIDENT pro tempore. That request has not been made. Morning business was extended for 10 minutes.

Mr. BYRD. I stand corrected.

ORDER EXTENDING MORNING BUSINESS FOR 5 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Nebraska, Senator KARNES.

Mr. KARNES. Mr. President, I thank the leader very much for that accommodation. I appreciate that very much.

(The remarks of Mr. KARNES will appear later in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, is morning business closed?

The ACTING PRESIDENT pro tempore. We have 1 minute remaining under the unanimous-consent agreement.

Mr. BYRD. I ask unanimous consent morning business be closed.

The ACTING PRESIDENT pro tempore. Morning business is closed.

POLYGRAPH PROTECTION ACT OF 1987

Mr. BYRD. Mr. President, I ask that the pending business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1904) to strictly limit the use of lie detector examinations by employers involved in or affecting interestate commerce.

The Senate resumed consideration of the bill.

QUORUM CALL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum will be noted.

Mr. BYRD. It will be a live quorum, Mr. President. As I indicated on yesterday there will be a rollcall requesting the Sergeant at Arms.

The ACTING PRESIDENT pro tempore. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 12]

Adams	Ford	Wallop
Breaux	Karnes	Warner
Byrd	Leahy	Wirth

The PRESIDING OFFICER (Mr. ADAMS). A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BYRD. Mr. President, I move the Sergeant at Arms be instructed to request the presence of absent Senators. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

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

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 27, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—67

Adams	Glenn	Pell
Baucus	Graham	Pressler
Bentsen	Grassley	Proxmire
Bingaman	Harkin	Pryor
Boren	Hatfield	Reid
Boschwitz	Heflin	Riegle
Bradley	Hollings	Rockefeller
Breaux	Humphrey	Roth
Bumpers	Inouye	Rudman
Burdick	Johnston	Sanford
Byrd	Karnes	Sarbanes
Chiles	Kassebaum	Sasser
Cranston	Kennedy	Shelby
Danforth	Lautenberg	Simpson
Daschle	Leahy	Stafford
DeConcini	Levin	Stennis
Dixon	McClure	Stevens
Dodd	Melcher	Thurmond
Domenici	Metzenbaum	Trible
Durenberger	Mikulski	Warner
Exon	Mitchell	Wirth
Ford	Moynihan	
Fowler	Nunn	

NAYS—27

Armstrong	Gramm	Murkowski
Bond	Hatch	Nickles
Chafee	Hecht	Packwood
Cochran	Heinz	Quayle
Cohen	Helms	Specter
Conrad	Kasten	Symms
D'Amato	Lugar	Wallop
Evans	McCain	Weicker
Garn	McConnell	Wilson

NOT VOTING—6

Biden	Gore	Matsunaga
Dole	Kerry	Simon

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that Senators are ready to proceed with amendments on this bill.

May I inquire if there are Senators on the floor who have amendments that they intend to call up?

Mr. HELMS. I have one.

Mr. BYRD. Mr. HELMS has one.

Are there other amendments that will be called up?

The PRESIDING OFFICER. The Senate will be in order. The majority leader is requesting that Members who wish to offer amendments please indicate at this time their intention.

The Senator from North Carolina. The Senator from Wyoming.

The majority leader.

Mr. BYRD. I yield to the distinguished Senator from Wyoming, the acting Republican leader; and ask unanimous consent that I might retain my right to the floor.

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

The Senator from Wyoming, under the unanimous-consent request, is recognized.

Mr. SIMPSON. Mr. President, the majority leader has asked about amendments on this side of the aisle. We have at least two of which I can inform the majority leader, an amendment of Senator COCHRAN and Senator NICKLES. So I can assure the majority leader that there are two amendments—three amendments, and the Senator from North Carolina. So we have three amendments here to show the majority leader we are anxious to do the business required.

Mr. BYRD. I thank the distinguished leader on the other side of the aisle.

There will be a cloture vote on this measure tomorrow if it is not disposed of today.

On yesterday, I introduced a cloture motion; there was not an inclination at that time to call up amendments. Now, I hope that we could finish this bill today and thus vitiate the cloture vote for tomorrow. I also hope that we could take up the intelligence authorization bill. We only have today, Thursday, and a full day on Friday, and I would like to at least finish these two bills and take up the Price-Anderson legislation so that when the Senate returns from the break, the Senate will be on the Price-Anderson legislation.

Now, I have indicated what I would hope to do, and I welcome any suggestions on the part of Senators that would help me to do what I have said I think the Senate needs to do.

Mr. JOHNSTON. Mr. President, will the leader yield?

Mr. BYRD. Yes. First, let me ask if the distinguished acting leader has any suggestion or proposal that he would make at this time to assist the Senate in moving on that schedule accordingly, if it can be done.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I would inform the majority leader that I think the aspect of the cloture vote does impel us to do our work, and we are going to do that. I think it would be good if the majority leader and I visited about what we visited about last night. I think perhaps we might be in a position to utilize the services of the new committee, the ad hoc committee, for the referral of a sense-of-the-Senate resolution which could be discussed today, and I would like to visit with the majority leader about that. We have been asked to appoint one new member. I am ready to do that. That group would then deal with the rules issues that we discussed. Then we could go to a double track for the intelligence authorization and then get to Price-Anderson and be dealing with it and have it as the pending item of business when we return, because it is a very important piece of legislation.

I think the scenario is appropriate, and I would respectfully suggest that, as Senator HELMS goes forward, the majority leader and I visit, and I think we can put this week's package together.

Mr. BYRD. Very well. If the Senator will allow me to yield to Mr. JOHNSTON first.

Mr. SIMPSON. Indeed.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I yield, with the understanding I retain my right to the floor, to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the leader for yielding.

As the leader knows, I am most anxious to bring up the Price-Anderson legislation, with only one caveat, and that is on Monday after the recess, our new Governor is being inaugurated, and our delegation wanted to be there and fly back that afternoon. There may be other aspects of the legislation which could be considered other than those that I am involved in that morning, but I would not be available that morning unless there was no other way to do it, in which event I will probably cancel attendance at the inauguration, but I hate to do that.

Mr. BYRD. Yes. I fully appreciate the Senator's situation and will be governed accordingly.

Mr. President, I wonder if I might make this proposal. In order to expedite, if I can, action on both this measure, which is before the Senate, and the intelligence authorization measure, and get action completed on those two bills this week and hopefully get into a position of taking up Price-Anderson for action following the recess, I wonder if Senators would give me consent that I might be able to maintain the status quo position vis-a-vis the rules until later in the day, at such time as we may be able to give me consent to take up the intelligence authorization bill.

What I am saying is I think now, so that Senators may understand, I am in position at this moment to move to take up the intelligence authorization bill. That would not require unanimous consent. That would be a nondebatable motion at this moment and will be for the next hour. I do not want to do that if I can get consent to take it up at any time today. I prefer that. But what I would like to do otherwise is move to take that up and have a vote on it. Of course, that vote would displace the pending business until tomorrow, at which time the cloture vote would occur and the Senate could vote for cloture on the pending business.

I would like to proceed today either with the intelligence authorization matter or the pending business. But in any event, this would be one way of utilizing today not in a way that the Senate would be spinning its wheels. And with only Thursday and Friday left after today, unless today can be utilized beneficially and to the extent of making progress on both these measures, I am concerned that we may go out Friday without finishing action on one or both of these measures.

Mr. SIMPSON. Mr. President, would the majority leader yield?

Mr. BYRD. Yes.

Mr. SIMPSON. Mr. President, I realize that the procedures now could go forward on the nondebatable motion and the majority leader could go with what he wishes to go on, too. I would respectfully suggest that if he would withhold, I think I have about two Members here that I think consent could come from a little later in the day. I really do believe that. But after I visit with the leader about the other proposal, there may be some material to deal with on the floor today. I can visit with him in his chambers after that.

Mr. BYRD. I certainly thank the distinguished Senator. I want to work with him.

Mr. BOREN. Will the leader yield?

Mr. BYRD. I hope that the Senate can make progress on the pending bill today, but I would not want to waste today. Much of yesterday afternoon was wasted because we only have 2 days left this week, and I hope we can complete action on the pending business and on the intelligence authorization bill. The chairman of the Intelligence Committee has indicated to me on yesterday that he and Senator COHEN would be ready at any time after yesterday to proceed to that bill.

So what I am trying to do, let me say once again for the RECORD, is put the Senate in the position where it can complete action on both those measures and be ready to go to Price-Anderson by the time the Senate goes out for the recess.

Yes, I yield.

Mr. BOREN. I thank the leader.

I just want to state again that I believe—and I talked with Senator COHEN about this yesterday, and I talked with interested Senators on this matter; the intelligence oversight bill which was a committee product with strong majority on both sides of the aisle in favor of that bill, came out of committee by almost a unanimous vote—we are prepared as well to endeavor to be ready at any point that the leader wishes to proceed to that.

So we will be prepared and ready if the leader decides to move forward on that legislation. I do not anticipate very many amendments in terms of volume that would delay consideration of that bill because it has been a matter that we have worked on in our committee for many, many scores and scores of hours.

Mr. BYRD. I thank the distinguished Senator, my friend, the chairman of the Intelligence Committee.

Mr. HELMS. Mr. President, would the Senator yield without of course losing his right to the floor?

Mr. BYRD. Yes.

Mr. HELMS. May I inquire of the distinguished majority leader and the Republican leader if there are plans to proceed today with the General Burns nomination to the U.S Arms Control and Disarmanent Agency. I think that we should proceed unless there is some reason to not proceed. I do want to make a statement in that connection. But I have had repeated contact with the White House about this and other matters, and we have resolved all except one point which is not minor but I do not think we ought to delay the nomination of General Burns.

Mr. BYRD. Mr. President, may I say that Secretary Shultz spoke to me about this nomination last week, and I do hope——

Mr. HELMS. Mr. President, I cannot hear the majority leader as near as I am to him.

The PRESIDING OFFICER. The Senators will suspend. The Senate will be in order. Those Senators and others conversing will please take their seats or retire to the cloakroom.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina addressed a question to the majority leader.

Mr. BYRD. Mr. President, I hope we can go to this nomination at some point today or certainly before the week is out. Secretary Shultz spoke to me about the nomination last week, and I would be very happy to proceed on that matter at any time, if we can get clearance on it. Otherwise, we could move to it and dispose of that, hopefully, before the recess.

I would like to add that to the list of items that I hope we can get done before the close of business on Friday.

Mr. HELMS. Very well. I thank the leader.

Mr. BYRD. Mr. President, I had heard some rumor to the effect that inasmuch as we have offered a cloture motion on the pending business, and that cloture vote will not occur until tomorrow, a good bit of today might be spent in wrangling over the rules. I do not know whether there is any substance to that rumor or not. But I am not interested in spending today wrangling over old bones. What I would like to do is get on with today's business and the authorization for intelligence.

It is for that reason that I am asking now, and I ask unanimous consent because I want to have the opportunity to talk with the distinguished leader on the other side of the aisle, that I may yield the floor at this time, retaining throughout the day the position that I maintain as of this moment; namely, the ability to move to make a motion to proceed to another matter on the Calendar of Business, that motion being nondebatable as of now and for the next 53 minutes. Also, at this moment, not only could I move to do that, which would temporarily displace, if that motion carried, the pending business, but I would be in a position once the intelligence authorization bill was before the Senate to offer a cloture motion on it, and then I would have at this moment time remaining to move back to the pending business, and that again would be a nondebatable motion.

So I ask unanimous consent that I may yield the floor, and that the status quo situation in these respects may be continued until such time as later in the day I could either take whatever action may appear to be the best at that time, or I waive the status quo. This would allow me to have these conversations with the distinguished leader on the other side. He would lose nothing, and nobody would, because I am in a position now of holding the floor to move. Actually nobody loses any rights under this matter. I would simply retain the rights that I have at this moment as the leader to act in the interests as I see of the Senate in moving forward on these two measures this week, plus the nomination.

I yield, Mr. President, to the distinguished acting leader.

Mr. SIMPSON. Mr. President, that has been proposed as a unanimous-consent request. Reserving the right to object, and I just want to have it clearly said that the leader could do all of those things right now that he has discussed doing later.

I think that is important for our people to realize that he could go to the nondebatable motion, the intelligence authorization, and I do not think we will have a bit of problem getting to that later today. I have one person that has indicated some concern, and I think that will fall away and we can go to it from what I understand.

So I just want it to be certain that we all see that what he is doing by this unanimous consent is simply preserving his procedural advantage of the moment which if we did not concur with the unanimous-consent agreement he could go ahead and do anyway. I think that is important. I believe we can do some business today, and we will be in a position to do that. I think that after we have a visit with the majority leader in his office, we will know a great deal more about the progress of the day.

At this point, I am well aware as to what the majority leader could do at this moment, By agreeing to this unanimous-consent request, it will accommodate that other Member, and we can go forward and allow the majority leader to preserve his position of the moment.

I believe others may wish to speak..

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. BYRD. I yield, without losing my right to the floor, to Mr. QUAYLE.

First, let me thank the acting Republican leader.

Mr. QUAYLE. Did I correctly understand the Republican leader to say that he did not think that he would raise an objection to the majority leader's request that he be in the same position later on? I had a difficult time hearing back here, with the noise.

I am trying to learn exactly what was said; because I will say, as one Senator who is somewhat interested in the bill—I can count noses and know where we are going—that there are a number of amendments on this bill that could or could not be called up. Senator HELMS has an amendment.

The majority leader has the floor and has it in his power to move to do whatever he wants to. As one Senator, I would not like him to retain that throughout the day, because then it would not give some of us who may want to raise various issues an opportunity to do so. He has the power to do that, if he wants to; that is his right. At least we would know what the remainder of today is going to be.

I, for one, would not like to see him retain that status throughout the day. If the minority leader does not object, I would object to that status remaining throughout the day, because, it would not allow us, in the minority, to know how we are going to proceed throughout the day, and it would not be in the best interests of this Senator.

I will object, if the minority leader does not, to allowing the status to remain throughout the day.

Mr. SIMPSON. Mr. President, I share with my colleague from Indiana the fact that the majority leader can make that motion now, and we could lose all our status in this process, and the polygraph bill could then disappear and not come up again until we deal with it on cloture.

What I am saying, and I think the majority leader will concur, is that we have three amendments—an amendment by the Senator from North Carolina, one by Mr. COCHRAN, and one by Mr. NICKLES. All those amendments, I assume, will be dealt with, without question, as the majority leader propounds this unanimous-consent request.

We want to make progress on polygraph. We have these three amendments. If there are others, I will immediately communicate them. I know of no other amendments. I know of no dilatory amendments. We are not interested in wrangling. We have serious concerns which I think can be resolved in a procedure that the majority leader and I have discussed, and I have discussed it with my Members.

I think we all should realize that at this point, under the morning hour, we are a bit defenseless as to what could be done.

Mr. QUAYLE. Mr. President, will the majority leader yield for an observation?

Mr. BYRD. Before the Senator responds, may I say that I think the Senator raises a reasonable point. I do not think I should ask to retain this privilege throughout the day. I would be willing to limit it to a couple of hours. I am sure that I will be able to say within a couple of hours where we are going and whether or not Senators are going to be offering serious amendments to the pending business.

All I am asking is that we get the business going and have serious amendments and not engage in extraneous type of amendments.

Mr. QUAYLE. Mr. President, will the Senator yield for an observation?

Mr. BYRD. I yield, without losing my right to the floor.

Mr. QUAYLE. I certainly understand the majority leader wanting to retain his right, whether it be all day or until 3 o'clock, to see what the flow of events is going to be. He certainly can move now.

I would like to establish what the flow of events is going to be as soon as possible, and that means within 2 hours.

If he wants to move the intelligence authorization bill, the majority leader can do so, and I will know that is the pending business. I do not want to prolong what may happen throughout the day, because, depending on whether we go to the intelligence authorization bill or stay on this bill is going to determine what I am going to do.

The minority leader does not know what is going to happen, under the 2-hour rule, and the majority leader has the power, established by precedent, to move to do that. If he makes that decision, the Senator from Indiana will make his decision on what he wants to do. That is why I will object to retaining that status by the majority leader.

I would like to know what we are going to do. I believe we can sit down during this 2-hour timeframe which expires at 12 o'clock. We have 45 minutes to see if we can get an understanding. I do not desire to go beyond that. The majority leader can make his decision, and then we can make our decision.

Mr. BYRD. Mr. President, I am happy that the Senator is ready to make a decision. Yesterday afternoon, I did not see a great inclination on the part of Senators to move this bill along.

I ask unanimous consent that I may retain for 1 hour the status quo insofar as the position I am in vis-a-vis the rules and precedents—1 hour.

The PRESIDING OFFICER. Is there objection to the request?

Mr. SIMPSON. Mr. President, I would like to clarify that. Would it be 1 hour past the hour of 12?

Mr. BYRD. No. One hour from this moment. I have until 12. I am simply asking for an additional 15 minutes. That would give the assistant Republican leader and myself time to have our discussion.

Mr. SIMPSON. Mr. President, I want to clarify another thing. I have assumed, as I have heard the majority leader propound the request, that the leader is not in any way using this arrangement to cut off amendments to the polygraph bill.

Mr. BYRD. No.

Mr. SIMPSON. I think that is important.

I can now share with the majority leader that there is another amendment, by Senator BOSCHWITZ. So there are four amendments to be dealt with. That is important in doing our business.

Perhaps my friend from Indiana has something further to add, but at this point I would not object to the unanimous consent request for 1 hour.

Mr. QUAYLE. Mr. President, reserving the right to object—and I will not object, in deference to the majority leader and the minority leader—it is my understanding that the unanimous consent request is that the 2-hour rule expire not at 12 but at 12:15, which would allow time for discussion. Is that correct?

The PRESIDING OFFICER. That is the understanding of the Chair, that it be until 12:15.

Mr. BYRD. Mr. President, I will make it easier on all Senators, so that this discussion can be brought to a close.

I ask unanimous consent that I be recognized at the hour of 12 noon and at that time my rights will continue as they are, or I can hold the floor until then, or I can move now.

Mr. QUAYLE. Reserving the right to object on the first unanimous consent request——

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. With respect to objecting to that, in deference to the majority leader and the minority leader, extending it 15 minutes, I will not object. But I will put the Senate on notice that if there are further requests to extend that, I will be constrained to object, so that we will know what the order of business will be by 12:15.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. Has the majority leader withdrawn the first request or is it still pending?

Mr. BYRD. I guess I would withdraw the second request.

The PRESIDING OFFICER. The second request is withdrawn. The first request, which was unanimous consent to extend the period until 12:15—is that request to be propounded by the majority leader?

Mr. BYRD. That is the request.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I will also ask unanimous consent to be recognized at 12:15.

The PRESIDING OFFICER. Is there objection to the two requests of the majority leader: That the time be extended to 12:15 and that the majority leader be entitled to recognition at 12:15? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators. I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from North Carolina.

MAJ. GEN. WILLIAM BURNS AND ABM TREATY

Mr. HELMS. Mr. President, I thank the Chair.

In further reference to the colloquy between this Senator and the distinguished majority leader concerning the nomination of General Burns, to be Director of the Arms Control and Disarmament Agency, I would like for the record to show that I have been in direct consultation with General Powell and others at the White House about this nomination and about matters related thereto.

Now, General Burns appeared before the Foreign Relations Committee, and I would emphasize that he testified freely and frankly about the problems facing arms control in the near future. General Burns is an able man, and I support his nomination to be head of ACDA.

ACDA, however, Mr. President, has a great deal of other problems which have gone unresolved for far too long, for months on end.

There are three reports long overdue which are of significant importance to this Senate in the consideration of the INF Treaty.

The Senate cannot responsibly proceed to markup and have discussion of the INF Treaty without having the information in these reports, all of which are mandated by law, I might add.

So technically speaking, the law is being violated by the protracted absence of these reports.

Moreover, ACDA is under investigation by both the FBI and the GAO for serious breaches of national security. My office has received detailed information about the shredding and burning of several bags of documents from the offices under investigation.

My discussion with the White House has been to ascertain where the White House stands and to make sure that the White House understands where I stand, because this incident casts a shadow over ACDA's role in the INF negotiations, which I hope General Burns will remedy.

Now, as to the reports which I mentioned, they are as follows:

First is the third 5-year review report on Soviet ABM Treaty compliance which was due last October. The second is the report required under section 52 of the Arms Control and Disarmament Act which we call the Pell amendment report. The required report is on Soviet and United States compliance with arms control treaties, and that report is 1 month overdue already, or more. And the third is a report required by the Arms Control and Disarmament Act, section 37, which we refer to as the Derwinski amendment report and that report was due months ago. But not a peep out of ACDA.

That is what the discussion between this Senator and the White House has been about, and there is going to be a lot of discussion from now on, and an amendment which we will have pending in just a few months will deal with that.

It is time for them to get off the dime. These reports are highly significant, Mr. President.

The third 5-year review must decide whether there have been any material breaches of the ABM Treaty. In my judgment, and in the judgment of many other Senators, the seven reports which the President has sent to Congress show conclusively that there have been material breaches of the ABM Treaty by the Soviet Union. That is no secret around this place. We all know it, whether we acknowledge it or not.

The difference, however, is that the 5-year review must be conducted at the standing consultative committee with the Soviets themselves, and, oh, Mr. President, that is the hangup. There is a tendency among so many down in the State Department not to ruffle any Soviet feathers. Some call it appeasement. Some call it get along, go along.

Well, this is the first time the administration must actually confront the Soviets in an international forum with these material breaches which the President of the United States has reported to us, but not a peep out of the administration. They are too busy encouraging the euphoria about a seriously flawed INF Treaty.

Now, of course, the consequences of such a confrontation have a bearing not only on the INF Treaty, but upon all ongoing negotiations.

The Pell amendment report must certify United States and Soviet compliance with arms control treaties. That is what the amendment which is now law requires. And the Derwinski amendment, as we call it around this place, that report must report on the verification of proposed treaties, including the INF Treaty.

Now, up to this point, in addition to the telephone conversations between General Powell and me and others, I have a letter from General Powell to the effect that the Pell amendment report will be submitted to Congress by March 14 and the Derwinski amendment report by March 8. This is good progress, and I feel that we have made some headway, and I appreciate the cooperation of General Powell and others.

But General Powell's response on the third 5-year review is somewhat less than satisfactory, and I was candid with the general about it. He knows how I feel, and I think I know the spot he is in. But that does not matter. What matters is that compliance was due last October, not this coming October, and there is a great dragging of feet because they do not want to ruffle the feathers of the Soviet Union.

The general, General Powell, stated that he felt the United States has until next October to complete that review, and I will get to it in just a minute, but the United States does not have that luxury. The United States was required to have it last October, not this coming October, and I will get to that in short order.

I told the general we will just have to agree to disagree agreeably, but that he was engaging in a strained interpretation of treaty law which has no legal precedent in an effort to delay the review and the report for more than a year.

I think it makes no sense to proceed with any treaty, including the INF, until this 5-year review is accomplished, but that is the problem. All the warts will be visible in terms of the Soviet Union's duplicity, its violation, its flagrant violations of the ABM Treaty, not to mention all other treaties down the line dating back to 1920.

I have confidence that General Powell and others will act in good faith on this. I have confidence that he will consult their attorneys and ask them what the language means, and I have confidence that their attorneys will tell him, "This was due last October; Senator HELMS was right."

And that is why I mentioned to the majority leader earlier that I personally, as one Senator, hoped that the Senate would proceed to the nomination of General Burns and get this gentleman confirmed.

Mr. President, I ask unanimous consent that my letter to the President, bearing the date of February 22, be printed in the RECORD, followed by the letter from General Powell, dated February 25.

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

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, February 22, 1988.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The nomination of Maj. General William Burns to be Director of the Arms Control and Disarmament Agency is now on the Senate Calendar awaiting action. General Burns testified forthrightly and fully at his nomination hearing and appears to be an excellent nominee.

While I am willing to do anything of a reasonable nature to expedite confirmation of General Burns, I am obliged to state that I am convinced that it would be counterproductive to debate General Burns' nomination at a time when ACDA appears to be in non-compliance with its legal obligations—a situation that clouds the current hearings over the INF Treaty.

I have received reports from witnesses that large quantities of documents were shredded late last week in ACDA offices under investigation by the FBI and GAO. There is an implicit confirmation of these reports in that today an order was issued that no documents should be shredded. I am apprehensive that this order was issued too late.

Moreover, there are three reports mandated by law which are overdue. All three have important bearing on the INF Treaty, and it will be difficult to mark up the treaty intel-

ligently unless they are received in a timely fashion. These reports include:

(1) The Third Five Year Review report on Soviet ABM Treaty compliance (three and one-half months overdue);

(2) The Arms Control and Disarmament Act Section 52 (Pell Amendment) report on Soviet and U.S. compliance with arms control treaties (one month overdue);

(3) The Arms Control and Disarmament Act Section 37 (Derwinski Amendment) report (months overdue).

It is essential that the GAO be given an opportunity to comment upon the document-shredding before General Burns assumes his post; it is also essential that the three reports be delivered to the Senate in a timely manner.

I want to be cooperative, and if the above matters can be dealt with, confirmation of General Burns can be expedited.

Sincerely,

JESSE HELMS.

THE WHITE HOUSE,
Washington, DC, February 25, 1988.

DEAR SENATOR HELMS: Your letter of February 22 to the President raises several issues in connection with the Senate confirmation of the pending nomination of Major General William F. Burns to be Director of the Arms Control and Disarmament Agency. I am pleased to note that your concerns are not related to General Burns' personal qualifications for the position which, obviously, we both agree are excellent.

With regard to the three reports you addressed, the report required by Section 37 of the Arms Control and Disarmament Act will be forwarded to the Congress not later than March 8. The report on compliance with arms control treaties, the so-called Pell Amendment report, will be submitted to the Congress no later than March 14.

We believe that the third ABM Treaty review should take place consistent with Article XIV of the ABM Treaty. Under that provision, the parties have until October of this year to accomplish such a review. We have informed the Soviet Union that arrangements for the Treaty review, to occur prior to October 1, will be made through diplomatic channels.

With respect to reports of documents being shredded at ACDA that might be related to a GAO review, General Burns has given his personal assurances that, if confirmed, he looks forward to cooperating fully with the GAO and the FBI as they conduct ongoing investigations.

I hope you agree with our judgment that General Burns should be confirmed as soon as possible, so that we may have the benefit of his leadership in dealing with the arms control issues that lie ahead. Your support in expediting General Burns' confirmation would be deeply appreciated.

Sincerely,

COLIN L. POWELL.

POLYGRAPH PROTECTION ACT OF 1987

The Senate continued with consideration of the bill S. 1904.

AMENDMENT NO. 1488

(Purpose: To encourage the United States to end its present violation of the ABM Treaty)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and I ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1488.

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

Mr. KENNEDY. Reserving the right to object, I inquire of the Senator from North Carolina if I may have a copy of the amendment.,

Mr. HELMS. That is a fair proposition.

Mr. KENNEDY. I did not get a copy of the amendment.

Mr. HELMS. I assure the Senator will have it in his hands within 10 seconds. I thought it already had been done.

Mr. BYRD. Mr. President, I object. The amendment is a short one. I will object.

Mr. HELMS. No, it is not a short amendment. I am going to explain it.

Mr. BYRD. It is a short one to read. I was just objecting to the calling off of the reading of the amendment.

Mr. HELMS. That is fine. I will be glad to have it read.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

Add at the end of the bill the following new section:

"SEC. . (a) Findings.

(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol, (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty."

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means and can only mean the specified anniversary of such date and not any time during such year as may follow such date.

(4) The Senate finds further that had the Parties to the ABM Treaty intended otherwise then Article XIV, Paragraph 2, of the Treaty would have read "During the fifth year after entry into force of this Treaty," but it does not so read.

(5) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of America refused or neglected to meet on the date required, to wit: October 3, 1987, and that the United States, five months later, still fails or neglects to meet or even to establish a date for meeting.

(b) Taking account of the findings of this Section, it is the sense of the Senate that the United States is violating the ABM Treaty.".

(Mr. HEFLIN assumed the chair.)

Mr. HELMS. Mr. President, now I will explain what you have just heard read by the clerk, although I know the distinguished Chair understands the amendment as it has been read.

A number of months ago, Mr. President, our distinguished colleague from Arkansas, Mr. BUMPERS, alluded in this Chamber to a possible American violation of the ABM Treaty. At that time, I asked the able Senator from Arkansas if he would specify the violation he had in mind. The ensuing discussion on the floor resulted in Senator BUMPERS never identifying the violation and, frankly, I did not pursue the matter. We left it right there.

Now I find myself in the somewhat interesting position of concurring with the view of the Senator from Arkansas, Mr. BUMPERS, that the United States has in fact engaged in a violation of the ABM Treaty. It probably is not the kind of violation that the Senator had in mind, although it may be. I do not know what he had in mind.

In any event, as the amendment states, article XIV, paragraph 2 of the ABM Treaty reads as follows—and the actual text is important, Mr. President. Without understanding what the treaty actually says, some Senators, understandably, might be misled by the glib arguments and obfuscation of the State Department lawyers.

Now the provision that I referred to, article XIV, paragraph 2, reads: "Five years after entry into force of this Treaty, and as 5-year intervals thereafter, the Parties"—and that means the Soviet Union and the United States—"the Parties shall together conduct a review of this Treaty."

That is article XIV, paragraph 2 of the ABM Treaty.

All right. Mr. President, the term "entry into force of this treaty" is a legal specification of a date certain. It does not mean about such-and-such a time. It does not mean we will slip it further down the road a year or 6 months or 30 days. It means what it says.

The joint committee print entitled "Legislation on Foreign Relations" on page 69 states categorically that "The ABM Treaty"—and I am quoting—"entered into force on October 3, 1972." Now, bear that in mind: October 3, 1972. That is when this treaty entered into force.

So it follows, as Sam Ervin used to say, at least to those who are able to read and understand the English language, that "5 years after" October 3, 1972, is obviously October 3, 1977, and that the date of the two succeeding 5-year intervals after that date, October 3, is—guess what?—October 3, 1987, not 1988, unless they have changed arithmetic since I have learned it.

So that is the hangup between the Senator from North Carolina and the White House and the State Department and on down the list. They are trying to say that October—no, they do not even say that. They say the 1st of October of this year. That is not what the treaty says. In other words, they are engaged in an interpretation that is contrary to the plain meaning of the English language used.

So that report is long overdue right now and to delay it until the 1st of October of 1988 just will not wash.

Maybe I ought to spell it out in English. A year is the length of time it takes the Earth to orbit the Sun. We read all about that on February 29.

In practical usage, it is either 365 days or 366 days in a leap year. Either way, it is fairly precise. You can get down to where that orbit is 365 days and 6 hours or 365 day and 4 hours and 37 minutes, or whatever. But we are talking about what a year is in terms of the language in the ABM Treaty, which is being violated by the United States of America right now.

Maybe the Russian version of a year is different, but I doubt it. Regardless, we are, according to the rules and procedures of the Senate, bound by the English version, I suppose. And the English version is certainly unambiguous.

Mr. President, the point is this. On October 3, 1987, last year, the parties, meaning the Soviet Union and the United States of America, did not, in compliance with the treaty, conduct a review of the ABM Treaty, nor did they even begin such a review. Nor did they even set a date for beginning such a review. And that, as I say, is the hangup between the administration and this Senator.

I think I have been trying to support this administration. The President and I have been very good friends for a long time. That does not enter into it. But I refuse to be a yes-man to the U.S. State Department when they start playing fun and games with what a treaty says and what it means.

On October 3, 1987, there was no option under the terms of this treaty but to begin to conduct a review of the ABM Treaty with respect to violations by the Soviet Union and by the United States, if any. But the two parties, the Soviet Union and the United States, did not move a peg. They did none of those things; none. And it was because the United States—not the Soviet Union—it was because the United States did not want to do it. Or they had this big deal going. Mr. Gorbachev was coming over here, smile and conduct his PR campaign and get out of his car on Connecticut Avenue and wave to the people and everybody said: "Hooray, hurrah; peace is at hand." Not quite.

Some, in fact, may believe that the United States wished to avoid this because the administration would have been required, no option about it, to protest at least one material breach of the ABM Treaty by the Soviet Union. There is a widespread belief that the administration may not have wished to discuss a material breach of one treaty, meaning the ABM, amidst all of this PR hype, public relations effort, on behalf of the INF Treaty. Maybe they assume that the American people are stupid and cannot handle the truth and therefore they will not share it with them. But I hope that is not the case.

But this much is clear, Mr. President: At the insistence of the United States, 5 months have elapsed since the day on which the meeting was required under the terms of the treaty to begin and that failure on our side—this is not Soviet duplicity, this is State Department duplicity—that failure stripped of all the legal blue smoke and mirrors provided by the lawyers down in Foggy Bottom in that vast bureaucracy is, in fact, quite simply stated, a clear violation by the United States of the ABM Treaty.

So, Senator BUMPERS was right, last October. I was wrong. I did not believe he knew about any ABM violation by the United States. So to a certain extent I may be eating a little crow here. But I am not sure that is the violation that Senator BUMPERS has in mind.

One further word and I shall conclude. I am sure my friend from South Carolina, a distinguished and able lawyer, will agree the Constitution requires the President to see that the law is faithfully executed. The Constitution makes a treaty supreme law, which binds all Americans including even, or perhaps particularly, the President of the United States. The President surely agrees that he should obey the law and without delay direct that the required meeting occur immediately. Not just sometime this year; not by October 1 of this year; but immediately. That is what the treaty says and the treaty is the supreme law of the land.

I say again, Mr. President, that has been the hangup between the White House and me and the State Department and me. They can be cavalier about which laws they obey and execute if they wish. But as long as I am here, they are not going to get by with it.

Thus the pending amendment. I simply propose to encourage the administration to move along and no longer delay in confronting the Soviet Union with their violations of the ABM Treaty. That is all it does.

The violations by the Soviets are far more dangerous to world peace than our procedural violations. I will say again that the failure to abide by that provision of the treaty no doubt falls under the general category of appeasement and compromise, rather than one of deliberate falsification. But either way, it is time for the State Department to get off the dime and comply with the IBM Treaty.

Mr. President, the reason that I called up this amendment is I want the Senators to understand what is going on. I did not draw the amendment to any particular bill but, of course, it could have been offered to any one of several measures and I guess the polygraph legislation may have been the best choice that I made, because the amendment would not be at all amiss in that context, since the question is truth in treaties.

Mr. President, having said all that, and I apologize to the distinguished manager of the bill for taking so much time, I am going to end by withdrawing the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment.

Mr. HELMS. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, I hope the Senators who have amendments to the bill will show a disposition to call them up today. Up to this point, I have seen no indication on the part of Senators to call up serious amendments to the bill.

A cloture motion will, of course, be voted on tomorrow. But in the meantime, this is valuable time to spend on the bill.

Mr. President, does the Senator from Indiana have an amendment he wishes to call up at this point?

Mr. QUAYLE. I have a number of amendments concerning the polygraph bill, and if we go ahead on the polygraph bill today, I would probably call up some amendments.

Mr. BYRD. The Senator does not wish to call up one right at this moment?

Mr. QUAYLE. No, I have no desire to call one up right at this moment until we find out what will be the order of business today.

Mr. BYRD. All right. Mr. President, we have spent almost 24 hours—it soon will be, I guess—on this bill.

RECESS

Mr. BYRD. I ask unanimous consent that the Senate stand in recess for 10 minutes to give me an opportunity to talk with the Republican leader.

There being no objection, the Senate, at 12 noon, recessed until 12:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, if the Chair will indulge me momentarily, and protect my rights to the floor.

The PRESIDING OFFICER. The majority leader's rights are protected.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the polygraph bill occur and final passage of the polygraph bill occur no later than 9 o'clock p.m. today, provided further that no nongermane amendments be in order, and that no motions to commit with or without instructions be in order.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The acting minority leader.

Mr. SIMPSON. I believe that I would defer to my colleague from Indiana who is one of the floor managers and active participants with this legislation. And I do so at this point.

Mr. BYRD. Mr. President, I yield for the reservation by the Senator from Indiana. I do not have to yield for that.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The majority leader has yielded to the Senator.

Mr. BYRD. No. The Senator can reserve the right to object. I maintain the floor.

Mr. SIMPSON. Mr. President, reserving the right to object, the procedural aspects of this matter are that the majority leader has every right under the rules to request a nondebatable motion to go forward with the intelligence authorization. There is nothing to preclude that or prevent discussion of that.

If we were to go forward with the polygraph legislation, and we are apparently ready to do that, we have germane amendments that are thoughtful and address the bill, and those are ready to be presented. But they have not yet been presented to this time. And I would hope that my colleagues would have come here with the purpose of amending, knowing full well that cloture has been requested, and will be performed tomorrow 1 hour after convening; that they would have come forward with the amendments.

At this point, I inquire of the majority leader. The time for the vote certain, together with the remaining part of the request that no nongermane amendments be in order and no motions to commit or recommit be in order, that the purpose of that, vis-a-vis the cloture procedure tomorrow, would be what?

Mr. BYRD. The purpose of the request, as I have made it, is to rule out amendments we know nothing about, have not seen, could range from the points of the compass from north to south, and the Senate would dispose of this bill today. The cloture vote on tomorrow would be vitiated.

Of course, I could not go to the intelligence authorization bill except by unanimous consent unless I find myself in the position such as I am in right at this point, in view of the fact that the Senate has been on this bill almost 24 hours, it will soon be 24 hours, has made no progress whatsoever, there has been very little debate on it other than debate on nongermane amendments, nongermane amendments were called up, and were withdrawn with no progress at all.

I am sure there are Senators who have germane amendments but they have not been to the floor and called them up. Today is a good day, it is Wednesday, to get some business done. I am in a position right now to go to the intelligence authorization bill, and I would not require unanimous consent to go to it, if I could do that within the next 5 minutes. Hopefully the Senate would complete action on that bill today.

From what I have heard said, it is believed by the manager, the chairman, I believe we can complete action on that today, and tomorrow the Senate will automatically vote on the cloture motion on the polygraph bill.

So in that way I could be sure that at least the Senate would spend these 3 days on these two bills, and hopefully we could finish both bills in those 3 days. But if I throw away the next 5 minutes, I then lose my privileged position that I am in at the moment of moving to the intelligence authorization bill and having that motion not debatable after which I would have unanimous consent to go to it, and one Senator could block that. It is for these reasons that I feel constrained to go to the intelligence authorization bill now unless we can get a unanimous consent request that action be completed on the polygraph bill by no later than 9 o'clock p.m. tonight, that there be no nongermane amendments, and I would have to add to that now the request that upon final disposition of the polygraph bill the Senate proceed to the consideration of the intelligence authorization bill, else I will have lost the privileged status that the situation is in right now.

Mr. SIMPSON. Mr. President, is the majority leader asking unanimous consent that at the completion of the polygraph measure, we go immediately to the intelligence authorization bill?

Mr. BYRD. Yes. I am hooking that to the first request, that the Senate complete action on the polygraph bill no later than 9 o'clock p.m. today; that no nongermane amendments be in order; and that no motion to commit, with or without instructions, be in order.

Mr. SIMPSON. Mr. President, I respectfully say that I must object to that. I know that the majority leader could go tomorrow to the same position and have a nondebatable motion tomorrow, with procedures tonight that would assure that.

I am still ready to produce amendments that are germane to the polygraph bill, but I know that he is on limited time, and I will not transgress.

I think we will have to go forward as the majority leader would wish to go forward at this point.

Mr. BYRD. Mr. President, how much time do I have before morning hour is closed?

The PRESIDING OFFICER. Three minutes remain.

Mr. BYRD. I ask to proceed for 2 minutes. That will leave me 1 minute.

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

Mr. BYRD. Mr. President, let me change the request.

I ask unanimous consent that the Senate complete action on the polygraph bill today; that there be a final vote on passage no later than 9 o'clock p.m. today; that no nongermane amendments be in order to the bill; that no motion to commit or recommit, with or without instructions, be in order; provided, further, that on tomorrow, during the morning hour, I be permitted to be in the position that I am right now, of making a nondebatable motion to proceed to the intelligence authorization bill.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I reserve the right to object.

Mr. QUAYLE. A couple of people have said to me that on amendments, with a time certain tonight, we would move to polygraph. If the majority leader wants to move to intelligence after polygraph, this Senator will not object to that. I have a number of amendments to offer and will probably offer them at some time. They are germane to the bill. A couple may not be germane in a postcloture-type situation, but they are with respect to preemployment screening.

Mr. BYRD. Mr. President, are my rights being preserved?

The PRESIDING OFFICER. Yes.

Mr. QUAYLE. They are germane to preemployment screening.

So I would not object, if it is the desire of the majority leader to move the authorization bill after we dispose of the polygraph bill, whether it is tonight or tomorrow. I could not give a time certain tonight.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. BYRD. I have 1 minute remaining.

Mr. President, this thing is so involved from the standpoint of parliamentary procedure that I do not have the time to describe the position I have to be in on tomorrow and what I have to do to get into that position.

I ask unanimous consent that I may preserve the status quo, vis-a-vis my position and the nondebatable motion I could make, for 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, the distinguished acting Republican leader has indicated that on tomorrow, I could be in the same position to make a nondebatable motion. I might or I might not be. One Senator can block me from getting into that position.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes and twelve seconds.

Mr. BYRD. Mr. President, I thank the distinguished acting Republican leader, who is doing everything he possibly can to help to resolve this matter in a way that will see the Senate complete action on the polygraph bill in a very reasonable length of time, without nongermane amendments, and allow the Senate to go to the intelligence authorization bill and, hopefully, to complete action on that before the break. I thank the distinguished acting Republican leader for his efforts. He wishes some additional time so that he can make some contacts.

I ask unanimous consent that my privileged status in this situation be preserved for an additional 20 minutes, that the status quo remain the same for 20 minutes.

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

Mr. BYRD. Mr. President, I believe that if I were to yield the floor now and someone put in a quorum call and the quorum extended beyond the point of my 20 minutes, I would lose my privileged status to move to take up the intelligence authorization bill. Am I not correct?

The PRESIDING OFFICER. The Senator is correct.

15-MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate recessed at 12:30 p.m. until 12:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I yield to the distinguished acting Republican leader for whatever he wishes to say or whatever he may wish to propose. We have had some discussion now. I think we all understand the desire on the part of myself that the Senate complete action on the polygraph bill and the intelligence authorization bill before the Senate goes out for the break, and hopefully get on the Price-Anderson bill. I am not suggesting the Senate complete action on that bill before the Senate goes out, but, at least, upon its return, it would be on that measure.

But, insofar as the intelligence authorization bill and the polygraph bill, which is the pending bill, are concerned, we had our recess and I would be interested in knowing what the distinguished acting leader is in a position to indicate at this point, based on his conversations.

Mr. SIMPSON. Mr. President, I have visited with my colleagues on this issue. Some have been deeply involved in this for many months. I believe that the law of the land is—and you can propound this or we can do it in the form of a gentlemen's agreement which we did quite successfully the other evening. I was pleased with the results of that. We never varied from our agreement one whit, and that was a long, long evening, as I recall.

So we would then proceed with our business on the polygraph legislation today. We have several amendments. We would go to that immediately upon the arrival at an agreement. We would keep people working here this afternoon doing the Senate's business. We would vote cloture tomorrow in the a.m., as set by the majority leader.

We have amendments of Senators QUAYLE, NICKLES, GRAMM, WALLOP, MCCONNELL, KARNES, SYMMS, COCHRAN, and BOSCHWITZ. As I am able to determine, all of those are subject to reasonable time agreements.

But, in any event, we know that cloture is tomorrow and that we have business to do. Then, after the cloture vote tomorrow, should it be invoked, we would go and give consent to go then to the intelligence authorization legislation tomorrow. That should not be terribly contentious from what I understand here. Then the majority leader could go forward and lay down or begin to address Price-Anderson before we go out for the recess.

I can say that I am not aware personally whether all of the amendments are totally germane, but I do not know of any that are detonating devices. I do not know of those here. I believe that the purpose of the Senate will be served. We will debate and we will have another item of business to go to and be prepared to go to that tomorrow.

That is the general outline. We can develop that further as to motions or activity or protection as you wish.

Mr. BYRD. Mr. President, I am happy to enter into a gentlemen's understanding with the distinguished acting Republican leader. I have entered into those understandings with him before and he has always kept them to the letter. He has had sufficient discussions with his colleagues on his side of the aisle to know what he is talking about and to know what can be counted upon.

I think that the proposal as he has outlined it here is perfectly agreeable to me. It would be as follows: That the Senate continue on the polygraph bill today; there are Senators on that side of the aisle who are ready to call up amendments; that the Senate will debate those amendments, act on them during the afternoon. We will have the cloture vote on tomorrow. Upon the disposition of this legislation, which will undoubtedly be clotured on tomorrow, the majority leader would be given consent to proceed to the consideration of the intelligence authorization bill. So there would be no question about getting it up. And that upon the disposition of that bill, as I understand it, the majority leader would be able to take up—I assume we are talking about consent; I have as many problems on my side as there are on the other side on that bill; maybe more—that I could have consent to take up, at least go to, Price-Anderson before the Senate goes out for the recess.

Mr. SIMPSON. Mr. President, two inquiries: that under this proposal the amendments to the polygraph measure would be germane to the subject matter of the bill and not any type of postcloture germaneness test as we do our business today, would that be agreeable?

Mr. BYRD. Yes. That is agreeable.

Mr. SIMPSON. And that at the time of going toward Price-Anderson that it would be the House bill that we would be dealing with?

Mr. BYRD. It would be the House bill.

Mr. President, the gentlemen's agreement is fine with me. I do not intend to try to lay that in stone. As I say, I do not care to attempt to lay the details of this understanding into cement. Because the gentlemen's understanding is fine with me, absolutely fine with me. But I wonder if I can get unanimous consent that upon the disposition of the polygraph bill and the intelligence authorization bill, that there would be no objection to my going to the House Price-Anderson bill?

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I——

Mr. BYRD. With the understanding that action would not occur on that measure this week.

Mr. SIMPSON. Mr. President, I think I need to—we should resolve the issue of germaneness today as we debate precloture; that it will be regular order of amending and debating and that there be ordinary rules of our procedure, with regard to that?

Mr. BYRD. In other words, there may be nongermane amendments called up today?

Mr. SIMPSON. There might be, but I am told it might be a question of judgment; that they are not truly nongermane such as dealing with Contra aid or something of that nature; but they might be something with regard to employee testing or something of that nature.

Mr. BYRD. Yes. That is understood.

Mr. QUAYLE. Will the Senator yield?

Mr. BYRD. I yield.

Mr. QUAYLE. At least my amendments that I intend to offer will be generally germane. They may not be germane on the postcloture situation, but they will be germane to the discussion of the bill. But, however, I would hope that we operate under the regular order that if another Senator wants to offer something that is nongermane that he has, or she, perfectly has that right before cloture is invoked? We have not restricted the Senate's—we have not imposed any restrictions on the Senate's nongermane rules?

Mr. BYRD. Mr. President, the Senator's understanding is correct as far as I know. Senators may call up nongermane amendments today under the understanding, but I think the intention of the acting leader, and colleagues on this side, is to, as well as possible, keep it in the general confines of germaneness today.

Mr. SIMPSON. Mr. President, the purpose of the exercise is to have a debate on polygraph, so I hope that those who want to have an honest debate on polygraph will visit with those who have nongermane amendments that do not really deal with polygraphs so that the debate can be had as it should be had on a very serious issue.

Mr. BYRD. All right. Mr. President, I am satisfied on all four corners of the understanding. I ask unanimous consent, however, that upon the disposition of the polygraph bill, the Senate proceed to the consideration of the intelligence authorization bill.

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

Mr. BYRD. Now, Mr. President, I think we have reached a good understanding and it will be my intention, may I say to all Senators concerned, that upon the disposition of the intelligence authorization bill I will do everything I can to proceed to the consideration of the Price-Anderson legislation.

Mr. SIMPSON. Mr. President, that would be a clarification; that is upon disposition of the intelligence bill regarding whether it is in agreement or final passsage, if it should get into contention, we will still go forward with the Price-Anderson, House version?

Mr. BYRD. Yes. That is absolutely correct.

So all Senators on both sides are aware of the intentions of the majority leader insofar as these three measures are concerned.

I thank the acting leader. I thank the distinghished Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH].

Mr. President, I yield the floor.

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. SIMPSON. Mr. President, I want to thank very much Senator QUAYLE for his assistance. He is a spirited advocate of his position and I respect that greatly and because of his persistent advocacy we have reached a result which will bring us to debate on the polygraph bill, which is something we all wish to do and the American public will want to hear that debate. I thank the majority leader for his unusual courtesies and extreme patience with me in my role as acting leader; and the Senator from Massachusetts who, I know along with our ranking member, Senator HATCH, do very much want to finish this bill. We have arranged the path to do that and I thank him sincerely. I thank the Senator from South Carolina for his courtesy.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I know that many Members of this body are concerned about the potential for polygraph abuse. There certainly is the possibility that examiners could use the tests to ask inappropriate or embarrassing questions to examinees. We don't want to see these things happen and, in fact, want to see such practices stopped when and if they do occur.

However, the question I ask is whether the Congress of the United States is the appropriate legislative forum for addressing these questions. As I have said during previous meetings of the Senate Labor Committee, I strongly believe it is not. I believe that the Constitution of the United States clearly grants jurisdiction over this issue to the States. Moreover, I believe that the States have proven they are much better to deal with the complexities of this issue and to develop the best legislation to meet the needs of their citizenry than the Congress.

PRINCIPLE OF FEDERALISM

As you know, I am deeply devoted to the principle of federalism. This is the fundamental issue before us today. We may differ on whether the polygraph works. We may disagree on whether use of the polygraph should be allowed in the public sector and denied to the private sector. Moreover, we may disagree on the best way to protect the rights of individual citizens who are asked to take polygraph examinations.

However, I don't believe we can disagree on whether we should be guided by the Constitution, and in particular the principles of the 10th amendment to the Constitution, in our deliberations about new legislation.

One of the axioms of American constitutional law is that Congress has only powers that are delegated to it by the Constitution, or reasonably implied from those so delegated. When Edmund Randolph, a delegate from Virginia, proposed the Virginia plan in the Constitutional Convention of 1787, it contained a principle by which the powers of Nation and State could be divided. It stated:

* * * The national legislature ought to be empowered . . . to legislate in all cases to which the separate states are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.

This outlined a principle rather than a method of allocating powers, and as a principle, it was approved by the Constitutional Convention. Two months later, the convention gave these instructions regarding national powers to those who would be formulating the text of the Constitution:

The national legislature ought to possess the legislative rights vested in Congress by the Confederation; and, moreover, to legislate in all cases for the general interests of the Union, and also in those to which the states are separately incompetent, or in which the harmony of the United States may be interrupted by individual legislation.

Acting upon this instruction, the committee reported back to the convention the specific enumeration of the powers of Congress found in article I, section 8. The committee, adhering, as did the entire convention, to the principle of delegated powers, thus gave to the new Congress all of the powers then believed to be described in the article of instruction. Furthermore, it provided, in article V, a means by which those powers could be altered when necessary.

PRESERVING INDIVIDUAL LIBERTY

I fear we have a tendency to disregard this principle that was so central to the formulation of our Constitution. Yet it is fundamental to the preservation of individual liberty and to preventing the consolidation of overwhelming governmental power.

The delegates to the Constitutional Convention were well aware of the abuses which flowed from the absolute coalescence of power in one governmental authority. Fresh from their experience with tyranny, they conceived a government of limited and delegated powers.

Their prime concern was that the people maintain their sovereignty. In order to accomplish that, power was first divided between the people and the government, reserving to the people the control of the power allotted to the government. This power was then divided between the Federal and State governments. These parts, in turn, were split up among the coordinated legislative, executive, and judicial bodies.

Through these safeguards, they believed they would be able to prevent a highly centralized government which historically have been fatal to civil liberty.

CLOSER TO THE PEOPLE

According to Thomas Jefferson, limiting government to its proper sphere was the very essence of republican government; and an important element was assuring strong and viable local governmental authorities. To Jefferson, local governments were closer to the people, and consequently, more safely trusted than the national Government.

I speak out about federalism so often because I believe firmly this is a central principle in maintaining a whole system designed to secure limited Government and individual liberty.

COMPETENCE OF THE STATES

The people of the States created our National Government and in so doing, delegated to it specific powers relating to matters they felt were beyond the competence of the individual States Our founders trusted the States to govern the affairs of their citizens unless there was an overriding need for uniformity in national policy.

I believe that governing the polygraph industry is not beyond "the competence of the individual States," and I see no need for uniformity in national policy. In fact, I believe this issue requires the diverse approaches of State-by-State legislation that are being developed to meet the different needs of the citizenry of our various States.

As Members of the U.S. Senate, it is incumbent upon us to protect and ensure the proper balance of power between the States and the Federal Government. This legislation has the opposite result. It is an intrusion into an area never delegated to the Federal Government.

STATES PRODUCE BETTER LEGISLATION

The wisdom of the framers is evident today through the application of their arguments to the issue before us. The principles of federalism are not just abstract concepts. I believe we are much likely to get a more precise body of polygraph law that is much more responsive to the needs of our citizenry if the law is developed on a State-by-State basis.

QUESTIONS LEFT UNANSWERED

S. 1904 simply does not and could not address the many complex issues that should be explored regarding polygraph regulation. Questions involving the merit of preemployment testing verses incident-specific testing. Issues such as the diverse body of opinion concerning the validity of polygraph testing and how to maximize the chances of obtaining the most accurate results when the tests are given; and basics such as detailing and enforcing protections for examinees' rights.

However long and hard we might work to try to develop the perfect bill, I believe we would always fail. I do not believe that the Congress of the United States ever could or should write legislation that would adequately address all of the subtle and complex issues involved in the polygraph debate. We do not have the authority to do so, even if we could. We are bound by the Constitution to allow the States to resolve these questions. They, and not the Federal Government, clearly are empowered to govern regarding this issue.

Because the State government provides a better and closer ear to hear the voices of individual citizens, the States will be better enforcers of the legislation they do develop. They will more quickly find out how it is working and be able to follow up with amendments that assure that their laws continue to be responsive to the needs of their citizens.

REASONS FOR STATE AUTHORITY

As many of you know, the administration strongly opposes the ban on polygraph testing contained in S. 1904. I received a letter from Assistant Attorney General John Bolton, who outlined some of the reasons for the administration's opposition. In it, he also underscores the administration's strong support for the principles of federalism. Mr. Bolton outlined a number of reasons why States are the appropriate functional jurisdiction for regulating the polygraph industry. I would like to relate some of those reasons to you today.

The first is accountability. State governments, by being closer to the people, are more able to be responsive and accountable to the needs and desires of their citizens.

Second, participation. Citizens are better able to be involved in developing legislation at the State level, resulting in a clearer sense of their actual needs, which in turn are reflected in the legislation they help to develop.

Third, diversity. The citizens of different States may well have different needs and concerns. If this matter is left to the individual States, a much richer, more diverse, and more appropriate body of law will be developed. If the Federal Government sets the policy, public policies must conform to a low common denominator in order to cover everyone with the same umbrella.

Fourth, experimentation. The States, by providing diverse responses to various issues, allow us to test many different approaches to solving public policy problems. One State may seize a novel idea that no one in Washington would have thought of but which is a fitting solution to a particular problem. Without this well-spring of creativity, our lawmaking would become stale and sterile.

And that leads me to a fifth point, containment. If experiments in public policy are not successful, they can be tremendously damaging if imposed on a national scale but much less so at the State level. As Mr. Bolton points out, "While the successful exercises of state regulation are likely to be emulated by other States, the unsuccessful exercises can be avoided."

In fact, the heated debate among scientists and scholars about the validity of the polygraph is evidence that this issue has not been resolved to the point that any national policy could be formulated.

POLICY UNIFORMITY

There are clearly issues where there is a need for national policy uniformity. We must have a uniform foreign policy if we are to effectively deal with other nations. If our foreign policy were dictated by the 50 States instead of by the Federal Government, our effectiveness in the world arena would be severely diluted. Further, the need for an efficient transportation system argues strongly for national rather than State regulation of our airline, maritime, and rail systems. There are other examples of things that the Federal Government is better equipped to handle than the States, but polygraph law is not one of them.

The States are actively engaged in assuming this responsibility. Thirty-two of the fifty States have some kind of license or certification requirements for polygraph examiners. Forty-four of the fifty States have laws governing the use of the polygraph in the workplace; and 33 of the 50 States have addressed this issue legislatively since 1980.

STATE-BY-STATE ANALYSIS

For example, the State of Massachusetts addressed this issue as recently as 1982. The law bans most polygraph testing and requires polygraph examiners in private practice to be licensed.

Utah has required polygraph examiners to be licensed since legislation was passed in 1973.

The laws in the home States of the other Members of this body reflect the richness and diversity of law that our States are developing.

Alabama has required since 1975 for a polygraph examiner to be licensed. This law was revised as recently as 1983.

In Arkansas an examinee must be told the test is voluntary and State licensing is required.

Florida requires a State license. Georgia requires questions to be provided in advance in writing, and prohibits questions on race, religion or politics.

Louisiana has a license requirement, as well as Mississippi.

New Mexico prohibits questions on sexual affairs, race, creed, religion, union affiliations or activity unless agreed to by written consent. Virginia requires a license and prohibits questions similar to those prohibited by New Mexico.

Mr. President, as I have already mentioned, 44 States have laws governing the use of polygraphs in the workplace. I urge my colleagues to examine this chart, before voting on this issue.

STATES SHOW "COMPETENCE"

I believe that this chronicle of State law presents the case more effectively than any argument I can make of the States' ability and willingness to regulate or ban the administration of polygraph tests. Only the States have the power and the ability to develop a body of polygraph law that will address the many complexities this issue presents. If polygraph abuse is a problem in one State, then that State has the option of outlawing its use there. But other States may find that it is a tool that is being used responsibly and that it is contributing to the stability of the companies operating there. If so, those States have the option of regulating it to protect citizens from abuse, as so many have done.

Mr. President, S. 1904 completely undermines the solutions fashioned, through their legislative process, by the people of these and other States. When the Federal Government threatens to overrule the States on issues that are clearly in their pur-

view, it is no surprise that some are hesitant to tackle tough questions if they fear it will be negated by unnecessary Federal intervention.

LEARNING FROM EXPERIENCE

In my opinion, Mr. President, we did not have ample opportunity to hear from the States when we conducted our hearings on this issue earlier this year. I believe that we could have learned a great deal by hearing testimony from a representative group of State officials who have had experience with administering polygraph laws.

Instead, we heard from only one State official, Attorney General Robert Abrams of New York who asked for Federal legislation because he has been unable to get a State law passed in New York. I must say that as a former Governor, it was displeasing for me to see a statewide elected official appear before the Labor Committee petitioning the Federal Government to take over a responsibility that clearly belongs to the States.

EXPERIENCE OF STATES

Testimony that we did not hear, but should have, was submitted to the Labor Committee in writing by the former Secretary of State from Florida, Mr. George Firestone.

Mr. Firestone has had ample experience administering polygraph law in Florida, and he indicated his belief that polygraph regulation works. He said that he believes the public has a right to privacy and that that right should be protected. However, he said his experience proves it is possible to protect those rights without prohibiting polygraph testing which, he said, "has consistently proven that its merit to society outweighs its risk."

His experience also shows that, with proper regulation, the abuses we are concerned about can be virtually eliminated. There are more than 500 fully licensed polygraph examiners in Florida, conducting more than 300,000 tests annually. State law requires that each examinee be told he or she can file a complaint if there are any improprieties. Yet only one validated complaint had been filed against an examiner in the year before Mr. Firestone submitted his testimony to the committee.

RESPECTING DIFFERENCES

I also believe that the Florida experience underscores another important point that I made earlier. In discussing States rights, I indicated that there may be differences in the States that require them to have different regulations. Mr. Firestone gave us a perfect example: He said that Florida is a particularly transient State where traditional background investigations are frequently impossible to perform. Further, it also has a large immigrant population.

Proponents of a polygraph ban say that background investigations and reference checks are a suitable substitute for polygraph testing. However, they are not always possible. Mr. Firestone pointed out that in Florida—and, of course, in many other States—the use of the polygraph actually allows residents to establish themselves in the work force. It is not the employment barrier that polygraph opponents so often claim but rather an opportunity for employment that might not otherwise be available.

Mr. Firestone said that the polygraph provides the business sector with an objective method of minimizing risk to itself and to the public by assuring the integrity of potential employees.

It benefits all of us when those who are qualified to work can find jobs.

EXONERATING THE INNOCENT

Further, State officials have argued their citizens should have access to the polygraph because it often serves to protect the jobs of employees who may be working in an area where theft occurs. There are many instances every day in American business and industry where a crime is committed and several employees are implicated. Without the polygraph, the employer may have felt it necessary to dismiss all of them. However, when he has access to polygraph test results, the person who committed the crime can more easily be determined—and the innocent employees exonerated, instead of fired. Whether we agree that this works or not is not the issue. The issue is whether or not local policymakers believe it does. Those who believe this is a useful tool for that purpose have the constitutional authority to allow their citizens to use it. Many States have found it can be especially effective when they enforce their own sets of standards, restrictions, and practices regarding the polygraph.

If the Congress were to outlaw polygraph testing in the private sector, as S. 1904 would require, the Federal Government would be barging into an area where it has neither the jurisdiction nor the ability to adequately regulate. The consequences could be to intrude on the legitimate right of local authorities to manage their own affairs.

REGULATION, NOT PROHIBITION

The legislation that we are considering here today would have far reaching and sweeping affects on American businesses, on employees and prospective employees, and on the body of polygraph law that is being developed by the States. Before we take such a major step, I believe we are obligated to develop a much more substantial hearing record than we have so far. There are many who feel that regulation, and not prohibition, is the key to protecting our citizens. I believe we need to learn much more about the successes and failures of the States' experience with regulation and bans on polygraph testing.

We would need to have good reason to strip polygraph regulation from the purview of the States, especially since they have developed a significant body of law already on this issue.

STATES ARE BEST REGULATORS OF SERVICES

It traditionally is the purview of the States to regulate commerce within their boundaries. They have mechanisms to certify that those who deliver health care services to residents are qualified to do so. They oversee insurance and real estate brokers, utility companies, doctors, lawyers, and dentists, to name just a few.

The States are equipped to regulate the services offered by polygraph examiners as well.

Assistant Attorney General Bolton also has addressed this issue. He said:

Polygraph misuse may be more appropriately deterred by restricting the conditions under which polygraphs are administered rather than prohibiting their use altogether. The states are better equipped to make those determinations.

OTHER PROTECTIONS

Mr. President, besides existing State law, other mechanisms are in place to address the issue of polygraph abuse in the private sector: namely, the collective bargaining process and the courts.

The courts provide an appropriate forum for redress for any citizen who feels his or her rights have been violated.

American workers have additional protection from polygraph abuse through the collective bargaining process. Mr. William Wynn of the United Food and Commercial Workers Union has said that 90 percent of the union's collective bargaining agreements prohibit polygraph testing.

Labor and management have the tools to find their own solutions in conjunction with existing State law on polygraph testing. This system allows even more fine tuning than State law alone.

I recognize that there may be abuses in the polygraph industry, and I urge the industry and the States to correct these deficiencies. However, under our constitutional system, not every problem has a Federal solution. If a Federal solution is desired, but not constitutionally available, then there is a provision for amending the Constitution wherein these additional powers can be granted.

THEORY OF NATIONAL POWER

In spite of the conclusive evidence to the contrary, it has sometimes been urged that the framers intended that Congress should have the power to deal with any truly national problem, whether that power is delegated to it or not.

It was this theory of national power which was presented to the Supreme Court in the case of Kansas versus Colorado in 1907 by President Theodore Roosevelt's Attorney General.

The Supreme Court's decision on this issue was very clear, and reads in part:

The proposition that there are legislative powers affecting the nation as a whole which belong to, although not expressed in, the grant of power, is in direct conflict with

the doctrine that this is a government of enumerated powers. That this is such a government clearly appears from the Constitution, independently of the Amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and distinct things. This natural construction of the original body of the Constitution is made absolutely certain by the 10th Amendment. This amendment . . . disclosed the widespread fear that the national government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the Framers intended that no such assumption should ever find jurisdiction in the organic act, and that if, in the future, further powers seemed necessary, they should be granted by the people in the manner they had provided for amending the act. It read: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

It is incumbent upon us to respect and abide by these constitutional principles.

In conclusion, I would like to make just one further point that I believe further emphasized the wisdom of our Constitution in reserving authority to our states.

DOUBLE STANDARD

If S. 1904 were to pass, it would establish a double standard in which the public sector would be allowed to use the polygraph for employee screening and incident investigation. However, the private sector would be much more limited in its use of the polygraph. How would we explain that to our constituents?

The Federal Government, and especially its national security agencies, apparently feel they need access to the polygraph to conduct their business, and they have access to it. Whether individual citizens or businesses need the polygraph to conduct their business is not a matter for the Federal Government but rather one for local governments to decide. If they decide it is not in their citizens' best interest to allow use of the polygraph, then they can outlaw it. That ban would not set up the national double-standard that S. 1904 would perpetuate.

I urge my colleagues to consider these issues during the debate today. Perhaps the constitutional question is abstract and not pertinent to contemporary political concerns; but the Senate of the United States has a solemn obligation to uphold the Constitution of the United States. This legislation, in my opinion, violates that obligation. I urge my colleagues to join with me in opposing S. 1904 and allowing our local governments to continue to do their job in exploring and debating this issue and developing their own body of legislation.

Now, Mr. President, a very able lawyer from Richmond, VA, Mr. David E. Nagle, has made an analysis of this bill, the benefit of which I would like to give the Senate. This is a letter that is written to Mr. Powell A. Moore, of Ginn, Edington, Moore & Wade, 803 Prince Street, Alexandria, VA 22314. Mr. Nagle says:

DEAR MR. MOORE: As an attorney who represents management in employment litigation, I am frequently called upon to advise employers regarding the lawful use of the polygraph in the workplace. I have accordingly kept abreast of efforts to secure federal legislation restricting employers' rights to conduct such tests. Pursuant to your request, I have reviewed Senator Kennedy's bill, S. 1904, and offer the following comments.

Even before it was formally introduced, Kennedy's bill was touted as a compromise measure, one that would resolve the enduring battle over polygraph testing. It was supposed to be a trade-off—the elimination of pre-employment and periodic examinations, in exchange for allowing testing in investigations into employee misconduct.

In fact, the bill as drafted will virtually eliminate all polygraph testing in the workplace. The circumstances in which testing can be conducted are so limited, the exposure to litigation is so substantial, and the penalties for violations are so severe, that I suspect the vast majority of employers have no alternative but to abstain from all testing. While I recognize this as the objective of the bill's patron, I fear many of the bill's current supporters are unaware of the true character of this legislation.

The issues raised here are complex, and in-depth analysis would be preferred, but the reasons that the bill fails as a compromise fall into three categories.

I. The bill does not provide an employer with a meaningful opportunity to utilize polygraph testing as part of an investigation into employee misconduct.

First, the bill does not allow testing in the course of investigations into drug use or drug sales on the premises, into allegations of sexual harassment, or many other matters relating to unsafe and/or criminal conduct on the job.

Second, in those limited subject areas where testing may be allowed, the employer must establish "reasonable suspicion" with respect to any employee tested, then file a formal report of the incident or develop a lengthy internal statement (a copy of which is given to the suspect) setting forth the basis for the suspicion.

It is this aspect of the bill, when viewed in conjunction with the risk of litigation and harsh penalties, that may lead employers investigating misconduct to discharge all employees in a group of suspects, rather than raise the issue of polygraph testing. If the polygraph is effectively made unavailable to help clear the innocent, or to help identify the guilty, the "protection" afforded employees under this legislation is of dubious value. Investigations into misconduct may be resolved in a non-discriminatory manner—through discharge of guilty and innocent alike.

Third, even in those situations where the employer is able and willing to accept the legal risks associated with testing to further its investigation, the suspect employee cannot be required to take the polygraph, and neither the test results nor a refusal to submit to a test can serve as the basis for discipline or discharge without additional supporting evidence.

An employer who does not utilize the polygraph needs no evidence to terminate an individual under the prevailing doctrine of employment at will, but under this bill, when an employee is found deceptive on a polygraph (or refuses to submit to a test) then an employer must have additional supporting evidence. A discharge that fails to meet this vague standard subjects the employer to harsh penalties.

II. The restrictions and requirements are so ambiguous as to be certain to result in much litigation.

While some aspects of the bill are comparable to many state laws limiting areas of inquiry and imposing examiner licensing requirements, other provisions go much further. For example, the bill prohibits the asking of questions "in a manner that is designed to degrade, or needlessly intrude" upon the examinee. As noted above, a discharge on the basis of polygraph test results is unlawful without "additional supporting evidence"—but there is no guidance as to what will be sufficient.

III. An employer acting in good faith and attempting to comply with the law might well be found in violation. The penalties for non-compliance are so severe that few employers will be willing to exercise their right to use polygraph in ongoing investigations.

Virtually all employers (even those who have never used polygraphs) would be required to post a notice to employees regarding this law; failure to post resulting in fines of $100 per day. Any other violations of the law can result in civil penalties of up to $10,000. There are no comparable penalties imposed for violations of our most significant employment laws, e.g., the National Labor Relations Act, Title VII of the 1964 Civil Rights Act, or the Equal Pay Act.

Furthermore, an individual can bring a private civil action under this bill, and if an employer is found to have violated this law, the person may be awarded "employment, reinstatement, promotion, and the payment of lost wages and benefits" as well as other "legal and equitable relief as may be appropriate"—perhaps opening the door to awards for pain and suffering, embarrassment, and punitive damages. To keep the wheels of justice rolling, of course, prevailing parties recover their costs and attorneys' fees as well.

In summary, as currently drafted, the bill does not do what its sponsors claim, but instead effectively eliminates employers' right to utilize polygraph testing in the investigation of misconduct, and the preservation of safety and property in the workplace. I fear that many of those who innocently and sincerely endorsed the notion of "compromise" have, in fact, been duped. If this bill is passed into law, I see no alternative but to advise my clients to eliminate all polygraph testing from their workplace.

Finally, if an explanation of my credentials is in order, I have published one law review article and several pieces in journals regarding polygraph in the workplace. I have lectured on this subject in 9 states to some 25 groups of employers, polygraph examiners, and university students, and I have served on the Virginia Polygraph Advisory Board since 1985 when I was appointed by Governor Robb.

Thank you for this opportunity to explain my concerns with this proposed piece of legislation. I sincerely hope you will be able to shed sufficient light on the true impact of this bill to bring about its defeat. If there is any other way in which I can be of assistance, please do not hesitate to contact me. I remain,

Sincerely yours,

DAVID E. NAGLE.

Mr. President, as I say, Mr. Nagle is a very able and prominent lawyer from Richmond, VA. I think his analysis clearly sets out the situation.

Mr. President, there are many organizations that oppose this bill. I will

read a letter from the U.S. Chamber of Commerce:

U.S. CHAMBER OF COMMERCE,
Washington, DC, February 11, 1988.
Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR STROM: The U.S. Chamber of Commerce, on behalf of its approximately 180,000 members, respectfully urges you to oppose S. 1904, the Polygraph Protection Act of 1987.

S. 1904, introduced by Senator Kennedy (D-MA), would prohibit most private employers from using the polygraph for the purpose of screening prospective employees. Employers have found the polygraph to be an invaluable tool for deterring workplace crime and identifying security risks among job applicants. It helps to protect the financial health of American business and the health and safety of customers, employees and the public; therefore, limiting its use is not in the best interest of the American public or business.

The polygraph has proven its worth in assisting defense agencies in guarding national security; business should also have access to it. Congress has repeatedly overwhelmingly endorsed its use for this purpose.

On June 16, 1985, the House of Representatives voted 331-71 in favor of an amendment allowing the Department of Defense to increase the polygraph screening of personnel with access to sensitive information. On July 7, 1985, the Senate voted 94-5 to agree to the conference report containing a polygraph program.

On May 11, 1987, the House voted 345-44 for an amendment to the Department of Defense Authorization bill, offered by Congressman Bill Young of Florida, establishing a permanent polygraph program for national defense agencies. On November 19, 1987, the Senate voted 89-6 to agree to the conference report containing a permanent polygraph program.

Current employee theft raises the cost of goods to consumers by as much as 15 percent and continues to escalate. The Drug Enforcement Administration, which has endorsed polygraph use in employee-screening programs, estimates that one million doses of drugs are stolen each year from drug retailers, wholesalers and distributors. One employer, Days Inn of America, testified at a Congressional hearing during the 99th Congress that the use of polygraph has helped to reduce its annual losses from more than $1 million to $115,000.

I want to repeat that last statement, Mr. President.

One employer, Days Inn of America, testified at a Congressional hearing during the 99th Congress that the use of the polygraph has helped to reduce its annual losses from more than $1 million to $115,000.

Crime in America is a serious, pervasive concern. Day care centers must be able to pre-screen prospective employees to prevent incidents of child abuse. Nursing homes must know if their sick and often helpless patients are at risk of death. Public utility companies, chemical plants, airlines and railroads are only a few examples of the industries that need to be able to screen prospective employees to help avoid public disasters.

The rights of employers to use the polygraph to protect their employees, their assets and themselves must be preserved. The Chamber respectfully urges you to oppose S. 1904, the Polygraph Protection Act of 1987. Enclosed you will find a list of the business and trade associations who oppose S. 1904.

Sincerely,

ALBERT D. BOURLAND.

Mr. President, the list which the Chamber of Commerce has attached opposing this bill is a most imposing list. I would like for the Senators to listen to this list.

U.S Chamber of Commerce (Washington, D.C.).
Alabama Hotel & Motel Association (Montgomery, Alabama).
Alabama Retail Association (Montgomery, Alabama).
American Hotel & Motel Association (Washington, D.C.).
American Polygraph Association (Alexandria, Virginia).
American Rental Association (McLean, Virginia).
American Road & Transportation Builders Association (Washington, D.C.).
American Society for Industrial Security (Arlington, Virginia).
American Supply Association (Chicago, Illinois).
American Trucking Association (Washington, D.C.).
APCOA, Inc. (A Member of the National Parking Association)-(Cleveland, Ohio).
Association of Oilwell Servicing Contractors (Dallas, Texas).
Automotive Parts & Accessories Association (Lanham, Texas).
Automotive Wholesalers Association of Tennessee (Nashville, Tennessee).
Bishop, Cook, Purcell & Reynolds (Washington, D.C.).
Bowling Proprietors Association of Southern California (Burbank, California).
California Jewelers Association (Los Angeles, California).
Central Station Electrical Protection Agency (Washington, D.C.).
Circuit City Stores, Inc. (Richmond, Virginia).
Committee of National Security Companies, Inc. (CONSCO) (Memphis, Tennessee).
Federation of Apparel Manufacturers (New York, New York).
Greater New York Retail Merchants Association (Great Neck, New York).
Illinois Association of Convenience Stores (Springfield, Illinois).
Illinois League of Savings Institutions (Springfield, Illinois).
Illinois Lumber & Material Dealers Association (Springfield, Illinois).
Illinois Petroleum Marketers Association (Springfield, Illinois).
Independent Electrical Contractors, Dallas Chapter (Irving, Texas).
Independent Fire Insurance Companies (Jacksonville, Florida).
Independent Sewing Machine Dealers Association, Inc. (Columbus, Ohio).
Indiana Retail Grocers Association (Indianapolis, Indiana).
International Assocaition of Chiefs of Police (Gaithersburg, Maryland).

Mr. President, I especially call attention to the International Association of Chiefs of Police.

Iowa Grain and Feed Association (Des Moines, Iowa).
Jewelers of America (Washington, D.C.).
Kentucky Wholesale Liquor Dealers Association (Louisville, Kentucky).
Louisiana Association of Business & Industry (Baton Rouge, Louisiana).
Manufacturing Jewelers & Silversmiths of America, Inc. (Providence, Rhode Island).
Marriott Corporation (Washington, D.C.).
Metal Treating Institute (Jacksonville Beach, Florida).
Michigan Automotive Parts Association (Lansing, Michigan).
Michigan Blueberry Growers Association (Grand Junction, Michigan).
Monument Builders of North America (Evanston, Illinois).
Multi-Housing Laundry Association (Raleigh, North Carolina).
National-American Wholesale Grocers' Association (Falls Church, Virginia).
National Apartment Association (Washington, D.C.).
National Association of Catalog Showrooms (W. Simsbury, Connecticut).
National Association of Truck Stop Operators, Inc. (Alexandria, Virginia).
National Automatic Merchandising Association (Chicago, Illinois).
National Automobile Dealers Association (Washington, D.C.).
National Burglar & Fire Alarm Association (Washington, D.C.).
National Independent Dairy-Foods Association (Washington, D.C.).
National Moving and Storage Association (Alexandria, Virginia).
National Parking Association (Washington, D.C.).
National Pest Control Association (Dunn Loring, Virginia).
National Retail Hardware Association (Indianapolis, Indiana).
Nevada Association of Employers (Reno, Nevada).
North Carolina Petroleum Marketers Association (Raleigh, North Carolina).
North Carolina Tire Dealers & Retreaders Association (Durham, North Carolina).
Northeastern Retail Lumbermen's Association (Rochester, New York).
Ohio Automative Wholesalers Association (Columbus, Ohio).
Petroleum Marketers Association of America (Washington, D.C.).
Precision Metalforming Association (Richmond Heights, Ohio).
Reid Psychological Systems (Chicago, Illinois).
Retail Bakers of America (Washington, D.C.).
Retail Merchants Association of Greater Richmond (Richmond, Virginia).
Service Station Dealers of America (Washington, D.C.).
Society of American Wood Preservers, Inc. (Falls Church, Virginia).
Society of Independent Gasoline Marketers of America (Washington, D.C.).
Tennessee Oil Marketers Association (Nashville, Tennessee).
Texas Automobile Dealers Association (Austin, Texas).
Texas Laundry & Drycleaning Association (San Antonio, Texas).
Texas Oil Marketers Association (Austin, Texas).
Texas Restaurant Association (Austin, Texas).
Texas Rental Association (Austin, Texas).
Texas Retail Grocers Association (Austin, Texas).
The Battle Mountain Gold Company c/o Burridge Associates, Inc. (Washington, D.C.).
Union County Chamber of Commerce (Union, South Carolina).
Washington Apartment Association (Tacoma, Washington).
Wine and spirits Wholesalers of America, Inc. (Washington, D.C.).
Wisconsin League of Financial Institutions, Ltd, (Milwaukee, Wisconsin).
Wisconsin Retail Hardware Association (Stevens Point, Wisconsin).

Mr. President, those are some of the organizations that oppose this bill.

There are many others. It would be impossible to list all of them here.

Mr. President, I am not going to take the time to read excerpts from all of those organizations. I just want to read a few here which I think would be representative of most of these organizations.

Here is one from the American Mining Congress.

The American Mining Congress (AMC) wishes to convey to you its opposition to the Polygraph Protection Act of 1987 (S. 1904). The bill, introduced on Tuesday of last week, is currently scheduled for full Committee markup this Wednesday. As the representative of the nation's mining industry, we are concerned that this legislation will prohibit the use of the polygraph as a legitimate personnel testing tool.

While the polygraph is not used extensively in mining, several sectors of our industry do make use of the polygraph. Their reasons center on concern for theft of high explosives or precious metals. Precious metals mining and processing operations are particularly susceptible to internal theft. As part of their loss prevention program, many such operations prefer to retain the option of preemployment and random polygraph screening to assure the integrity of their workforce.

AMC believes that the question of polygraph use is an issue best left to resolution in the workplace.

The Automotive Parts and Accessories Association:

Up to 43 percent of business losses can be attributed to internal theft, according to Arthur Young and Company. Proper use of polygraphs can mean important protections for companies, preventing thefts before they occur and therefore avoiding severe damage to a company's financial position.

APAA particularly notes that S. 1904 exempts government agencies, military and security personnel from the lie detector ban. It seems unjust to our members that this bill would shield government agencies from problem employees, but deny that same protection for a small business an owner may have worked all his life to build. If polygraphs are considered a valid measurement of a person's innocence or guilt for government use and for national security needs, why are they an invalid measurement for use by private businesses?

An excerpt from Timken Bearing:

1. We conduct routine testing of potential employees using computers.

If this "mechanical device" is considered a "lie detector" based on the fact that we verify the accuracy of some information input by the applicant, such methods for simply collecting data on potential employees would be prohibited by the bill.

2. Inclusion of the term "chemical device" in the definition of lie detector may prohibit employers from doing drug screening of applicants.

3. The qualifications prescribed for the polygrapher could be interpreted to apply to anyone administering a test where an individual's honesty is verified. (As under item 1, it is routine to verify certain information that job applicants provide in seeking employment.)

Among these qualifications is maintaining a $50,000 bond and an internship of six months under a professional who has also met the specified qualifications.

If those who administer tests to regular job applicants are deemed to fall into this category, the costs to employers would be prohibitive.

4. Again, if standard pre-employment tests were interpreted as falling under this law, the reliability of such tests would be destroyed by the requirement for employers to provide the applicant with the questions prior to the test and the answers and conclusions drawn after the test is completed.

Please clarify whether these are valid concerns given the current wording of S. 1904.

While protection of an individual's rights is the responsibility of all employers, bills such as this—which, through interpretation, can create unjustified restrictions on employers and their ability to evaluate job applicants—unnecessarily increase costs and reduce the competitiveness of U.S. businesses at a time when global competition is severe and many jobs are at stake.

This letter, as I say, was from Timken Bearing in Canton, OH.

Mr. President, I have a letter from Wells Fargo from which I wish to read an excerpt:

This legislation prohibits private companies, including companies engaged in security work, from using pre-employment polygraph screening, while allowing public agencies such as the police department and FBI to use the polygraph. Pre-employment screening is vital when interviewing for the sensitive security positions within our firm. We are the target of not only criminals, but also terrorists who seek to infiltrate security companies.

In most cases, pre-employment polygraphing is more important than post-incident polygraphing in the security business, as the harm that can be done is of such a large magnitude. For example, the FBI recently arrested members of the 'Los Matcheteros' terrorist gang and charged them with an $8 million armored car robbery in Connecticut, a state where polygraphs are outlawed. The terrorists planted a member of their group inside an armored car company as a driver. He fled to Cuba with the funds, which were then used to fuel terrorism in Puerto Rico.

An excerpt from a letter from the Professional Lawn Care Association of America:

PLCAA represents over 1,300 lawn care companies throughout the United States, employing many thousands of people. Lawn care personnel have direct contact with a company's customers, and very often have a need to enter a customer's home. Our members are very conscious of hiring not only qualified people, but also employees who pose no risk to the customer or their property. Lie detector tests are one important tool used by some PLCAA members to help them in making a hiring decision.

An excerpt from Feature Enterprises:

Ten years ago, internal losses of diamonds and gold from this company were staggering and a voluntary polygraph program was instituted under my direction. At present, internal losses are minimal and my confidence in polygraph is maximal.

An excerpt from a letter from the National Pest Control Association:

The pest control industry sends 57,000 employees directly into 10 million homes nationwide. When the homeowner allows an unfamiliar person to enter the household, the security of life and personal property is squarely on the line.

When used with other preemployment screening methods, a polygraph examination is a valid and essential tool for preventing job applicants with criminal backgrounds from gaining access to the customer's home. S. 1904 would arbitrarily ban polygraph examinations as a preemployment screening method.

Mr. President, the excerpts I have given here are representative, I think, of the way the public feels about this matter. I could read letters from all these companies, but I just read excerpts from a few. I ask unanimous consent that the letters be printed in the RECORD.

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

U.S. CHAMBER OF COMMERCE,
Washington, DC, February 11, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR STROM: The U.S. Chamber of Commerce, on behalf of its approximately 180,000 members, respectfully urges you to oppose S. 1904, the Polygraph Protection Act of 1987.

S. 1904, introduced by Senator Kennedy (D-MA), would prohibit most private employers from using the polygraph for the purpose of screening prospective employees. Employers have found the polygraph to be an invaluable tool for deterring workplace crime and identifying security risks among job applicants. It helps to protect the financial health of American business and the health and safety of customers, employees and the public; therefore, limiting its use is not in the best interest of the American public or business.

The polygraph has proven its worth in assisting defense agencies in guarding national security; business should also have access to it. Congress has repeatedly overwhelmingly endorsed its use for this purpose.

On June 16, 1985, the House of Representatives voted 331-71 in favor of an amendment allowing the Department of Defense to increase the polygraph screening of personnel with access to sensitive information. On July 7, 1985, the Senate voted 94-5 to agree to the conference report containing a polygraph program.

On May 11, 1987, the House voted 345-44 for an amendment to the Department of Defense Authorization bill, offered by Congressman Bill Young of Florida, establishing a permanent polygraph program for national defense agencies. On November 19, 1987, the Senate voted 89-6 to agree to the conference report containing a permanent polygraph program.

Current employee theft raises the cost of goods to consumers by as much as 15 percent and continues to escalate. The Drug Enforcement Administration, which has endorsed polygraph use in employee-screening programs, estimates that one million doses of drugs are stolen each year from drug retailers, wholesalers and distributors. One employer, Days Inn of America, testified at a Congressional hearing during the 99th Congress that the use of the polygraph has helped to reduce its annual losses from more than $1 million to $115,000.

Crime in America is a serious, pervasive concern. Day care centers must be able to pre-screen prospective employees to prevent incidents of child abuse. Nursing homes must know if their sick and often helpless patients are at risk of death. Public utility companies, chemical plants, airlines and railroads are only a few examples of the industries that need to be able to screen prospective employees to help avoid public disasters.

The rights of employers to use the polygraph to protect their employees, their assets and themselves must be preserved. The Chamber respectfully urges you to

oppose S. 1904, the Polygraph Protection Act of 1987. Enclosed you will find a list of the business and trade associations who oppose S. 1904.

Sincerely,

ALBERT D. BOURLAND.

ORGANIZATIONS OPPOSED TO S. 1904, THE POLYGRAPH PROTECTION ACT OF 1987

U.S. Chamber of Commerce (Washington, D.C.).
Alabama Hotel & Motel Association (Montgomery, Alabama).
Alabama Retail Association (Montgomery, Alabama).
American Hotel & Motel Association (Washington, D.C.).
American Polygraph Association (Alexandria, Virginia).
American Rental Association (McLean, Virginia).
American Road & Transportation Builders Association (Washington, D.C.).
American Society for Industrial Security (Arlington, Virginia).
American Supply Association (Chicago, Illinois).
American Trucking Association (Washington, D.C.).
APCOA, Inc. (A Member of the National Parking Association)—(Cleveland, Ohio).
Association of Oilwell Servicing Contractors (Dallas, Texas).
Automotive Parts & Accessories Association (Lanham, Maryland).
Automotive Wholesalers Association of Tennessee (Nashville, Tennessee).
Bishop, Cook, Purcell & Reynolds (Washington, D.C.).
Bowling Proprietors Association of Southern California (Burbank, California).
California Jewelers Association (Los Angeles, California).
Central Station Electrical Protection Agency (Washington, D.C.).
Circuit City Stores, Inc. (Richmond, Virginia).
Committee of National Security Companies, Inc. (Consco) (Memphis, Tennessee).
Federation of Apparel Manufacturers (New York, New York).
Greater New York Retail Merchants Association (Great Neck, New York).
Illinois Association of Convenience Stores (Springfield, Illinois).
Illinois League of Savings Institutions (Springfield, Illinois).
Illinois Lumber & Material Dealers Association (Springfield, Illinois).
Illinois Petroleum Marketers Association (Springfield, Illinois).
Independent Electrical Contractors, Dallas Chapter (Irving, Texas).
Independent Fire Insurance Companies (Jacksonville, Florida).
Independent Sewing Machine Dealers Association, Inc. (Columbus, Ohio).
Indiana Retail Grocers Association (Indianapolis, Indiana).
International Association of Chiefs of Police (Gaithersburg, Maryland).
Iowa Grain and Feed Association (Des Moines, Iowa).
Jewelers of America (Washington, D.C.).
Kentucky Wholesale Liquor Dealers Association (Louisville, Kentucky).
Louisiana Association of Business & Industry (Baton Rouge, Louisiana).
Manufacturing Jewelers & Silversmiths of America, Inc. (Providence, Rhode Island).
Marriott Corporation (Washington, D.C.).
Metal Treating Institute (Jacksonville Beach, Florida).
Michigan Automotive Parts Association (Lansing, Michigan).
Michigan Blueberry Growers Association (Grand Junction, Michigan).
Monument Builders of North America (Evanston, Illinois).
Multi-Housing Laundry Association (Raleigh, North Carolina).
National-American Wholesale Grocers' Association (Falls Church, Virginia).
National Apartment Association (Washington, D.C.).
National Association of Catalog Showrooms (W. Simsbury, Connecticut).
National Association of Truck Stop Operators, Inc. (Alexandria, Virginia).
National Automatic Merchandising Association (Chicago, Illinois).
National Automobile Dealers Association (Washington, D.C.).
National Burglar & Fire Alarm Association (Washington, D.C.).
National Independent Dairy-Foods Association (Washington, D.C.).
National Moving and Storage Association (Alexandria, Virginia).
National Parking Association (Washington, D.C.).
National Pest Control Association (Dunn Loring, Virginia).
National Retail Hardware Association (Indianapolis, Indiana).
Nevada Association of Employers (Reno, Nevada).
North Carolina Petroleum Marketers Association (Raleigh, North Carolina).
North Carolina Tire Dealers & Retreaders Association (Durham, North Carolina).
Northeastern Retail Lumbermen's Association (Rochester, New York).
Ohio Automotive Wholesalers Association (Columbus, Ohio).
Petroleum Marketers Association of America (Washington, D.C.).
Precision Metalforming Association (Richmond Heights, Ohio).
Reid Psychological Systems (Chicago, Illinois).
Retail Bakers of America (Washington, D.C.).
Retail Merchants Association of Greater Richmond (Richmond, Virginia).
Service Station Dealers of America (Washington, D.C.).
Society of American Wood Preservers, Inc. (Falls Church, Virginia).
Society of Independent Gasoline Marketers of America (Washington, D.C.).
Tennessee Oil Marketers Association (Nashville, Tennessee).
Texas Automobile Dealers Association (Austin, Texas).
Texas Laundry & Drycleaning Association (San Antonio, Texas).
Texas Oil Marketers Association (Austin, Texas).
Texas Restaurant Association (Austin, Texas).
Texas Rental Association (Austin, Texas).
Texas Retail Grocers Association (Austin, Texas).
The Battle Mountain Gold Company c/o Burridge Associates, Inc. (Washington, D.C.).
Union County Chamber of Commerce (Union, South Carolina).
Washington Apartment Association (Tacoma, Washington).
Wine and Spirits Wholesalers of America, Inc. (Washington, D.C.).
Wisconsin League of Financial Institutions, Ltd. (Milwaukee, Wisconsin).
Wisconsin Retail Hardware Association (Stevens Point, Wisconsin).

AMERICAN MINING CONGRESS,
Washington, DC, December 8, 1987.

Hon. STROM THURMOND,
Labor and Human Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR: The American Mining Congress (AMC) wishes to convey to you its opposition to the Polygraph Protection Act of 1987 (S. 1904). The bill, introduced on Tuesday of last week, is currently scheduled for full Committee markup this Wednesday. As the representative of the nation's mining industry, we are concerned that this legislation will prohibit the use of the polygraph as a legitimate personnel testing tool.

While the polygraph is not used extensively in mining, several sectors of our industry do make use of the polygraph. Their reasons center on concern for theft of high explosives or precious metals. Precious metals mining and processing operations are particularly susceptible to internal theft. As part of their loss prevention program, many such operations prefer to retain the option of preemployment and random polygraph screening to assure the integrity of their workforce.

AMC believes that the question of polygraph use is an issue best left to resolution in the workplace. We urge your favorable consideration of our views.

Sincerely,

JOHN A. KNEBEL,
President.

AUTOMOTIVE PARTS & ACCESSORIES ASSOCIATION,
Lanham, MD, December 14, 1987.

Hon. STORM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing to inform you of APAA's continued strong opposition to any lie detector ban legislation (S. 1904). This bill is an unwarranted intrusion into the hiring and firing practices of our members.

Up to 43% of business losses can be attributed to internal theft, according to Arthur Young and Company. Proper use of polygraphs can mean important protections for companies, preventing thefts before they occur and therefore avoiding severe damage to a company's financial position. While certain retail groups now support S. 1904 as a result of the very limited exemption permitting polygraph use for "ongoing investigations," failure to allow preemployment screening will continue to leave many businesses vulnerable to employee theft or damage.

APAA particularly notes that S. 1904 exempts government agencies, military and security personnel from the lie detector ban. It seems unjust to our members that this bill would shield government agencies from problem employees, but deny that same protection for a small business an owner may have worked all his life to build. If polygraphs are considered a valid measurement of a person's innocence or guilt for government use and for national security needs, why are they an invalid measurement for use by private businesses?

APAA's nearly 2,000 member companies strongly urge you to reject this ill-advised legislation when it is brought before the Senate Labor and Human Resources Committee. Both businesses and consumers need the protection afforded by polygraphs from the higher overhead costs and prices which are associated with increased incidences of employee theft.

Sincerely,

JULIAN C. MORRIS,
President.

WELLS FARGO ARMORED SERVICE CORP.,
Columbia, SC, February 1, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: Senator Kennedy recently introduced a bill which would restrict the use of the polygraph by private

employers. S. 1904 is expected to move quickly to the Senate floor.

This legislation prohibits private companies, including companies engaged in security work, from using pre-employment polygraph screening, while allowing public agencies such as the police department and FBI to use the polygraph. Pre-employment screening is vital when interviewing for the sensitive security positions within our firm. We are the target of not only criminals, but also terrorists who seek to infiltrate security companies.

I am a manager of an armored car service company and we handle large sums of currency and coin daily. Our employees are in custody of this currency and coin much of the time without any supervision. It is of vital importance to our operation that we be able to screen out dishonest employees before they have an opportunity to steal from us. The polygraph is our most important tool for this purpose, and prohibiting its use for pre-employment screening would have a very immediate impact on our business and increase the costs of our service substantially.

In most cases, pre-employment polygraphing is more important than post-incident polygraphing in the security business, as the harm that can be done is of such a large magnitude. For example, the FBI recently arrested members of the 'Los Matcheteros' terrorist gang and charged them with an $8 million armored car robbery in Connecticut, a state where polygraphs are outlawed. The terrorists planted a member of their group inside an armored car company as a driver. He fled to Cuba with the funds, which were then used to fuel terrorism in Puerto Rico.

All of the above is also supported in the book titled "Los Macheteros" by Ronald Fernandez, published in English by Printice Hall, copyright 1987. (The Wells Fargo robbery and the violent struggle for Puerto Rican Independence.)

The House of Representatives recognized the special needs of security companies and included in the Bill which just passed the House, an exemption for these functions. An identical exemption was included in the Bill which the House passed in 1986.

Frankly, we believe that polygraphs are best regulated at the state level. In fact, 22 states now have some sort of restrictions. However, if you believe the federal government should become involved, we would ask that you support an exemption for private security functions.

Sincerely,

NOBUMASA TSUBOI,
Branch Manager.

PROFESSIONAL LAWN CARE,
ASSOCIATION OF AMERICA,
Marietta, GA, January 28, 1988.

Senator EDWARD M. KENNEDY,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: The Professional Lawn Care Association of America is writing to you to register our opposition to your Bill 1904, which will prevent our members from utilizing lie detector tests as one of several tools available to them in making hiring decisions.

PLCAA represents over 1,300 lawn care companies throughout the U.S., employing many thousands of people. Lawn care personnel have direct contact with a company's customers, and very often have a need to enter a customer's home. Our members are very conscious of hiring not only qualified people, but also employees who pose no risk to the customer or their property. Lie detector tests are one important tool used by some PLCAA members to help them in making a hiring decision.

PLCAA requests the opportunity to present our arguments against Bill 1904 to the Labor and Human Resources Committee. Your consideration of this request will be most appreciated.

Very truly yours,

JAMES F. WILKINSON, Ph.D.,
Director of Regulatory and Environmental Affairs.

NATIONAL PEST CONTROL ASSOCIATION INC.,
Dunn Loring, VA, February 11, 1988.

DEAR SENATOR: On February 3, the Labor and Human Resources Committee voted to report S. 1904, legislation which would severely restrict the responsible use of polygraph examinations by private employers. As currently drafted, this legislation would hurt our ability to protect the safety and security of our customers.

The pest control industry sends 57,000 employees directly into 10 million homes nationwide. When the homeowner allows an unfamiliar person to enter the household, the security of life and personal property is squarely on the line.

When used with other preemployment screening methods, a polygraph examination is a valid and essential tool for preventing job applicants with criminal backgrounds from gaining access to the customer's home. S. 1904 would arbitrarily ban polygraph examinations as a preemployment screening method.

Furthermore, pest control companies comply fully with state regulations governing the administration of polygraph examinations. S. 1904 would preempt state laws and deny responsible preemployment use of the polygraph under state regulation.

Finally, S. 1904 would allow the government to continue preemployment polygraph testing. H.R. 1212, passed by the House, exempts private security services and drug companies from the private-sector ban on polygraph testing. These exceptions for government and certain businesses attest to the validity and value of polygraph use. If the polygraph works to screen prospective employees for tasks affecting national security, judicious polygraph application can work to protect the public we serve.

We respectfully ask that you oppose S. 1904. Thank you for considering our concerns.

Sincerely,

HARVEY S. GOLD,
Executive Vice President.

FEATURE ENTERPRISES, INC.,
New York, NY, January 28, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: It has come to my attention that Senate Bill 1904 is presently before your Labor and Human Resources Committee for consideration. I am very concerned because S.B. 1904 would ban the use of polygraph for pre-employment screenings and periodic examinations, and severely limits its use for theft investigations in private industry. This proposed ban and severe limitations would not affect any government agencies and thus discriminates against the private sector.

The Polygraph, in the hands of experts, has proven itself an invaluable tool for preemployment screenings, periodic examinations, and investigations of thefts in this company and other companies in the jewelry industry.

As a security professional, I have observed the polygraph prove itself to be both valid and reliable in this workplace during the past ten years. This company has not received any complaints of polygraph abuse from any employees or prospective employees during this period. Ten years ago, internal losses of diamonds and gold from this company were staggering and a voluntary polygraph program was instituted under my direction. At present, internal losses are minimal and my confidence in polygraph is maximal.

It is extremely unfair to disapprove the use of polygraph in the private sector and approve its use in all areas of government. Does the polygraph only work for the government and not the private sector? Of course not. Polygraph either works or doesn't work! I strongly believe it does work when administered by a highly qualified polygraph examiner.

Please give this letter your serious attention and consideration. I strongly urge you to oppose S. B. 1904 and vote against this discriminatory legislation. Remember, what is good enough for government should also be good for private industry!

Respectfully,

VINCENT J. LAMBRIOLA,
Director of Security.

Mr. THURMOND. Mr. President, I refer again to this chart. Here is a chart that tells the situation in every State in the Nation—every State, whether or not it has polygraph; 44 States have some form of polygraph testing now. Why should the Federal Government enter into this field? This field has never been delegated to the Federal Government, and there is no authority to go into it. We can pass a constitutional amendment and give them that authority, but why do it?

Forty-four States now have polygraph laws on the subject. I hope the Senate will take that into consideration and not, in one fell swoop, pass a Federal law that will strike down what 44 States have done. If States want a polygraph law, they can have it. If they do not want to have a polygraph law, they will not have it.

I especially ask the Senate not to strike down these State laws but let States continue in this field of jurisdiction, which they have a right to do under the Constitution, since this field has never been delegated to the Federal Government under the Constitution.

Mr. President, I thank Senator DURENBERGER for allowing me to speak at his desk at this time, so that I could point out these charts to the Senate.

Mr. President, I ask unanimous consent that the charts to which I have referred be allowed to stay up in the Senate until this bill is finished and voted on.

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

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in strong opposition to the bill that is currently before the Senate. I will have a series of amendments later in the day, and I will have some I assume, given our time constraints, after cloture is imposed if it is imposed.

I would like to say, Mr. President, that few bills that have come before the Senate in the 3 years that I have

been here have been so unwise, so counterproductive, and so expensive to the functioning of the private sector of the economy.

I am struck, Mr. President, by a paradox here which is almost beyond imagination. The underlying logic of this bill is that polygraphs are fundamentally wrong, that their reliability is so low that we are in essence abridging people's rights by asking them to submit to examination, yet, the bill begins by exempting government.

I submit to my colleagues if you look at our great Nation and what makes it work, the logic is flawed. This bill regards the polygraph as a bad tool, yet it also holds that government is so critical to the Nation that we have to apply the polygraph in government, but that the private sector is so irrelevant to the Nation that because we have an imperfect tool in the polygraph, it, for all practical purposes, should not be used in the private sector of the economy except under the most limited nonproductive circumstances which one can imagine.

I submit, Mr. President, that the Government is made up of people who are riding in the wagon of this Nation and that the private sector is involved in pulling that wagon.

If we are talking about critically important elements of America, the private sector of the economy is certainly more important to the prosperity of our great Nation than is government. But if polygraphs are so counterproductive, so inefficient, so unreliable, so unfair, why are we using them in government when we are going to deny them to the private sector of the economy?

What a great paradox it is, Mr. President, that since 1985, over and over and over again the Congress has turned to greater reliance on the polygraph.

Now, when we are in the process as the House of Representatives has on three occasions employed the use of various types of testing and use of polygraph, what logic is there in saying to a day care center you are barred by law from using a polygraph to ask a prospective child care worker if they have ever been convicted of child molesting? It seems to me that what we have here is a totally illogical bill that embraces a faulty presumption. It clearly makes no sense.

What we are doing here is setting two standards, a perfect example of how Congress fails to serve the public interest.

One standard is the Government standard and in the Government we say, "use the polygraph." And yet we say to the private sector, whether you are talking about child day care, driving an armored car, guarding a nuclear powerplant, we say, no, this test is so unreliable that it may not be used.

Will it do us much good if someone breaks in and blows up a nuclear powerplant to go back and say, "Aha, you have complied with the special section of this bill that says now employees may be asked if they are willing to submit to a polygraph test to determine if an employee had a role in attacking the plant. They can still refuse, but you can use that as evidence in dismissing them."

Fat lot of good that is going to do when the nuclear powerplant is blown up.

Finally, as you look at the agencies listed here as being exempt, one has to ask who drew up their list?

If you are a private contractor doing specific work for the Department of Defense, Energy, the Central Intelligence Agency, the National Security Administration, the Federal Bureau of Investigation, where you are dealing with sensitive information, you can then be asked to use a polygraph under the Government exemption from the provisions of this bill.

What about the Arms Control and Disarmament Agency? I mean, surely we want some ability to determine, when we are negotiating arms control matters with the Soviet Union, that we have some degree of protection in terms of security. If we can give some lieutenant in the Defense Department a polygraph, why not the Arms Control and Disarmament Agency? What about the dozens of other agencies of Government that are dealing with highly classified material?

Are we concerned only about intelligence and counter-intelligence matters? Or are we concerned about security itself?

Mr. HATCH. Mr. President, will the Senator yield?

Mr. GRAMM. I will yield in just a minute.

Mr. HATCH. On just those points, because I understand how the Senator feels about this bill, and it is a controversial bill. But in those areas where they are exempt from this bill's provisions we exempt State and Federal Government agencies. The Senator recognized that at the beginning of his statement, and I just want to correct that now from that standpoint.

Mr. GRAMM. If there was a confusion in my statement, I would say that a central point is you are exempting the least important part of American society. You are exempting all the people who are riding in the wagon, but you are not exempting the people who are doing the work and are pulling the wagon in this country. That inequity is a major problem with this bill.

If polygraphs are so bad, why is the Government using them?

Mr. HATCH. There are two reasons, if the Senator will yield to me. One is we do not want to impose upon State governments the will of the Federal Government. That is one of the things I tried to put in this.

No. 2. is that we find that the Government does operate the polygraph better than the 15-minute quickie polygraphs that have been used to exclude people in preemployment hiring situations.

No. 3, we provide in this bill that you cannot use it for screening for plant preemployment because it is prejudicial and frankly the polygraphs are not all that accurate. Even the top authorities who testified before our committee said an 85 percent accuracy rate with all things going for it, everything done properly, would probably be a reasonable rate.

We just do not want to have people lose their jobs because of that.

Last and not least, the Government itself in administering polygraphs has been an expert. They generally very seldom rely purely on the polygraph itself. In fact, I have never heard of a case where they fired someone purely on results of a polygraph examination. There have to be some other reasons.

I think they have shown that proficiency in these national security areas to do that.

What we really wanted to do there was just plain recognize we are not going to tell State governments what to do.

The Federal Government we have exempted because there are so many people concerned about national security matters.

There are arguments on both sides of these.

What we tried to do is come up with a bill here that really does protect people's rights.

Mr. GRAMM. If I may reclaim the time, I do not remember having mentioned State or local government. I am talking solely about the Federal Government. I am saying if these tests are so flawed and inefficient, why are we letting government use them when we are not letting the private sector.

The Senator is talking about 15-minute quickie lie detector tests. If a child care center wants to administer a test and ask, "Have you ever been arrested for child molesting," I do not see that as a terrible thing.

Now I am certainly willing through due process to mandate that a test which was errant be eliminated from consideration in preventing them from being hired, but I am not opposed to them being asked.

If you are talking about a person who, through his job is responsible for safeguarding the lives of others, I am not going to apologize for saying yes, you can ask the person in a 15-minute test, "Did you use cocaine?" If the person denies drug use, but the test indicates otherwise, then I think it is reasonable to check further.

I just do not think this bill makes any practical sense. I am shocked and dumbfounded that it has the support it does. I am not in favor of having everybody submit to lie detector tests. But when we are talking about the private sector of the economy, when we are talking about people operating transportation systems, caring for our children, when we are talking about

sensitive areas where people are going to be hurt if we make a mistake, I, frankly, do not understand the obsession embodied in this legislation.

What about the children who could be protected if we used polygraphs and asked people, "Have you ever been arrested for child molesting?" Where does this bill protect their rights?

I think it is easy to talk in glib terms about 15 minute quickie lie detector tests, but I think there is ample ability to go beyond the test.

As the distinguished Senator from South Carolina was saying, the availability of the lie detector test keeps terrorists from applying to go to work for armored car companies or nuclear plants. Quite frankly, I want people who are going to be working in security at nuclear powerplants or at drug manufacturing facilities to be concerned about the fact that they might be chosen at random sample to do a polygraph test on whether they are smuggling drugs that may destroy the life and health and happiness of our children; or whether they may be engaged in something similar that is clearly against the public interest.

Thirty-three States already have licenses and certificates. Forty-four States have regulatory legislation. Thirty-three States have acted in the last decade. How did this become a Federal issue? How is it a Federal issue that day care center uses a polygraph to avoid hiring a child molester.

The plain truth is it is not the Federal Government's jurisdiction. This is one more step toward federalizing fundamental decisions in the private sector of the economy, decisions that have been left to city, county and State governments which, miraculously, have done pretty well working within their own individual constraints.

This is a Federal preemption. It is moving in the wrong direction and I hope my colleagues will understand before we all rush down here and vote for cloture and say, "Well, you know, we are a little bit suspicious about this. Maybe we ought to have some regulation of it." We already have regulation. We have regulation in the States.

There is not a good argument for this bill that I have heard anywhere. The only argument is the old argument that these tests are not totally reliable. I have never talked to any company, never talked to any insurance firm, any security firm that did not realize they were less than totally reliable. In fact, in many cases, just the threat of the test is what is required to preserve honest operation.

So I ask my colleagues to think about the safety of children in daycare centers, to think about the safety of nuclear reactors, to think about the safety of people who are riding in trains, people who are riding in airplanes.

This is not just an issue of 150 or 200 trade associations who are going to have their costs go up. We are not just talking about another deadweight burden of cost and inefficiency that robs the working men and women of America. We are not just talking about that. We are talking about people's health, people's safety, and about their lives.

I think this is a serious matter, and I think it ought to be thoroughly debated. I hope that by the time we are finished, the President will veto this unwise bill and that we will sustain that veto.

I yield the floor.

(Mr. SHELBY assumed the chair.)

Mr. HATCH. Mr. President, I think some of the allegations have to be answered. I respect my colleague from Texas. He is a great free enterpriser. He is one of the people who stand up on so many issues and I think he is one of the most articulate and intelligent Members who comes to this floor and who has ever spoken on this floor. But I have to correct him to a degree.

First of all, we would not require private businesses to do what the Federal Government does, because private businesses are not going to impose polygraphs on everybody. The airlines are not going to do it, and neither are day care centers, and neither are convenience stores and neither, really, will anybody else require polygraphs for every circumstance.

The fact of the matter is, under present law, 35 States require in all day care center situations that an FBI check, a thorough FBI check, be made, plus a criminal records check before they can hire these people.

I think what my colleague from Texas really does not realize is that drug users can be handled right now by any private business person by requiring a drug test. Under current law, they can do it. I believe the distinguished Senator from Indiana is going to offer an amendment in just a few minutes that will allow drug testing. And if the amendment is in the form I think it will be in, I am hopeful that we can accept that amendment. Now, that is current law, but he will lock it in, and he will do this whole country a favor in doing so. I canot imagine anybody on this floor voting against that.

So the argument that you have to have a lie detector test, which is, at best, only 85 percent accurate on the average, which means that 15 percent of the people are getting just hammered for no good reason, that argument is not a good argument, because they can test everybody who comes through if they want to for drugs.

But, as a practical matter, unlike the Federal Government, they are not going to require everybody to take a drug test because it costs money and private sector businesses are not going to do it. But, in day care, they are going to have FBI checks, for the most part, and criminal record checks for the most part, at least 35 States require it. I wish the other 15 would require that, too. I think that would be a good step forward. If we have the slightest indication somebody might be a drug user, put them through a drug test. They can do it under current law. But when the distinguished Senator from Indiana gets through—and I have fought for his amendment—when he gets through, it seems to me they will have an absolute right to do it, even though I think that is current law anyway.

So, to stand here and argue that you have got to have a polygraph, which nobody in this world wants to take, especially when you know it is not 100 percent accurate, when you know you might be one of those 15 percent who is mistreated, I think is a poor argument.

I know that the distinguished Senator from Texas is not going to vote for anything that would allow the private sector to do what the Federal Government sector does, require polygraphs under certain circumstances.

This bill does not do away with polygraphs. We still recognize some efficacy. I do not think anybody has better conservative credentials than I do or better law and order credentials than I do, but I am tired of anybody thinking that the polygraph is the last answer to anything. It just plain is not.

For the most part, it is unacceptable in courts of law for evidentiary purposes, and with good cause. Because it is not accurate.

I can tell you this, one of the things this bill is going to establish is that you are never going to be able to use the polygraph in the private sector as the sole determining influence to determine whether a person is hired or fired. The fact of the matter is that I do not think it should be the sole reason why anybody is fired. It certainly should not be the sole reason why anybody is not hired. The reason is because it is inaccurate.

As accurate as it may be when you have the best of examiners asking the best phrased questions, giving sufficient time to do the polygraph checking and given the best of analysis at the end, after you look at what the polygraph says you are still going to be inaccurate about 15 percent of the time.

What American wants to have to appear for an imposed polygraph examination?

Mr. GRAMM. Would the distinguished Senator yield on that point?

Mr. HATCH. I would be happy to.

Mr. GRAMM. Why are you doing that in the Federal Government then? Is polygraph not inaccurate when used by the Federal Government?

Mr. HATCH. It can be, but it is not used solely as a determinant whether they are employed or not. It may be a tool, but it is not the sole determination as far as I understand.

I might add that I have been a little more fair with polygraphs than they deserve. The fact is the top testimony in front of our committee said that 85

percent accuracy, when you have the best examiner, with the best questions, with the best amount of time spent; certainly not 15 minutes or one-half hour, perhaps even an hour under certain circumstances, and with the best analysis, you are going to be accurate 85 percent of the time.

The actual testimony I think will be that they are accurate about 50 percent of the time.

I think in most cases the Federal Government does not use the polygraph as the sole means of excluding somebody from a job. Under this bill we will not allow it to be used in any way to exclude a person from a job, as a job applicant. But we do allow it postjob attainment. We allow it as long as there is a reasonable suspicion that that person did something wrong, that they might be required to have a polygraph. And if they take the polygraph examination and the examination clears them as a general rule they are going to be all right. If they take it and the polygraph says they were deceptive or that they were untruthful, then the employer can act responsibly. If they refuse to take it the employer can treat it as though they had a negative polygraph examination.

Mr. GRAMM. Would the distinguished Senator yield?

Mr. HATCH. Yes.

Mr. GRAMM. Would the Senator support an amendment that simply says the private sector, in using polygraphs, would have to meet the Federal standard? If the distinguished Senator is concerned about someone losing a job if they fail the test, maybe the solution is not to deny the ability to use the test, but to simply say: You have got to follow the same procedures as the Federal Government does. You have got to recognize they are not always accurate. You have got to go beyond the polygraph test and verify the fact. But it can alert you to it just as doing an FBI check on a child day care center, if that process can be improved by polygraph but people cannot be denied a job because they fail it—the plain truth is you have got a resource constraint in checking people out.

If you went ahead and cleared the people that passed the polygraph and then focused your attention on those who did not, could we not do a better job of protecting children? Would you be inclined to that kind of amendment?

Mr. HATCH. The answer to that is no because when we have checked——

Mr. GRAMM. I figured.

Mr. HATCH [continuing]. Through the committee process a couple of years ago the answer from the private sector was we do not want to have that imposed upon us because we cannot afford it.

What the distinguished Senator is saying, if they want to do it they ought to be able to afford it. The answer to that is no. Because polygraphs, as accurate as they may be with the best of examiners, using the best tools, using the best questions, using adequate time, and using the best analysis, at best they are going to be accurate probably 85 percent of the time. That is if we give them every benefit of the doubt; and maybe only accurate 50 percent.

Put yourselves in the shoes of those applicants for employment. How many people in this country would like to submit themselves for 15 minutes, or 20 minutes, or 30 minutes of polygraph examination? Then I think you see the wisdom of this bill. This bill says, no, you are not going to be able to do that and exclude people from employment. That is wrong.

I do not think anybody has any better credentials fighting unwise labor legislation on this floor than I do. I am not bragging. It is just that I have had to do it all these years. It is no fun, especially arguing against my brothers in the labor unions that I came through. I am one of the few this whole doggone body who did, I might add, in the whole Congress, who went through an apprenticeship program and literally became a journeyman; and I am proud of it.

I have fought every bit of unwise labor legislation that came through here, but I always said to my brothers that when they are right, I will fight for them. I think it is incredible to argue that every business that should use polygraphs or could be required to use them, will not if they have to meet standards that are decent.

The fact of the matter is they would not pay the money to do it. They are using them, but they are intimidating people and they use the polygraph as an intimadation device, and it is not right.

This bill is wise because, once they are hired, if there is reasonable suspicion that they are doing something wrong, then the employer can ask them to submit to a polygraph. If they do not submit, that is their problem. The employer can act accordingly. If they do submit and they fail, then by gosh the employer has a right to fire them. If they do submit and pass, they are probably going to be cleared, under most circumstances.

The tool is still available but is is available under the best of circumstances, not under the intimidation circumstances that have been used so much in the past. And that is what this bill does.

It is a doggoned fine bill. It makes a lot of sense and frankly it protects people's rights and I think they ought to be protected and in this case the unions happen to be right and I support them.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, let me first of all just amplify on the two points that have been brought up by my distinguished friends from South Carolina and Texas, Senator THURMOND and Senator GRAMM, on the objections to this bill.

The first, as Senator THURMOND has pointed out in graphic detail, you have States that already regulate this. Second, particularly as Senator GRAMM has pointed out, you have got a double standard on this bill. You do have a double standard on this bill in the fact that it is banned for the private sector but is OK for the public sector to do.

That type of hypocrisy is not unusual, but I think it ought to be pointed out, that what we say for the Federal Government is OK to do, we are not going to allow this to be done in the private sector.

The question is what forces this kind of logic? And I think what probably forces this kind of logic is that this Congress likes to legislate, likes to do things that help the folks out back home. We call it by any other name. We do not want to say that this is, in fact, a usurpation of State responsibility; 44 States regulate polygraphs. We do not want to get in and say that this is an unusual intrusion of what has been left to an employer-employee relationship. We would rather pass it off in terms of nice sounding, politically acceptable terminology that is civil rights, that this is certainly rights that folks ought to have.

You have those. We are going to make sure those rights are for at least the private sector, in this particular case, but not the public sector.

What I imagine really drives this bill is that there is nothing else for the Senate to do.

We spent 2 weeks on campaign reform, on a bill that we knew was not going anywhere. We were in session close to 60 hours, and we went to the unusual procedure of arresting Senators, which I thought was very heavy-handed.

We spent 2 weeks on that, and now we have spent yesterday, and we will spend today and part of tomorrow on an issue of major importance. That is on whether an employer can, in fact, use polygraphs for preemployment screening in the private sector.

We are going to say that that is not a good idea. We really have before the Senate a bill of major importance, major consequence, and it is of utmost national urgency that we focus on this bill. It is so important that we have even filed cloture on this bill to make sure that we will get a cloture vote tomorrow and that we can get this bill of major national importance passed. At least that is certainly the desire.

I really do not believe that this bill is of such importance. As a matter of fact, I do believe this is a practice that has traditionally been left to the States.

I am opposed to this bill, not because I have any belief in the polygraph but because, quite frankly, I believe, in some instances, it has been reported

where polygraphs are terribly unreliable.

If employers are banned from using this for preemployment screening, they will come up with something else. They are going to have a screening device. I cannot help it, although I suppose someone might try to come up with a law in the guise of doing something worthwhile to force employers to do things that are not done.

If the employer wants to rely on polygraphs that give faulty information, and I consider that not a terribly wise thing to do, I cannot preclude an employer from basing his hiring practices on something that may be called stupid. But that is no reason that we want to create this intrusion of the Federal law into an employment relationship.

But we do not have anything else to do. We go to the cupboard, and the cupboard is rather bare of things to do around here. So we will talk about polygraphs, lie detector tests. This is important.

I suppose you can make the argument that it will help out productivity, that it will lower interest rates, and that it will keep inflation down. It is not going to do anything in the area of strengthening national defense because this bill does not apply to national defense. DOD is exempt from this, as are other parts of the Federal Government.

Up to now, the Federal law has not been regulating employers' hiring and fire decisions, except to prohibit unlawful discrimination, and that is certainly a Federal responsibility.

There are certain inalienable rights, constitutional rights, issues like discrimination, that really demand the attention of the Senate. It is something that is of national importance.

Currently, we have labor-management agreements and State laws that, in fact, regulate hiring-firing decisions. Forty-four of the fifty States have laws governing the use of polygraphs. The Senator from South Carolina has pointed that out. Forty-four of the fifty States have laws governing the use of polygraphs in the workplace, and 33 of the 50 States have addressed this issue legislatively since 1980. Twenty-six States either ban or restrict the use of lie detector tests.

Being logical—and I suppose in Washington and in the Congress that is a bit much to ask—if you, in fact, were logical and if, in fact, you do not think lie detector tests are valid and if, in fact, you do not think lie detector tests ought to be used and you are suspicious of them, you ought to put up legislation and just ban lie detector tests. If they are no good, just ban them, pure and simple. But that is not what we have before us. We are just going to ban them for preemployment screening. We will use them elsewhere under certain conditions, and certainly much of the public sector will be able to use them.

But the States have, in fact, gotten into this a lot more than the Federal Government. They know what they are doing. But we do not have anything else to do, so we will talk about lie detector tests. We will invoke cloture, and we will spend the Senate's time talking about this.

In addition, the States have passed volumes of laws regulating the employment process, both through specific enactments against particular abuses and through statute and case law, requirements of just cause for discharge.

For example, in Massachusetts, New Hampshire, and Rhode Island, they increased the minimum wage above the current Federal minimum of $3.35 an hour. The District of Columbia raised the minimum hourly wage of beauty culture occupations from $3.75 per hour to $4.50. Kentucky and West Virginia raised their minimum wages to $3.35 per hour. Child labor laws were recently revised in 10 States. Florida imposed limits on permissible daily and weekly hours of work for 16- and 17-year-olds during the school year. Minnesota reduced the latest that minors, under the age of 16, may work. Connecticut no longer requires proof of age certificates for persons over the age of 18 employed in hazardous occupations.

The Labor Commissioner of Iowa was given authority to adopt rules on employment of minors. Several States require background checks of prospective child-care operators or workers. Tennessee requested a study of the need for minimum health and safety standards for the operation of video display terminals. The list goes on and on.

The States are actively involved in areas of concern to the employees. Twenty-six States have either banned or restricted the use of lie detector tests. But S. 1904 is the equivalent of a Federal ban on polygraph testing and sets up Federal standards for polygraph testing and licensing of polygraphers.

In passing this bill, we will be headed down the road of Federal standards of just cause for discharge. We will find ourselves not looking at broad policy issues, but obsessed with minutia of day-to-day hiring and firing decisions now subject to State law.

S. 1904 would set Federal standards for use of the polygraph device by employers.

A NEW AREA FOR FEDERAL LAW

I am opposed to this bill, not because I have any belief in the validity of the polygraph, but because it would create a new intrusion of Federal law into the employment relationship.

Up to now, Federal law has not regulated the employer's hiring and firing decision, except to prohibit unlawful discrimination.

TWENTY-SIX STATES PROHIBIT OR RESTRICT THE POLYGRAPH

Currently, labor-management agreements and State laws regulate hiring and firing decisions.

Forty-four of the 50 States have laws governing the use of polygraphs in the workplace and 33 of the 50 States have addressed this issue legislatively since 1980. Twenty-six States either ban or restrict use of "lie detectors."

In addition, the States have passed volumes of laws regulating the employment process, both through specific enactments against particular abuses and through statute and case law requirements of "just cause" for discharge.

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The list goes on and on.

HEADING DOWN THE ROAD TOWARD "JUST CAUSE" FOR DISCHARGE

S. 1904 is the equivalent of a Federal bank on polygraph testing and sets up Federal standards for polygraph testing and licensing of polygraphers.

In passing this bill, we will be headed down the road of Federal standards of "just cause" for discharge. We will find ourselves, not looking at broad policy issues, but obsessed with the minutia of day-to-day hiring and firing decisions now subject to State law. This is the precedent set by this bill—that it appropriate for the Federal Government to ban the polygraph.

Next we will hear that it is appropriate for the Federal Government to ban drug testing. Indeed, it might be argued that this bill begins to do that very thing.

The polygraph is being banned because it is an inaccuarate device and because, even when it is accurate, unscrupulous polygraphers harass their subjects. The polygraph is but one of a

multitude of devices, or tools used to make decisions, that are inaccurate.

In fact, it may interest my colleagues to note the the American Psychological Association argued in an amicus brief before the Supreme Court that "subjective personnel assessment methods, such as interviews, experience requirements and performance appraisals, can and should be validated". The APA, a strenuous supporter of S. 1904 would have us do just that, set Federal standards for hiring and firing.

It would seem to me that employers use many tools to make employment decisions, none of which is perfect. Thus, I am somewhat surprised at the reasoning of the report of the majority which states:

Employees and applicants are being unjustly terminated or denied employment not due to their own shortcomings but due to the intentional and unintentional misuse of the polygraph exam and due to the inherent inaccuracies of the most common testing processes.

This statement implies that even the most common testing processes have inherent inaccuracies and leads me to believe that other tests will shortly be banned simply because they are imperfect. It is clear that the APA believes that the "interview and experience requirements" should be validated by "psychometric scrutiny" and require that employers "scientifically validate" all standards used in making employment decisions.

Further, the report states:

While the committee heard concerns raised about written psychological preemployment tests used by some employers, there have been few complaints about such tests, and little evidence of abuse.

First of all, I wonder what the APA would have to say about such tests. Are they valid? Can they really detect deceptions. Are citizens being denied employment opportunities based on such tests? If they are why aren't those tests included in this Federal ban on "lie detectors?"

I also find it odd in the extreme that "psychological preemployment tests" are found to be nonabusive or reliable simply because the sponsors have not heard complaints about those tests. I am certain they could find statements enough, if they looked.

COLLECTIVE BARGAINING AGREEMENTS COVER POLYGRAPH USE

Collective bargaining agreements are replete with clauses on these matters—including prohibitions and limitations on the use of the polygraph.

For example, the master freight agreement which the Teamsters have negotiated with trucking employers already permits the use of polygraphs in preemployment screening, but not after the employee is hired.

PUBLIC POLICY ARGUMENTS

It is bad public policy for the Federal Government to enter this new arena. The rationale given for this legislation is that employers make many unfair decisions based on the polygraph exam. I agree that the polygraph may lead to unfair decisions—but I do not agree that Federal law is the answer to all mistakes that are made.

If the polygraph is unfair, what about the presonality test, which are specifically sanctioned by the report of the sponsors? What about the personal reaction which probably governs most hiring decisions? What about paper and pencil honesty tests? What about evaluations by psychologists?

We will be closing our eyes to reality if we believe that Federal supervision of the hiring and firing process will improve their quality. The Federal Government makes mistakes just as often as the private sector.

FEDERAL LICENSING OF OCCUPATIONS

S. 1904 also crosses another new boundary—it requires Federal licensing of polygraphers. I hope I do not need to remind my colleagues that currently the States license occupations whether it be the license of a surgeon or a barber. Proponents of this legislation have argued that abuses by polygraphers are so egregious that an overriding Federal law is needed to ameliorate the shortcomings of State law.

The Washington Post recently ran a series of articles on physicians in the State of Maryland who had been convicted of criminal offenses, but who nevertheless had not had their license to practice medicine revoked. Does this clear abuse of the licensing system and risk of public safety mean that the Federal Government should establish licensing standards for physicians?

DOUBLE STANDARD

S. 1904 contains an interesting double standard in the use of polygraph. This bill is based on the conclusion that the polygraph is an unrealiable device for screening employees and therefore, it should be banned for use by employers in the vast majority of cases—except where screening is important.

Thus, certain Government contractors are exempted from the provisions of the bill. For them, the polygraph is reliable, but the very same device, in the hands of the same polygrapher, is unreliable for other employers with less important needs for screening. Consultants under contract to the Department of Defense, the National Security Agency, the Central Intelligence Agency or anyone who is "assigned to a space where * * * information is produced, processed, or stored" for NSA or the CIA, may polygraph when they wish and whomever they wish. Contractors for the FBI are exempted and may polygraph their employees at anytime during their career and for any reason.

Why is the polygraph reliable for them, but not for Department of Transportation contractors supplying airport antiterrorist and security services? Why is the polygraph device reliable for certain DOD contractors, but not for drug wholesalers and manufacturers?

In conclusion, S. 1904 represents a valiant effort to eradicate the abuses associated with the polygraph test in the workplace. Unfortunately, good intentions are not enough to accomplish this goal when coupled with a bill such as this. As I have pointed out, S. 1904 will merely compound the initial problem by further involving the Federal Government in area best left to the private domain or as the continued prerogative of the States.

AMENDMENT NO. 1606

(Purpose: To provide an exemption for preemployment tests for use of controlled substances)

Mr. QUAYLE. Mr. President, I think it is entirely appropriate now to move to an amendment I have. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 1606:

At the end insert the following new section:

EXEMPTION FOR PREEMPLOYMENT TESTS FOR USE OF CONTROLLED SUBSTANCES

(a) IN GENERAL.—An employer, subject to Section 7, may administer a scientifically valid test other than a lie detector test to a prospective employee to determine the extent to which the prospective employee has used a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—

(1) ACCURACY AND CONFIDENTIALITY.—Paragraph (1) shall not supersede any provision of this Act or State law that prescribes standards for ensuring the accuracy of the testing process or the confidentiality of the test results.

(2) COLLECTIVE BARGAINING AGREEMENTS.—If prospective employees would be subject to a negotiated collective bargaining agreement, paragraph (1) shall apply only if testing is conducted in accordance with such agreement.

Mr. QUAYLE. Mr. President, I have modified this amendment, after discussions with representatives of the managers of this bill, to make sure that we are not precluding a lie detector test. I do not want to get into lie detector testing. The language "scientifically valid" and "other than a lie detector test" is a modification of my original amendment.

Mr. President, my amendment is very direct and to the point. It deals with allowing and saying, if this law applies to an employer prohibiting a polygraph examination, that it would not prohibit an employer on a preemployment basis from using a drug test. And drug test means to look at prospective employment.

Mr. President, there are two very important fundamental reasons that I offer this amendment.

First, what this bill does is it prohibits employers from using a polygraph

in preemployment screening. It says you cannot do it and places a ban on that. If we are going to get into what employers can in fact do in preemployment screening, we better make absolutely certain what we are not taking away from them, and I dare say that we will be going down the road, this will probably be just the beginning of things this Congress may want to prohibit or micromanage or to regulate.

But specifically today we are not going to prohibit an employer from using a drug test if in fact they want to.

I have been very, very careful, Mr. President, that I do not by this amendment want to intercede in two very important areas. One, we do not supersede any provision of this act or State law that prescribes standards for ensuring the accuracy of the testing process or confidentiality, and, further, nothing in this will affect any collective bargaining agreement that is in fact already reached.

But the important thing is that as we take away from one side with one hand, we want to make sure we are not taking away something else, and that is the possibility of drug testing.

Now, the second reason that this amendment is important is because we have heard decried on this floor and most recently by my dear friend from California the problem that we have with drugs—war against drugs. I concur in that, that we ought to have a war against drugs.

If in fact an employer wants to have a drug-free environment and he does not want his employees to be dependent upon drugs and he says "Look, I am not going to hire somebody," if they want to make that determination, "that is going to have this dependency on drugs," and he wants to use that information in hiring an individual. I want to make sure that this legislation does not prohibit him from doing that. He does not have to do it.

This does not get into mandatory or selective drug testing. It just says that if an employer wants to use this he or she in fact can do it.

There is no doubt about it, that we have a major problem of drugs in this country.

We have a Washington Post story just today.

"GAO cites cost of drug use in the U.S. Increased Availability, Potency Behind Epidemic, Report Says."

It says:

Cocaine and other illegal drugs are costing the nation tens of billions of dollars a year in lost wages, law enforcement expenses and treatment, according to a new congressional report. But no price tag exists for what are generally believed to be the enormous costs to society created by the family strife, suicide and violence that drugs produce, the report said.

Purer, cheaper and more easily attainable cocaine and heroin, as well as "designer drugs" produced in clandestine labs, have altered the shape of drug abuse in the 1980s, according to the study by the General Accounting Office, the investigative arm of Congress. Regarded as the entry-level to drug abuse, marijuana is still the most widely used illegal drug in the country, and although its use has declined since the 1970s, its potency has increased, the report said.

This is in today's paper, and you can thumb through other papers and periodicals, and you will find equally disturbing reports.

When we look at drug testing, there are many concerns that we have on drug testing, particularly when you look at drug testing of potential workers.

First, workers who abuse drugs have lower productivity;

Second, drug users have more health problems and hence generate higher employer insurance premiums;

Third, drug users have higher rates of absenteeism and on-the-job accidents;

Fourth, drug users may be responsible for lawsuits against the employer by employees or customers who are injured by drug abusers; and

Fifth, drug users may steal from their employer to support their drug habits or disclose confidential material in exchange for money or drugs.

So, yes, we have in fact decried the use of drugs. We have in fact decried and said that we are going to go on record that there is going to be a war against drugs.

And this amendment is very straightforward and it just simply says that an employer is not prohibited. An employer who could be subject to this bill may in fact use drug testing on preemployment screening.

The use of drugs in our society is in fact a national emergency and I believe that there is a compelling reason and need to act very promptly. We must not submerge the public interest or countless individuals and communities that will be exposed to these needless risks.

I just cite a couple statistics of loss of productivity to the use of drugs. Chemical abuse is costing American business as much as $100 million a year and is at least doubling accident rates. Health care costs go up and so does absenteeism. Substance abusers are absent from work 2½ times that of other workers, 2½ times.

Based on a study of the Research Triangle Institute [RTI] it concluded that drug abuse cost $33 billion in productivity losses. RTI estimated that in 1983 direct cost of drug abuse in our society was $60 billion or nearly 40 percent more than the $47 billion estimated for 1980.

Mr. President, illegal drugs have become so pervasive in the work place they are used in almost every industry, the daily companions of white and blue collar workers alike. Their presence on the job is devastating to the productivity, the health, and safety of the American work force even as competition of the foreign market and work force become more heated.

The costs of drug abuse on the job in fact are staggering. Accidents do occur. Thefts do occur. Bad decisions are made. And lives are ruined.

Federal experts estimate that between 10 and 23 percent of all U.S. workers use dangerous drugs on the job. Federal experts estimate that between 10 and 23 percent of all U.S. workers use dangerous drugs on the job.

Should not that be of national concern? I think it is. Shouldn't we use every means possible to try to declare our war on drugs, to try to encourage and have peer pressure, as the First Lady says, to just say, "No"?

In 1985, a study concluded by 800-COCAINE, a hot line for Cocaine Users Council, said 75 percent of those who called in said they took cocaine on the job, 69 percent said that they regularly used the drug while working, 25 percent said they used cocaine every day.

One former computer company worker today of being a cocaine pusher 3 years. He said, and this is from a cocaine pusher, "It was made to order. I had an instant clientele of hundreds of people who worked with me."

(At this point Ms. MIKULSKI assumed the chair.)

Mr. QUAYLE. Madam President, no part of our society is immune from the drug abuse that has beset the American society. A drug-free society would make a significant contribution to public safety, not just on highways or skyways but in the board rooms, on Wall Street, in our communities, small business as well as big business. That is why I believe that this amendment is important to allow that possibility if in fact you want to test for drug use.

This amendment contains three very important safeguards. It maintains important quality standards in verification standards to be used in processing drug tests, it does respect the collective bargaining agreements, and it does, in fact, maintain confidentiality of test results.

The drug test for Federal workers is well known to all of us. Executive Order 12-564, issued on September 15, 1987, directs agency heads to draw up programs to eliminate illegal drug use in Federal agencies.

On October 29, this Senate gave its approval to a measure requiring Federal drug and alcohol abuse tests for airline and transportation workers in S. 1485, the Airline Passenger Protection Act.

Madam President, I believe that the issue is known to all of us. We understand the problem of drugs. We understand that the intent of this bill is to ban polygraphs in certain instances. But, on the other hand, we are not interested and we want to make absolutely certain that we are not going to ban drug tests. Although I would imagine that perhaps someday, some Congress, because of questions of reliability, because of the issue of civil rights, because of many of the argu-

ment of hear for banning polygraphs, that when we do not have anything else to do and the shelf is rather bare for business in the Senate, somebody may come up with the idea that we ought to ban drug testing as well.

I would be opposed to that. That does not mean that Senators might not want to bring that up and debate that. But I do not believe that we ought to do that today.

I believe that the Senate ought to go clearly on record, as it does, on one hand, saying it is going to ban polygraphs, that on the other hand it is going to say that you can in fact use drug tests and they are not going to be banned or regulated by this legislation.

Madam President, I send a modification to my amendment to the desk that will insert the words "Federal or" before the word "State".

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 1606), as modified, is as follows:

EXEMPTION FOR PREEMPLOYMENT TESTS FOR USE OF CONTROLLED SUBSTANCES

(a) IN GENERAL.—An employer, subject to Section 7, may administer a scientifically valid test other than a lie detector test to a prospective employee to determine the extent to which the prospective employee has used a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—

(1) ACCURACY AND CONFIDENTIALITY.—Paragraph (1) shall not supersede any provision of this Act or Federal or State law that prescribes standards for ensuring the accuracy of the testing process or the confidentiality of the test results.

(2) COLLECTIVE BARGAINING AGREEMENTS.—If prospective employees would be subject to a negotiated collective bargaining agreement, paragraph (1) shall apply only if testing is conducted in accordance with such agreement.

Mr. QUAYLE. That modification would make sure we are talking about State as well as Federal law.

So, Madam President, the issue is clear. I have conversed with representatives of the managers of this bill. I hope that it will be accepted. I believe a rollcall is important and at this time, Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Madam President, I urge my colleagues to support this amendment. I intend to vote for it. If the Senator from Indiana wants to have a rollcall, I am prepared to urge people to vote for it. It is basically a restatement of current law. This bill does not cover drug testing. We pointed out in the report on page 47:

The Committee does not intend this broad definition of lie detectors to be misconstrued so as to include medical tests used to determine the presence or absence of controlled substances or alcohol in bodily fluids.

And so ours deals solely with the polygraph.

I have no objection to the amendment. As I stated, it is current law. If the Senator wants a rollcall, we can certainly have one. I hope that those who are supporting our bill will vote in favor of it.

I am prepared to move to a vote and hopefully then we will consider some amendments that are going to deal with the substance of the bill that we have now had before the Senate for about a day and a half.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

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

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—96

Adams	Glenn	Moynihan
Armstrong	Graham	Murkowski
Baucus	Gramm	Nickles
Bentsen	Grassley	Nunn
Bingaman	Harkin	Packwood
Bond	Hatch	Pell
Boren	Hatfield	Pressler
Boschwitz	Hecht	Proxmire
Bradley	Heflin	Pryor
Breaux	Heinz	Quayle
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Chiles	Johnston	Rudman
Cochran	Karnes	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerry	Simpson
Danforth	Lautenberg	Specter
Daschle	Leahy	Stafford
DeConcini	Levin	Stennis
Dixon	Lugar	Stevens
Dodd	Matsunaga	Symms
Domenici	McCain	Thurmond
Durenberger	McClure	Trible
Evans	McConnell	Wallop
Exon	Melcher	Warner
Ford	Metzenbaum	Weicker
Fowler	Mikulski	Wilson
Garn	Mitchell	Wirth

NAYS—0

NOT VOTING—4

Biden	Gore
Dole	Simon

So the amendment (No. 1606), as modified, was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1607

(Purpose: To provide a restricted exemption for security services)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment No. 1607.

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

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

The amendment is as follows:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

On page 28, lines 17 and 18, strike out "limited exemption provided under section 7(d)" and insert in lieu thereof "exemptions provided under subsections (d) and (e) of section 7".

AMENDMENT NO. 1608 TO AMENDMENT NO. 1607

(Purpose: To provide a restricted exemption for security services)

Mr. NICKLES. Madam President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment No. 1608 to amendment No. 1607.

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

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

The amendment is as follows:

In the amendment, strike all after "(e)" the first time it appears and insert in lieu thereof the following:

EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

On page 28, lines 17 and 18, strike out "limited exemption provided under section 7(d)" and insert in lieu thereof "exemptions provided under subsections (d) and (e) of section 7".

On page 33, lines 10 and 11, strike out "Such exemptions" and insert in lieu thereof "The exemptions provided under subsections (d) and (e) of section 7".

Mr. NICKLES. Madam President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. Madam President, this amendment has been called the armored car or security guard amendment. Basically, the amendment, as offered by my friends and colleagues, the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Utah [Mr. HATCH], would allow preemployment polygraph of Government employees who are engaged in security operations, sensitive operations.

This would allow private employers of private security guards to use the polygraph for the same purposes, if those purposes are involved in the protection of "facilities, materials, and operations having a significant impact on the health or safety of any State or political subdivision thereof."

It would allow a private company, such as an armored car company, such as Brinks or Wells Fargo, to use preemployment use of the polygraph to try and make sure those individuals who are involved in dealing with a significant amount of money, securities, be entitled to use a polygraph. They are using it right now. I personally do not think that we should pass the bill, as presently drafted, which would prohibit the private use of the polygraph in these very sensitive industries, these industries that individuals are providing private security for.

It would allow these private security firms the use of the polygraph. It is not a complicated amendment.

I might mention to my colleagues, this is an amendment that has been adopted by the House of Representatives. It is one that I would hope that my colleagues would support and would accept.

I have heard various indications at different times that maybe it would be accepted and maybe it would not be accepted. I think it is a good amendment. It is one that I would hope we would adopt.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I have a letter from Anderson Armored Car Services. It says:

There is polygraph legislation now pending in the United States Senate which vitally affects the security industry as defined by the House bill. We feel the security of our industry is at risk.

We would appreciate your supporting an exemption for armored car companies which would allow us to continue to use polygraphs for testing of employees.

I have another letter here from Wells Fargo Guard Services. It says:

As a company engaged in security work, I am very concerned about the impact of this legislation on my industry. S. 1904 would allow employers to liberally use the polygraph on employees whom they suspect have caused them economic harm. This harm does not even have to be reported to the police before the polygraph is used.

On the other hand, this legislation prohibits private companies from using preemployment polygraph screening, while allowing public agencies such as the police department and FBI to use the polygraph. Preemployment screening is vital when interviewing for the sensitive security positions within our firm. We are the target of not only criminals, but also terrorists who seek to infiltrate security companies.

In most cases, preemployment polygraphing is more important than postincident polygraphing in the security business, as the harm that can be done is of such a large magnitude. For example, the FBI recently arrested members of the Matcheteros terrorist gang and charged them with an $8 million armored car robbery in Connecticut, a state where polygraphs are outlawed. The terrorists planted a member of their group inside an armored car company as a driver. He fled to Cuba with the funds, which were then used to fuel terrorism in Puerto Rico.

Madam President, another excerpt from the letter:

We believe that polygraphs are best regulated at the state level. In fact, twenty-two states now have some sort of restrictions. However, if you believe the federal government should become involved, we would ask that you support an exemption for private security functions.

As I mentioned this morning, there are 44 States that now are regulating polygraphs. It seems to me that this certainly ought to be an exemption. Of course, I am opposed to the bill. At the same time, no one should really oppose this. I hope the Senate will adopt it.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, in just a moment or two, I will respond in particular detail to the amendment. I was not on the floor when there were other statements made about the legislation as a whole, and I would like to comment again about what we are doing and what we are not doing and why this legislation is necessary.

Madam President, earlier in the afternoon there were those who pointed out that this legislation did not apply to Federal, State, and local officials, and if the legislation made sense in terms of the private sector, why not the public sector. I think even those who made that argument are very familiar with what we have done in terms of polygraph in the particular areas of the DOD and the CIA.

State officials are protected by various provisions under the Constitution. There has to be the allegation that there is going to be some achievement of public good before there can be an infringement in terms of privacy. That does not apply in the private sector, Madam President. And I can hear the arguments now if we had to extend it about how the Federal Government is reaching out into those local communities and local governments.

And now we hear, "Well, why aren't you doing it there if it is so good in the area of the private?"

So, Madam President, it is important for us to, first of all, understand what have been the time-honored court decisions in terms of the protections that have been extended in terms of Federal employment in DOD and the CIA.

I will come back to that in just a moment or two, and also to make some realistic assessment about whether there really is a problem in this area.

We have seen instances where there have been incidental problems, but we did not find what we are finding in the private sector today—2 million, 2 mil-

lion polygraphs a year. It has doubled in the last 4 years, quadrupled in the last 8 years, and it is growing like wildfire. That is why we have to ask ourselves, is this really a problem today or is it not a problem today.

What I think we might do in this body is consider the best scientific evidence, and in this particular area of public policy we have been fortunate enough to have the OTA [Office of Technology Assessment] review the totality of various studies that have been done over the last 10 years, all of them, and they have reached various conclusions which those individuals who are concerned about this public policy question and the reliability of polygraphs I would hope, if we are going to be fortunate enough to pass this legislation today, might have a chance to review if they are very much concerned.

But in looking at the most conservative studies, for those who feel the greatest confidence in using polygraphs, not the average that are mistaken but if you take those that have the fewest mistakes, 12 percent—12 percent mistakes—over the number of 2 million Americans who are given polygraphs a year, you are talking about 260,000 honest and truthful Americans who are being labeled liars and deceptive, and that is on their record. It will go to the end of their lives. Those numbers are increasing every day. There are 120,000 deceptive liars that pass.

Oh, I have been listening to those on the floor crying crocodile tears about the dangers of child molesters. Let them take that polygraph, they pass it, and we stick them into that day care center and forget about them; they have passed it. Why, no one who is aware of the techniques and knowledge of thorough, comprehensive investigation, personnel examination, would be willing to rely upon that as the sole source of making a determination.

I hear out on the floor, "Well, if it is good enough for the Federal Government, why don't you provide the same standards then for the private sector? Will you accept that amendment?"

Interesting.

We approved just a few years ago DOD to do 3,800 comprehensive polygraphs. DOD stopped at 3,300. Why? Because they could not get sufficiently trained personnel to administer them. And we want to extend that to all over the private sector? You know what is happening, and that is you have ill-trained individuals that are administering those quickie wiretaps. We hear, "Why don't you apply the standards at the Federal level to the private level?" The average cost for the private is $15 to $25. The Federal is $800. You talk about business reservation and opposition to a bill. Just try and accept that as a concept. It is those who are basically opposed who are insensitive to the growth of these violations of individual rights and liberties.

Sam Ervin, the great conservative, understood that well. Sam Ervin understood it well when he said you will put the Constitution on its tail. When you take a polygraph you prove yourself innocent instead of proving yourself guilty. He made that statement in the first polygraph bill legislation, and it has been sidetracked for a period of years. Now we have worked it out, and crafted, I think, a sensible, responsible program that is supported by numerous trade organizations.

I mentioned them yesterday and I will mention them at the end of this discussion.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. Not just now. I have been waiting for this debate to get started. We finally started it. I am going to speak for another few minutes, and then I will be glad to talk specifically about the amendment, and debate as long as the Senator would like.

One of the other interesting points that is raised by the OTA is who passes it? Who fails it? If you are an altar boy, you probably will fail it. You would have a sense of conscience, and potential guilt. But who passes it? The psychopaths, the deceptive ones, and here it is, Mr. President.

The OTA study results indicate that subjects that are not detectable were significantly less socialized than those who were detectable.

Susceptibility to detection seems to be immediately indicated by socialization, and socialization results indicated the low socialization subjects—well, the highly social, EDR's, highly socialization subjects were more responsive to electric terminal. As a result, several of them were misclassified as deceptive. Guilty psychopaths may escape detection. That ought to be satisfying. Guilty psychopaths may escape detection because they are not concerned enough about misdeeds to create an interpretation of physiological responses.

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. If I can just finish now, please, I want to make my case.

Mr. HATCH. I am with the Senator.

Mr. KENNEDY. I know. But I want to finish my point.

Particularly psychotics were likely to be identified as deceptive. There were no guilty subjects in this real crime analog. OTA points out that if you are mean, scheming, lying, a child pedophile, you will pass this test. Just give them a test, they pass it, and put them in with the kids, put them in the wards, or put them anywhere you want to.

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. No. I will not yield.

Mr. HATCH. Will the Senator quit pointing to this side of the aisle when he talks about mean, scheming, lying people? [Laugther.]

Mr. KENNEDY. Further, in the OTA study, let me just go through a few of these points for those who have a great sense of reliability about this measure. Here it is in the section of the OTA study dealing with the physical countermeasures. Listen to this. These are various studies.

I will put the references in, I will put the studies in, they are all referenced on the back of the appendix of the OTA study.

They found that when subjects pressed their toes toward the floor, they are able to reduce the probability of detection 75 to 80 percent. Put your toes on the floor and you are reduced.

In two recent studies discussed in chapter 5, the efficacy of physical countermeasures were tested. Both studies found that the countermeasures allowed subjects to beat the polygraph. Well, before we get all excited about these terrorists and bank robbers, they know how to put their toes on the floor, or to deal with various countermeasures. If they want to get them in the bag, just give them a polygraph, someone says over here. They know how to deal with these countermeasures. If they do not, all they have to do is read this book, and they will find out.

A recent study the distinguished researcher from Utah also found that the use of physical countermeasures decreased detectability.

Then, Mr. President, I will make reference to one of the studies. Again it refers to the OTA.

After they did the study and evaluation where they found out about what was inconclusive, and this study was 12 percent incorrect, it pointed out that the study required the polygraphers to make decisions of guilt or innocence based upon visual observation of the test scores without using the polygraph—visual observations alone to produce these results.

Among the guilty subjects, 86 percent were correctly classified; among the innocent subjects, 48 percent were correctly classified.

The polygraph on the other hand produced the overall results of 10 percent inconclusive, 10 percent incorrect, 80 percent correct, thus correctly identifying the guilty subjects. The behavioral observations of the polygrapher were more accurate than the polygraph.

We have an unrealiable tool that has some importance and some significance when it is utilized with a wide variety of other investigative procedures.

I have not opposed that in terms of the Defense Intelligence Agency. They take between 4 and 8 hours to administer a polygraph. They are permitted to administer two polygraphs a day. These others that we heard about take 15 minutes, if you have that long. If you are going to do it for the defense industry, you have to have a 4-year college accreditation, you have to pass the DOD approval course of instruction, you are supervised for a period of 1 year, not less than 6 months, and

you are retrained very 2 years. There is no such requirement in the area of the private sector; no other requirements.

Some States have some, and we do not affect those or touch them.

Now the argument is made with regard to that. So that gives some idea about where we came out just with regards to the efficacy and efficiency of the polygraph.

What do we find in the use of polygraphs with regards to the States and interstate actions? I think that is a fair question. The States have the laws. If they are working, and solving the problem, that is fine. Is that the case? No. No. That does not happen to be the case.

We had the testimony before our committee last Congress. An example is when the Justice Department testified against the Hatch-Kennedy bill. The Justice Department stated their opposition to the bill would be considerably diminished if it could be shown that employers were not crossing State lines to avoid complying with polygraph bans in the States where they operate.

Here is the Attorney General of New York graphically testifying about the employment practice. This is what he said:

> We are surrounded by States which absolutely ban the lie detector, the polygraph, the so-called lie detector, from employing a person. National corporations seek to get out from under these kinds of prohibitions by either hiring someone initially in New York where there is no prohibition, that person goes through a polygraph screening, ships that person to another assignment to one of the other States, and might send someone in from one of the other States into New York.

We had the testimony from a Maryland applicant where requiring the test is prohibited, and anyone to be hired in the Virginia area can take the polygraph. We found constant examples of that, Madam President.

It is in fact what is happening, circumventing in a very significant and dramatic way in terms of the law.

Now, let me just go briefly to this current amendment in terms of the security guards. I would ask our colleagues, those who are in the room, to look to the rear of the Chamber. Here we have 12 States without a ban, and they are permitting polygraphs today. And there are 12 States with a ban dealing with bank fraud, embezzlement violations, theft, a whole range of activities.

Now, if you believe that the polygraph will work, if you believe that the polygraph States would be the black ones because they have about one-third of the number of violations of the law, that would be reasonable to assume if you think the polygraph works. On the contrary, even in the States without the ban it is about three times higher going to the years 1983, 1984, and 1985 indicating I believe that the States that provide it are giving the quickie tests. They say they pass the test. They leave them alone, do not even watch them anymore, and they get their hands in the till. And you have the violations.

Those areas that use the traditional investigative personnel requirements do the kind of work that should be done. They are able to seek out those individuals who may be somehow threatening in terms of employment.

Finally, Madam President, with regard to dealing with bank fraud and embezzlement, even if you believe in the polygraph, you give the polygraph to the drivers and the guards and the parking lot attendants, and the people who are stealing are the CEO's and the white collar workers. They do not get it. Depending on the length of the debate, I will put those studies in, too, about whether it is abusing children or stealing money. We could find out what the results and what the facts are.

Madam President, we will hear the arguments about terrorism. Every Member of this body is against terrorism. The question before us is, does the polygraph as a screening tool have any validity? I think the answer to that question is clear. We pointed that out.

Perhaps later in the debate we will have an opportunity to look at which States permit the polygraph and which States prohibit it and see which States have the fastest growth in crime. It is in the States that permit the polygraph. These happen to be the facts. We can get into them. Thankfully, we are back into the substance of this debate. We will get back into them, so we can at least knock down some of these false allegations and misrepresentations and charges which have absolutely no basis in fact, based on scientific information.

Madam President, the polygraph concept does not make sense in terms of the scientific evidence, in terms of deception, as these States demonstrate. It does not make any sense in terms of applying it in the areas of banks or nuclear agencies or whatever.

I think it is enormously important to have safety and security in those areas, and the wide range of investigative techniques available to law enforcement officers ought to be strengthened in those areas where public health and safety are involved, in terms of employment.

In the limited areas where you have reason to believe that there may be some instances, we provide this as part of a comprehensive range of investigatory tools to be utilized, as one of the many tools that can be utilized under controlled circumstances.

I hope this body is not going to be swayed by arguments raised here that if you give people tests by the polygraph, they will be fine. Shevchenko took a number of polygraph tests, given to him by the DOD, and he passed those with flying colors. We have an instance of an agent Chen who passed several polygraph tests. Once they passed those tests, they got right back into those secret files as fast as they could get down the corridor.

Madam President, I think we ought to understand what is legitimate, what is reasonable, what is going to provide security, and what is not going to provide security. I think we have a balanced program that permits the use under the circumstances I have described; that is a reasonable use. It has been one which has been satisfactory in terms of those who understand its importance, although limited, under circumstances involving a range of different criminal activities. It seems to me that we should not violate that basic concept.

I do not think this amendment is useful or helpful in terms of achieving what I understand are the legitimate interests of the Senator from Oklahoma, and I hope it will be defeated.

Mr. SPECTER. Madam President, I wish to compliment the members of the committee who have worked so hard to work out a compromise, and I intend to support the bill. The comments I make at this time do not go to the pending amendment, but I wish to make a brief statement on some of the concerns I have about polygraphs generally.

The experience with the polygraphs has been that they have some distinctive value as an investigative tool. When I was district attorney of Philadelphia, we used the polygraph as an investigative tool, but it has to be used in a very careful way.

The fact that it is generally inadmissible in judicial proceedings—and there have been a series of tests in many courts, generally, in which they were held to be inadmissible—speaks to the ultimate issue of the lack of reliability sufficient to provide evidence in a court of law.

The polygraph was evaluated in one very celebrated case on which I would like to comment briefly—the polygraph of Mr. Jack Ruby, which was taken in connection with the investigation into the assassination of President Kennedy.

Director J. Edgar Hoover had this to say about the polygraph exam administered to Mr. Ruby: "The FBI feels that the polygraph technique is not sufficiently precise to permit absolute judgments of deception or truth without qualifications."

The polygraph administered to Jack Ruby was one which I had occasion to be personally involved with as an assistant counsel to the Warren Commission. It arose under very unusual circumstances, and I believe it is worthy of reference, albeit briefly, in the debate and the discussion which we are undertaking today.

When the Warren Commission was convened, customarily, Chief Justice Earl Warren, who was chairman of the commission, would call the sessions to order. But on the occasion when Jack

Ruby's testimony was taken in the Dallas jail back on June 7, 1964, Mr. Ruby took over the proceedings, as he was wont to do. Before the commission could be called to order, Mr. Ruby stated—really blurted out—on that occasion: "Without a lie detector test on my testimony, my verbal statements to you, how do you know I'm telling the truth?"

In the course of the discussion which followed, Chief Justice Warren said: "I wouldn't suggest a lie detector test to test the truth. We will treat you the same as we do any other witness, and if you want such a test, I will arrange it for you."

That examination was a fascinating one, because after the commitment was made by Chief Justice Warren to administer the test, there were many second thoughts about it. Chief Justice Warren had great reservations about the reliability or validity or worthwhile nature of any such test. There were those in Jack Ruby's family who did not want the test to be administered.

Finally, the decision was made that Mr. Ruby would be offered the test if he wanted it, but he would have an opportunity to withdraw from the test.

On July 26, 1964, lacking any seniority on the Warren Commission staff, I was the assistant counsel who went to the Dallas jail, at which point a very extensive polygraph examination was administered to Jack Ruby. So far as the test itself discerned, the test indicator showed no deception when Jack Ruby answered that he was not involved with Lee Harvey Oswald and was not involved with any conspiracy to assassinate the President.

In the final analysis, the examination was not relied upon by the commission, substantially for the reasons pointed out by Director Hoover—that the FBI's judgment was that the polygraph examination lacked sufficient reliability, and that was especially in the context of Mr. Ruby's own mental status at that time.

Polygraphs can be extraordinarily embarrassing for those who choose to take them, given the questions about reliability.

We had a very celebrated voluntary polygraph examination in the city of Philadelphia in 1973, when the mayor of the city, Mayor Frank Rizzo, got into a controversy with former State Senator Pete Camiel, who was at that time chairman of the Democratic city committee.

The Philadelphia Daily News offered a polygraph exam to determine who was telling the truth under the circumstances. On that occasion, the polygraphs were administered to Mayor Rizzo and his administrative assistant, who was present for the conversation, Mr. Philip Carroll, as well as to a Mr. Camiel.

Mayor Rizzo, according to the test, failed, as did Philip Carroll, and Mr. Camiel, according to the test, passed, and it was a notorious situation with blazing headlines. There were a great many jokes about it, that jokingly said that was the only time that someone brought along a corroborating liar on a question of veracity, and it focused a great deal of attention at that time on the questionable nature of using a polygraph because of the problems which are inherent on the reliability of the polygraph.

But there are those who choose to use them, and in a free society, if there are appropriate limitations, a polygraph examination may be of some limited value, principally as an investigative technique, but the limits on its reliability have been established in quite a number of circumstances.

Mr. President, I ask unanimous consent that the record from the Warren Commission report, appendix XVII, be printed in the RECORD at this point.

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

APPENDIX XVII—POLYGRAPH EXAMINATION OF JACK RUBY

PRELIMINARY ARRANGEMENTS

As early as December of 1963, Jack Ruby expressed his desire to be examined with a polygraph, truth serum, or any other scientific device which would test his veracity. The attorneys who defended Ruby in the State criminal proceedings in Texas agreed that he should take a polygraph examination to test any conspiratorial connection between Ruby and Oswald. To obtain such a test, Ruby's defense counsel filed motions in court and also requested that the FBI administer such an examination to Ruby. During the course of a psychiatric examination on May 11, 1964, Ruby is quoted as saying: "I want to tell the truth. I want a polygraph * * *." In addition, numerous letters were written to the President's Commission on behalf of Ruby requesting a polygraph examination.

When Ruby testified before the Commission in Dallas County Jail on June 7, 1964, his first words were a request for a lie detector test. The Commission hearing commenced with the following exchanges:

"Mr. JACK RUBY: Without a lie detector test on my testimony, my verbal statements to you, how do you know if I am telling the truth?

"Mr. TONAHILL [Defense Counsel]: Don't worry about that, Jack.

"Mr. RUBY: Just a minute, gentlemen.

"Chief Justice WARREN: You wanted to ask something, did you, Mr. Ruby?

"Mr. RUBY: I would like to be able to get a lie detector test or truth serum of what motivated me to do what I did at that particular time, and it seems as you get further into something, even though you know what you did, it operates against you somehow, brain washes you, that you are weak in what you want to tell the truth about and what you want to say which is the truth.

"Now Mr. Warren, I don't know if you got any confidence in the lie detector test and the truth serum, and so on.

"Chief Justice WARREN: I can't tell you just now much confidence I have in it, because it depends so much on who is taking it, and so forth.

"But I will say this to you, that if you and your counsel want any kind of test, I will arrange it for you. I would be glad to do that, if you want it. I wouldn't suggest a lie detector test to testify the truth.

"We will treat you just the same as we do any other witness, but if you want such a test, I will arrange for it.

"Mr. RUBY: I do want it. Will you agree to that, Joe?

"Mr. TONAHILL: I sure do, Jack."

Throughout Ruby's testimony before the Commission he repeated his request on numerous occasions that he be given an opportunity to take a lie detector test. Ruby's insistence on taking a polygraph examination is reflected right to the end of the proceedings where in the very last portion of the transcribed hearings Ruby states:

"Mr. RUBY: All I want to do is to tell the truth, and the ony way you can know it is by the polygraph, as that is the only way you can know it.

"Chief Justice WARREN: That we will do for you."

Following Ruby's insistence on a polygraph test, the Commission initiated arrangements to have the FBI conduct such an examination. A detailed set of questions was prepared for the polygraph examination, which was set for July 16, 1964. A few days before the scheduled test, the Commission was informed that Ruby's sister, Eva Grant, and his counsel, Joe H. Tonahill, opposed the polygraph on the ground that psychiatric examinations showed that his mental state was such that the test would be meaningless.

The Commission was advised that Sol Dann, a Detroit attorney representing the Ruby family, had informed the Dallas office of the FBI on July 15, 1964, that a polygraph examination would affect Ruby's health and would be of questionable value according to Dr. Emanuel Tanay, a Detroit psychiatrist. On that same date, Assistant Counsel Arlen Specter discussed by telephone the polygraph examination with Defense Counsel Joe H. Tonahill, who expressed his personal opinion that a polygraph examination should be administered to Ruby. By letter dated July 15, 1964, Dallas District Attorney Henry Wade requested that the polygraph examination cover the issue of premeditation as well as the defensive theories in the case.

Against this background, it was decided that a representative of the Commission would travel to Dallas to determine whether Jack Ruby wanted to take the polygraph test. Since Ruby had had frequent changes in attorneys and because he was presumed to be sane, the final decision on the examination was his, especially in view of his prior personal insistence on the test. In the jury conference room at the Dallas jail on July 18, Assistant Counsel Arlen Specter, representing the Commission, informed Chief Defense Counsel Clayton Fowler, co-Counsel Tonahill and Assistant District Attorney William F. Alexander that the Commission was not insisting on or even requesting that the test be taken, but was merely fulfilling its commitment to make the examination available. In the event Ruby had changed his mind and would so state for the record, that would conclude the issue as far as the Commission was concerned.

Chief Defense Counsel Fowler had objected to the test. He conferred with Jack Ruby in his cell and then returned stating that Ruby insisted on taking the examination. Mr. Fowler requested that (1) Dr. Tanay, the Detroit psychiatrist, be present; (2) the results of the test not be disclosed other than to the Commission; (3) the questions to be asked not be disclosed to the District Attorney's office; and (4) the results of the test be made available to defense counsel. Sheriff William Decker announced his intention to have Allan L. Sweatt, his chief criminal deputy who was also a polygraph

operator, present to maintain custody of Jack Ruby while the examination was being administered. Assistant District Attorney Alexander requested a list of questions, a copy of the recording made by the polygraph machine and a copy of the report interpreting the test. In response to the numerous requests, the procedure was determined that the questions to be asked of Ruby would be discussed in a preliminary session in the presence of defense counsel, the assistant district attorney and Chief Jailer E.L. Holman, who was to replace Swett. The assistant district attorney would not be present when Ruby answered the questions, but Jailer Holman was allowed to remain to retain custody of Ruby. No commitment was made on behalf of the Commission as to what disclosure would be made of the results of the examination. Since Dr. Tanay was not in Dallas and therefore could not be present, arrangements were made to have in attendance Dr. William R. Beavers, a psychiatrist who had previously examined and evaluated Ruby's mental state.

At the conclusion of the lengthy preliminary proceedings, Ruby entered the jury conference room at 2:23 p.m. and was informed that the Commission was prepared to fulfill its commitment to offer him a polygraph examination, but was not requesting the test. On behalf of the Commission, Assistant Counsel Specter warned Ruby that anything he said could be used against him. Chief Defense Counsel Fowler advised Ruby of his objections to the examination. Ruby then stated that he wanted the polygraph examination conducted and that he wanted the results released to the public as promptly as possible. Special Agent Bell P. Herndon, polygraph operator of the FBI, obtained a written "consent to interview with polygraph" signed by Jack Ruby. Herndon then proceeded to administer the polygraph examination by breaking the questions up into series which were ordinarily nine questions in length and consisted of relevant interrogatories and control questions.

ADMINISTRATION OF THE TEST

During the course of the polygraph examination Jack Ruby answered the relevant questions as follows:

"Q. Did you know Oswald before November 22, 1963?

"A. No.

"Q. Did you assist Oswald in the assassination?

"A. No.

"Q. Are you now a member of the Communist Party?

"A. No.

"Q. Have you ever been a member of the Communist Party?

"A. No.

"Q. Are you now a member of any group that advocates the violent overthrow of the United States Government?

"A. No.

"Q. Have you ever been a member of any group that advocates violent overthrow of the United States Government?

"A. No.

"Q. Between the assassination and the shooting, did anybody you know tell you they knew Oswald?

"A. No.

"Q. Aside from anything you said to George Senator on Sunday morning, did you ever tell anyone else that you intended to shoot Oswald?

"A. No.

"Q. Did you shoot Oswald in order to silence him?

"A. No.

"Q. Did you first decide to shoot Oswald on Friday night?

"A. No.

"Q. Did you first decide to shoot Oswald on Saturday morning?

"A. No.

"Q. Did you first decide to shoot Oswald on Saturday night?

"A. No.

"Q. Did you first decide to shoot Oswald on Sunday morning?

"A. Yes.

"Q. Were you on the sidewalk at the time Lieutenant Pierce's car stopped on the ramp exit?

"A. Yes.

"Q. Did you enter the jail by walking through an alleyway?

"A. No.

"Q. Did you walk past the guard at the time Lieutenant Pierce's car was parked on the ramp exit?

"A. Yes.

"Q. Did you talk with any Dallas police officers on Sunday, November 24, prior to the shooting of Oswald?

"A. No.

"Q. Did you see the armored car before it entered the basement?

"A. No.

"Q. Did you enter the police department through a door at the rear of the east side of the jail?

"A. No.

"Q. After talking to Little Lynn did you hear any announcement that Oswald was about to be moved?

"A. No.

"Q. Before you left your apartment Sunday morning, did anyone tell you the armored car was on the way to the police department?

"A. No.

"Q. Did you get a Wall Street Journal at the Southwestern Drug Store during the week before the assassination?

"A. No.

"Q. Do you have any knowledge of a Wall Street Journal addressed to Mr. J.E. Bradshaw?

"A. No.

"Q. To your knowledge, did any of your friends or did you telephone the FBI in Dallas between 2 or 3 a.m. Sunday morning?

"A. No.

"Q. Did you or any of your friends to your knowledge telephone the sheriff's office between 2 or 3 a.m. Sunday morning?

"A. No.

"Q. Did you go to the Dallas police station at any time on Friday, November 22, 1963, before you went to the synagogue?

"A. No.

"Q. Did you go to the synagogue that Friday night?

"A. Yes.

"Q. Did you see Oswald in the Dallas jail on Friday night?

"A. Yes.

"Q. Did you have a gun with you when you went to the Friday midnight press conference at the jail?

"A. No.

"Q. Is everything you told the Warren Commission the entire truth?

"A. Yes.

"Q. Have you ever knowingly attended any meetings of the Communist Party or any other group that advocates violent overthrow of the Government?

"A. No.

"Q. Is any member of your immediate family or any close friend, a member of the Communist Party?

"A. No.

"Q. Is any menmber of your immediate family or any close friend a member of any group that advocates the violent overthrow of the Government?

"A. No.

"Q. Did any close friend or any member of your immediate family ever attend a meeting of the Communist Party?

"A. No.

"Q. Did any close friend or any member of your immediate family ever attend a meeting of any group that advocates the violent overthrow of the Government?

"A. No.

"Q. Did you ever meet Oswald at your post office box?

"A. No.

"Q. Did you use your post office mailbox to do any business with Mexico or Cuba?

"A. No.

Q. Did you do business with Castro-Cuba?

"A. No.

Q. Was your trip to Cuba solely for pleasure?

"A. Yes.

Q. Have you now told us the truth concerning why you carried $2,200 in cash on you?

"A. Yes.

Q. Did any foreign influence cause you to shoot Oswald?

"A. No.

Q. Did you shoot Oswald because of any influence of the underworld?

"A. No.

Q. Did you shoot Oswald because of a labor union influence?

"A. No.

Q. Did any long-distance telephone calls which you made before the assassination of the President have anything to do with the assassination?

"A. No.

Q. Did any of your long-distance telephone calls concern the shooting of Oswald?

"A. No.

Q. Did you shoot Oswald in order to save Mrs. Kennedy the ordeal of a trial?

"A. Yes.

Q. Did you know the Tippit that was killed?

"A. No.

Q. Did you tell the truth about relaying the message to Ray Brantley to get McWillie a few guns?

"A. Yes.

Q. Did you go to the assembly room on Friday night to get the telephone number of KLIF?

"A. Yes.

Q. Did you ever meet with Oswald and Officer Tippit at your club?

"A. No.

Q. Were you at the Parkland Hospital at any time on Friday?

"A. No.

Q. Did you say anything when you shot Oswald other than what you've testified about?

"A. No.

Q. Have members of your family been physically harmed because of what you did?

"A. No.

Q. Do you think members of your family are now in danger because of what you did?

"(No response.)

Q. Is Mr. Fowler in danger because he is defending you?

"(No response.)

"Q. Did "Blackie" Hanson speak to you just before you shot Oswald?"

"A. No."

INTERPRETATION OF THE TEST

A polygraph examination is designed to detect physiological responses to stimuli in a carefully controlled interrogation. Such responses may accompany and indicate deception. The polygraph instrument derives its name from the Greek derivative "poly" meaning many and the word "graph" meaning writings. The polygraph chart writings

consist of three separate markings placed on a graph reflecting three separate physiological reactions. A rubber tube is placed around the subject's chest to record his breathing pattern on a pneumograph. That device records the respiratory ratio of inhalation and exhalation strokes. The second component is called a galvanic skin response which consists of electrodes placed on the examinee's fingers, through which a small amount of electrical current is passed to the skin. The galvanometer records the minute changes in electrical skin response. The third component consists of a cardiograph which is a tracing obtained by attaching a pneumatic cuff around the left arm in a manner very similar to an apparatus which takes blood pressure. When the cuff is inflated, that device records relative blood pressures or change in the heart rate.

From those testing devices, it is possible to measure psychological or emotional stress. This testing device is the product of observation by psychologists and physiologists who noted certain physiological responses when people lie. In about 1920 law enforcement officials with psychological and physiological training initiated the development of the instrument to serve as an investigative aid.

The polygraph may record responses indicative of deception, but it must be carefully interpreted. The relevant questions, as to which the interrogator is seeking to determine whether the subject is falsifying, are compared with control questions where the examiner obtains a known indication of deception or some expected emotional response. In evaluating the polygraph, due consideration must be given to the fact that a physiological response may be caused by factors other than deception, such as fear, anxiety, nervousness, dislike, and other emotions. There are no valid statistics as to the reliability of the polygraph. FBI Agent Herndon testified that, notwithstanding the absence of percentage indicators of reliability, an informed judgment may be obtained from a well-qualified examiner on the indications of deception in a normal person under appropriate standards of administration.

Ordinarily during a polygraph examination only the examiner and the examinee are present. It is the practice of the FBI, however, to have a second agent present to take notes. It is normally undesirable to have other people present during the polygraph examination because the examinee may react emotionally to them. Because of the numerous interested parties involved in Ruby's polygraph examination, there were present individuals representing the Commission and the Dallas district attorney, as well as two defense counsel, two FBI agents, the chief jailer, the psychiatrist, and the court reporter, although the assistant district attorney and one defense counsel left when Ruby was actually responding to questions while the instrument was activated. Ruby was placed in a position where there was a minimum of distraction for him during the test. He faced a wall and could not see anyone except possibly through secondary vision from the side. Agent Herndon expressed the opinion that Ruby was not affected by the presence of the people in the room.

Answers by Ruby to certain irrelevant control questions suggested an attempt to deceive on those questions. For example, Ruby answered "No" to the question "While in the service did you receive any disciplinary action?" His reaction suggested deception in his answer. Similarly, Ruby's negative answer to the query "Did you ever overcharge a customer" was suggestive of deception. Ruby further showed an emotional response to other control questions such as "Have you ever been known by another name" "Are you married?" "Have you ever served time in jail?" "Are your parents alive?" "Other than what you told me, did you ever hit anyone with any kind of a weapon?" Herndon concluded that the absence of any physiological response on the relevant questions indicated that there was no deception.

An accurate evaluation of Ruby's polygraph examination depends on whether he was psychotic. Since a psychotic is divorced from reality, the polygraph tracings could not be logically interpreted on such an individual. A psychotic person might believe a false answer was true so he would not register an emotional response characteristic of deception as a normal person would. If a person is so mentally disturbed that he does not understand the nature of the questions or the substance of his answers, then no validity can be attached to the polygraph examination. Herndon stated that if a person, on the other hand, was in touch with reality, then the polygraph examination could be interpreted like any other such test.

Based on his previous contacts with Ruby and from observing him during the entire polygraph proceeding, Dr. William R. Beavers testified as follows:

"In the greater proportion of the time that he answered the questions, I felt that he was aware of the questions and that he understood them, and that he was giving answers based on an appreciation of reality."

Dr. Beavers further stated that he had previously diagnosed Ruby as a "psychotic depressive."

Based on the assumption that Ruby was a "psychotic depressive," Herndon testified:

"There would be no validity to the polygraph examination, and no significance should be placed upon the polygraph charts."

Considering other phases of Dr. Beavers' testimony, Herndon stated:

"Well, based on the hypothesis that Ruby was mentally competent and sound, the charts could be interpreted, and if those conditions are fact, the charts could be interpreted to indicate that there was no area of deception present with regard to his response to the relevant questions during the polygraph examination."

In stating his opinion that Ruby was in touch with reality and understood the questions and answers, Dr. Beavers excepted two questions where he concluded that Ruby's underlying delusional state took hold. Those questions related to the safety of Ruby's family and his defense counsel. While in the preliminary session Ruby had answered those questions by stating that he felt his family and defense counsel were in danger, he did not answer either question when the polygraph was activated. Dr. Beavers interpreted Ruby's failure to answer as a reflection of "internal struggle as to just what was reality." In addition, Dr. Beavers testified that the test was not injurious to Ruby's mental or physical condition.

Because Ruby not only volunteered but insisted upon taking a polygraph examination, the Commission agreed to the examination. FBI Director J. Edgar Hoover commented on the examination as follows:

"It should be pointed out that the polygraph, often referred to as "lie detector" is not in fact such a device. The instrument is designed to record under proper stimuli emotional responses in the form of physiological variations which may indicate and accompany deception. The FBI feels that the polygraph technique is not sufficiently precise to permit absolute judgements of deception or truth without qualifications. The polygraph technique has a number of limitations, one of which relates to the mental fitness and condition of the examinee to be tested.

"During the proceedings at Dallas, Texas, on July 18, 1964, Dr. William R. Beavers, a psychiatrist, testified that he would generally describe Jack Ruby as a "Psychotic depressive." In view of the serious question raised as to Ruby's mental condition, no significance should be placed on the polygraph examination and it should be considered nonconclusive as the charts cannot be relied upon."

Having granted Ruby's request for the examination, the Commission is publishing the transcript of the hearing at which the test was conducted and the transcript of the deposition of the FBI polygraph operator who administered the test. The Commission did not rely on the results of this examination in reaching the conclusions stated in this report.

Mr. SPECTER. Mr. President, I am not putting into the RECORD the more extensive examination of Mr. Ruby or the more extensive documents on the tracings themselves which have certain probative value, but I think that it does have some bearing on the issue and is an appropriate matter for consideration at this point.

I do support the bill overall, but I do believe that there are sufficient problems with the polygraph that it has to be used in a very, very careful manner.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER (Mr. FORD). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I would like to point out a few things that are in this amendment and maybe clarify some of the statements that have been made, and I appreciate my friend, Senator KENNEDY, for some of his comments.

Again, I would like for him to listen and hopefully he would accept this amendment, because I do not think that it is that much different from the bill that he and Senator HATCH have introduced.

The bill as proposed by Senator KENNEDY and Senator HATCH allows the use of preemployment polygraph. It does not prohibit it. It allows the public sector to use preemployment polygraph; in other words, before the Federal Government hires someone, whether it be the Department of Defense or the FBI, the Department of Energy, it is trying to guard an Army plant or something, and they are entitled to use the polygraph. They use the polygraph as an instrument to try and find out if persons are subject to or have a history of crime or a history of drug abuse or a history of terrorism. Maybe they are trying to infiltrate the CIA. They can use the polygraph to hopefully narrow down those persons who have that type of a background.

They have used it in the past. This bill allows them to continue using it. It does not prohibit the Government from using the polygraph in those instances.

The bill before us allows the use of polygraph for investigative purposes, and I compliment again the authors of the bill. I think that is a much needed provision because a lot of industries, when they find money missing, when they find valuables missing, they use the polygraph and the threat of the polygraph, frankly, to identify those persons responsible.

The Kennedy bill and the Hatch bill have some devices in it to protect from abuse of the polygraph, and I want the sponsor of the bill to be aware—if I can get Senator KENNEDY's attention—that the amendment we have has the same protections that he has in his bill.

I think the Senator mentioned the quickly polygraph or the 15-minute polygraph. We kept all the protections that he provided for in the bill, such as saying it had to be a qualified examiner, had to be 21 years of age, had to be a certain time period, still under regulations by the State, still under regulations of collective-bargaining agreements, et cetera. All the protections that Senator KENNEDY and Senator HATCH have in their bill are also in my amendment.

So what we have done as the sponsors of the amendment is to allow the use of polygraph for the public sector and also for post-incidents in trying to use it for investigative purposes. Our amendment says these private firms that are involved in providing security can use it in preemployment just as the CIA can, just as the FBI can, just as the Department of Energy who contracts out to private employers, those private employers who protect a nuclear weapons facility anywhere in the country. Since the Department of Energy can use a polygraph to screen employees, preemployment, this would allow that same compnay that is providing those services for the Department of Energy to also use the polygraph for those armed guards who are protecting a nuclear facility.

I think we have learned something when the Soviets had the Chernobyl accident, incident, or whatever you want to call it, disaster, that killed lots of people and caused a lot of damage. You realize how susceptible we might be if we had some type of nuclear incident in this country where we had a nuclear plant possible in Kentucky or Oklahoma or someplace, if a terrorist infiltrated that plant. Under the bill before us a company that employs a private armed guard right now cannot use a polygraph before they hire him and put him in that type of position.

Frankly, Mr. President, it would be far too late after that type of an incident to be trying to say. "Well, we are going to use polygraph to try to find out who was responsible for that event."

Maybe that person infiltrated a plant and caused a nuclear disaster at a powerplant.

Or maybe a little more on a mundane level but certainly very possible because it has happened, people have infiltrated armored car services. Maybe they went to work for one of the big armored car companies and infiltrated it, got on the inside and had an inside heist.

I have clips of one that was $7 million and it was an inside job. They even went to work in a State where polygraph was prohibited so they would not have a preemployment test in this one example.

I will be happy to put some information in the RECORD if my colleagues would like to see it.

But again the polygraph for some of these very important, very sensitive industries, has been a tool.

I might also mention to the sponsors of the amendment we put in the same protections that he did as far as preemployment—that this could not be the sole reason that an employer would not hire somebody. In other words, if they failed the polygraph they would still have to come up with additional support and evidence of why that person should not be hired.

So we take great lengths, as a matter of fact, the indentical lengths that Senator KENNEDY and Senator HATCH have, to protect individual rights and freedoms, but we just say that private employers who are engaged in providing for public security or security of bank funds or security of a large amount of valuables have the same access to a preemployment polygraph.

We have heard some statistics being bandied about, well 12 percent of these polygraph tests might be inaccurate and if they are, again we state that the employer would have to come up with some other substantiating evidence.

But you might turn that around and say, well, seven out of eight are accurate. What if you are a company that provides home protection devices, and there are major companies around the country that provide thousands of people that do so, would you not like to know that at least you would be able to screen and hopefully remove a large number of potential problems?

Let me read a couple of letters that came from individuals that hired these types of firms. I will not read the entire letters, and I will insert the letters for the RECORD, but I will read a few pertinent paragraphs.

One is from the Rollins Co. It is from the president of the Rollins Co. in Atlanta, GA. The letter states:

Evidently, the validity of the polygraph is not in question since the federal, state, and local governments and their divisions are allowed full usage of the polygraph. Doesn't the American homeowner, whose life and investments could be imperilled by just one unscrupulous employee, deserve the same protection? We also see that this bill further acknowledges the polygraph's validity by allowing its use in specific incidents during an ongoing investigation. While we totally agree with its value in these cases, we prefer to work to avoid those situations.

What consolation is it to a mother and father whose child has been harmed, or a family who has had their possessions stolen, to have an investigation after the fact? If we have the means within our power, is it not better to work to reduce those opportunities of criminal misconduct? An average citizen who would not consider allowing strangers access to his home is willing to do so if that stranger identifies himself or herself as an Orkin or Rollins Protective Services employee. We are proud of the fact that we have earned that trust through the years. We recognize that our responsibility, both morally and legally, is to continue to utilize the best methods available to protect our customers from the potential dangers arising from the access granted to their homes.

To date the polygraph, when used in conjunction with other pre-employment screening methods, is the most efficient and accurate method of protecting the consumer from unscrupulous job applicants. Since 1976, when we first instituted this screening program, we have substantially lowered incidents of employee thefts and other criminal behavior directed to our customers. Rollins spends over $1 million a year to screen applicants through a series of very comprehensive tools, including the polygraph. Not one of these tests is 100% accurate, be it the background check, motor vehicle check, psychological test, etc. However, when used together, these methods greatly decrease the likelihood of an employee being hired who would endanger one of our customers.

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

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

DECEMBER 17, 1987.

DEAR SENATOR, as President of Rollins, Inc., the parent company of Orkin Pest Control Company and Rollins Protective Service, I strongly urge you to vote against S. 1904, the "Polygraph Protection Act of 1987." I am joined in this request by the 1600 company members of the National Burglar and Fire Alarm Association and 2500 company members of the National Pest Control Association, as well as the Professional Lawn Care Association and its membership.

While recognizing the merits of the polygraph in the public sector, this bill arbitrarily denies its utilization in the private sector, except in specific post-employment situations. As a result, it unnecessarily jeopardizes the safety of the consumer who is served by any type of in-home service such as ours, because it severely diminishes the accuracy of our pre-employment screening process. Without the use of the polygraph, it is far more likely that someone would be hired who would use his employment for criminal purposes. In addition, S. 1904 is an unnecessary intrusion by the federal government into the hiring practices of the private sector, and it interferes with the rights of the states to regulate the polygraph industry, which it has done effectively in 31 states.

Evidently, the validity of the polygraph is not in question since the federal, state, and local governments and their divisions are allowed full usage of the polygraph. Doesn't the American homeowner, whose life and investments could be imperilled by just one unscrupulous employee, deserve the same protection? We also see that this bill further acknowledges the polygraph's validity by allowing its use in specific incidents during an ongoing investigation. While we totally agree with its value in these cases, we prefer to work to avoid those situations.

What consolation is it to a mother and father whose child has been harmed, or a family who has had their possessions stolen, to have an investigation after the fact? If we have the means within our power, is it not better to work to reduce those opportunities of criminal misconduct?

Rollins Protective Services is one of the largest residential security system companies in the country, operating in 27 states. Orkin Pest Control is the world's largest structural pest control company, operating in 45 states and the District of Columbia. Together we send thousands of technicians and sales representatives annually into more than 1.3 million private residences. In numerous cases, because of customers' busy lifestyles; our employees even have keys to many of these customers' homes. This almost unlimited access could result in direct threats to the health and well-being of our customers and their families, as well as loss of their property, by employees with criminal motives.

An average citizen who would not consider allowing strangers access to his home is willing to do so if that stranger identifies himself or herself as an Orkin or Rollins Protective Services employee. We are proud of the fact that we have earned that trust through the years. We recognize that our responsibility, both morally and legally, is to continue to utilize the best methods available to protect our customers from the potential dangers arising from the access granted to their homes.

To date the polygraph, when used in conjunction with other pre-employment screening methods, is the most efficient and accurate method of protecting the consumer from unscrupulous job applicants. Since 1976, when we first instituted this screening program, we have substantially lowered incidents of employee thefts and other criminal behavior directed to our customers. Rollins spends over $1 million a year to screen applicants through a series of very comprehensive tools, including the polygraph. Not one of these tests is 100% accurate; be it the background check, motor vehicle check, psychological test, etc. However, when used together, these methods greatly decrease the likelihood of an employee being hired who would endanger one of our customers.

Presently 31 states recognize the benefits of the polygraph by establishing strict regulations that protect the rights of prospective employees while permitting private businesses like Orkin and Rollins Protective Services to utilize the best tools available to safeguard the welfare and property of its customers. These rules insure that the polygraph examinations are administered competently, fairly, and without bias. Without doubt, S. 1904 blatantly usurps the rights of these states to regulate the polygraph industry and is an unnecessary intrusion into the hiring practices of the private sector.

Further, there is no constitutional basis for a federal ban on polygraph testing in the private sector. Article 10 of the Constitution clearly states that the power not delegated to the United States by the Constitution, nor prohibited by it to the states, are served to the states respectively, or to the people. The majority of our states have accepted this responsibility and have already passed legislation regulating the polygraph. Some have even banned it. Clearly, this effort by the majority of our states signifies federal government intervention is unwarranted.

We will continue to make every effort possible to refine polygraph testing and comply with (if not surpass) all state requirements. After all, we are not in the polygraph business, but in the business of serving our customers and insuring their safety. Presently, the polygraph is one of the best tools we have to accomplish this. The American public should not be forced to withstand the dangers that could befall them should this legislation pass. With the rising crime rate, citizens rely on our industries to insure their safety—now they are relying on you.

We strongly urge you to ask for a hearing on the specific language of S. 1904 and the merits of S. 1854, the regulatory bill introduced by Senator Dan Quayle. We would welcome the opportunity to express the point of view of our industry before your committee.

Sincerely,

GARY W. ROLLINS,
President.

Mr. NICKLES. Mr. President, I will just read a couple other paragraphs from another letter. This is a letter from the Brinks Co., in Oklahoma City. It states:

On the other hand, this legislation prohibits private companies from using pre-employment polygraph screening, while allowing public agencies such as the police department and FBI to use the polygraph. Pre-employment screening is vital when interviewing for the sensitive security positions within our firm. We are the target of not only criminals, but also terrorists who seek to infiltrate security companies.

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

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

BRINK'S INC.,
Oklahoma City, OK, January 12, 1988.

Hon. DON NICKELS,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKELS: Senator Kennedy recently introduced a bill which would restict the use of the polygraph by private employers. S. 1904 is expected to move quickly to the Senate floor.

As a company engaged in security work, I am very concerned about the impact of this legislation on my industry. S. 1904 would allow employers to liberally use of polygraph on employees whom they suspect have caused them economic harm. This harm does not even have to be reported to the police before the polygraph is used.

On the other hand, this legislation prohibits private companies from using pre-employment polygraph screening, while allowing public agencies such as the police department and FBI to use the polygraph. Pre-employment screening is vital when interviewing for the sensitive security positions within our firm. We are the target of not only criminals, but also terrorists who seek to infiltrate security companies.

In most cases, pre-employment polygraphing is as important than post incident polygraphing in the security business; as the harm that can be done is of such a large magnitude. For example, the FBI recently arrested members of the Matcheteros terrorist gang and charged them with an $8 million armored car robbery in Connecticut, a state where poygraphs are outlawed. The terrorists planted a member of their group inside an armored car company as a driver. He fled to Cuba with the funds, which were then used to fuel terrorism in Puerto Rico.

The House of Representatives recognized the special needs of security companies and included in the bill which just pasted the House, an exemption for these functions. An identical exemption was included in the bill which the House passed in 1986.

Frankly, we believe that polygraphs are best regulated at the state level. In fact, twenty-two states now have some sort of restrictions. However, if you believe the federal government should become involved, we would ask that you support an exemption for private security functions.

Sincerely,

JUNIOR STRAWN,
Branch Manager.

Mr. NICKLES. Mr. President, I have one other letter from the Rollins Co. in Dallas. It states:

Between Rollins Protective Service and Orkin Pest Control Company, we send thousands of technicians into more than 1.3 million homes nationwide. We spend over $1 million a year screening our applicants through polygraph testing as well as through a battery of other pre-employment procedures to reduce the chances of our customers being harmed by an unscrupulous employee. To do anything less may be costly, but it would be seriously irresponsible.

During the past ten years, we have denied employment to approximately 16% of those who applied because of repetitive drug use and criminal background which they admitted during polygraph testing. It is doubtful we would have been able to obtain this information through any other means.

It goes on to say:

However, in our case, we are concerned with human lives. Personal property can be retrieved—a human life cannot. Therefore, it is imperative we employ the most comprehensive applicant screening process possible—which includes the use of professionally administered (and state regulated) polygraph testing.

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

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

ROLLINS CO.,
Dallas, TX, February 19, 1988.

U.S. Senator DON NICKLES,
713 Hart Building, Washington, DC

DEAR SENATOR: As you can see, we are strongly opposed to this legislation because it seriously jeopardizes our ability to protect our customers. Between Rollins Protective Service and Orkin Pest Control Company, we send thousands of technicians into more than 1.3 million homes nationwide. We spend over $1 million a year screening our applicants through polygraph testing as well as through a battery of other pre-employment procedures to reduce the chances of our customers being harmed by an unscrupulous employee. To do anything less may be costly, but it would be seriously irresponsible.

During the past ten years, we have denied employment to approximately 16% of those who applied because of repetitive drug use and criminal background which they admitted during polygraph testing. It is doubtful we would have been able to obtain this information through any other means.

People are vulnerable in their homes (see attached article.) We understand some industries have agreed to support S. 1904 which would prohibit all preemployment polygraph usage but allow it in restricted specific incident cases. For a bank or retail store, perhaps that is sufficient because they are concerned with reducing property losses. However, in our case, we are concerned with human lives. Personal property can be retrieved—a human life cannot.

Therefore, it is imperative we empoly the most comprehensive applicant screening process possible—which includes the use of professionally administered (and state regulated) polygraph testing.

We have supportive data regarding our experience with the polygraph and would be more than happy to provide you with any information that would facilitate your efforts. Also, Mr. Nester Macho, special Advisor to the President of Rollins, would be glad to meet with you at any time to discuss our experience.

Mr. NICKLES. Mr. President, I have tried to make the point that we have retained all the protections that Senator KENNEDY and Senator HATCH have in their bill. Their bill allows preemployment testing by polygraph. This amendment expands that. They allow it in the public sector for the FBI and the CIA and for the police departments, for the fire departments, for public municipalities, and for the State and Federal Government. We expand that for private concerns that would use it in the protection service—if they are involved in transporting money, if they are moving a lot of currency, if they are moving money from the Federal Reserve. Most of the money that is moved from the Bureau of Engraving and Printing that prints the money to the Federal Reserve banks is moved by private concerns. This would allow those armored car companies to use a polygraph test to screen persons and find out if they are a terrorist, find out if they are convicted felons, find out if they have a record of drug abuse.

I think it is a good amendment. it does not reach too far. It is a limited amendment. It is a limited amendment trying to protect those persons who are engaged in these types of services.

It would exempt those who provide services industries, such a protective service for your home, so they could at least screen and make sure they are not hiring somebody that has a record of breaking and entering homes or auto theft. They could find out and possibly weed out some of those individuals.

One other example. I mentioned this earlier in my comments and may be it has been overlooked. But Senator KENNEDY's and Senator HATCH's bill allows a private contractor, if they are guarding a munitions facility for the Department of Energy, to use the polygraph. And I think they should. Really, if you have somebody that is building munitions, I think they should have that option.

This would allow them that same option for the same guards, same company—maybe the same guards—protecting a nuclear power facility. I would shudder to think that a guard in a company that was protecting a nuclear power facility, if they infiltrated a private company, worked their way to being at the right gate at the right time, they could allow some of their terrorists in, maybe plant a bomb and start a chain reaction that would lead to a nuclear incident in this country.

Right now the companies that provide security for nuclear power plants have the ability—and most of them use it—to use polygraphs to try to screen and weed out those persons who might have a terrorist background. This bill would prohibit that test. I think that would be a serious mistake.

The House agreed. The House debated this amendment thoroughly, and they passed this amendment. They said we should allow the use of polygraphs in these instances.

Again, this is not much further than what Senator HATCH and Senator KENNEDY have in their bill. I hope they would adopt the amendment. I believe it is a good amendment. It is one that I think has been well thought out. It does not allow a quickie test. It does not allow somebody who is not qualified to administer a polygraph.

I hope that they would agree to the amendment.

Mr. KENNEDY. Mr. President, I thank the Senator from Oklahoma for his explanation. I find it unconvincing. I would not expect that perhaps the Senator from Oklahoma might find it differently, as we do, in the area of preemployment. We do not permit the polygraph and we do not extend this to Federal, State, and local governments for a very important reason, and that is the constitutional protections. And it has not been found to be a problem.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. If I could just finish.

And so, that is basically the distinction on it. To suggest that, well, even under our bill there is permitted some preemployment testing that may be taking place is an accurate statement. I will say that. But, given the kind of other protections that we have found in our own review, we did not find there was sufficient problems compared to what is happening in the private sector to take action.

That is point No. 1.

Second, I want to point out about what the Senator's amendment really does. If you read through the "Exemption for Security Services" on the first page of the amendment, it talks about:

> IN GENERAL.—Subject to paragraph (3), this act shall not prohibit the use of a lie detector test on * * * personnel engaged in the design, installation, and maintenance of security alarm systems.

"Personnel engaged in the design." I mean, is that every designer? Is it every engineer? Is it every draftsman?

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. I will give you a chance for you to explain. I would just like to make the central point, and then I would be glad to yield for a response.

It talks about the design. You have "personnel engaged in the design." And Lord only knows what that means. But I think it is reasonable to assume it is design or engineering draftsmen.

"Installation." Is that every electrician? "Maintenance of security alarm systems." Is that every repairman? Is that every cleaner that, as a part of their routine job, goes out and cleans that system?

And then, it continues: "or other uniformed or plainclothes security personnel and whose function includes protection of," and then it goes (A) (i), (ii), (iii), (iv), (B). And then comes the kicker: "or property." Do we know how many security property guards there are that are listed? There are 500,000.

Mr. NICKLES. The Senator is not working off of the amendment. I am trying to make sure we are working on the exact same amendment.

Mr. KENNEDY. I think that is a fair point to make. That is the amendment that I was handed.

Mr. NICKLES. Could I answer the question of the Senator?

The PRESIDING OFFICER. Does the Senator yield for a statement of the Senator from Oklahoma?

Mr. KENNEDY. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator may proceed.

Mr. NICKLES. I would like to respond to the statement of the Senator.

Mr. KENNEDY. The Senator is correct with regards to the word "property." I had the first edition. It has been altered in the last few hours.

Mr. NICKLES. The amendment we submitted does not say "property."

Mr. KENNEDY. The one that was submitted as S. 1904 that has the Senator's name on it. Was this——

Mr. NICKLES. The amendment we sent to the desk, let me just read it——

Mr. KENNEDY. I see. Well, all we try to do in terms of the debate here is try to take the various amendments that are filed and circulated and then we examine them in terms of the debate and I apologize to the Senator. That was the one that was distributed with the Senator's name on it that was given to me. As I understand, it has been redrafted just prior to the time of submission and now has different language. Certainly I will adjust my remarks. I will review this now. We have been over here for a day and a half on this matter. I understand from staff that it still includes "design," which I referred to.

Mr. NICKLES. That is right.

Mr. KENNEDY. So all the relevant points I made with regard to design, draftsmen, is included, installation—everything I said about electricians is accurate; maintenance of security alarms, all the comments I made about those are accurate.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. Yes, I yield for a question.

The PRESIDING OFFICER. Let us set the record straight. You should come through the Chair to the Senator and we will keep the procedure in the proper perspective here. If the Senator will yield, why, then we will proceed from there.

Mr. NICKLES. I am just trying to respond because I think the Senator from Massachusetts makes a good point. Let me read exactly what the amendment says. It says:

Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, —and on and on.

I guess there is no real argument against armored car personnel; personnel engaged in the design, installation and maintenance of security alarm systems—these are the individuals who design, maintain, install security alarm systems in private homes. They are the people that I am talking about, if a person calls and says: I am worried about somebody breaking into my house. Maybe they have a lot of valuables or something in their house, so they call up a protective service and say: Would you please design a system that will help to protect my home. And maybe it will be electronic, maybe it will be sound, maybe it will be lights, maybe it will be a combination of things that will ring at the police department—these systems are available in most cities.

But the individuals involved go out to their home and they check the windows, they check the doors, they check the entrances to the homes and they design and they install and they maintain alarm systems to protect that home.

So, they are very vulnerable, so what this amendment allows in those companies that provide those services, since they are given such a large degree of confidence by the homeowners to protect their house, it allows those firms the right, before they hire this individual, to use the polygraph.

It says the polygraph cannot be the only reason they would not hire him. They would have to have some other evidence to not hire that person, so it still provides the protections as the Senator from Massachusetts did in his preemployment use of the polygraph, but it would say that these people, because of the nature of their job, since they are involved in security, would not be prohibited from using the polygraph.

Right now, if the Senator's bill passes, you are going to have all these private security companies unable to use the polygraph. I just read some letters into the RECORD. One said that the author found 16 percent of the applicants disqualified because of the use of the polygraph. And that may mean that one out of seven or something like that, might have been entered people's homes, maybe with the purpose of breaking into their homes. I am not sure. But I would hate to think of the people's property stolen, I would hate to think of the physical harm that might come to them, because we did not pass this amendment; or because we passed the Senator's bill as is drafted right now without the House language. Basically the language that we have in this amendment is almost identical to the House language that passed in the House of Representatives.

It is a little bit different because the House bill was basically a prohibition on the use of polygraph altogether. Senator KENNEDY's bill does not go that far. He allows the use of polygraph. He says it is OK for the Department of Defense. He says it is OK for the CIA. My amendment would say it would be OK for firms that are installing protective systems in people's homes to use the polygraph. My amendment says it would be OK for armored car companies such as Wells Fargo or Brinks or other companies to use the polygraph as well, because we are entrusting a lot of security, a lot of valuables in these companies. A lot of value.

Now, if you have a person who is fairly intelligent and says, you know, I would like to steal a lot and I would like to do it a couple of times in a big fashion in a good way, and, therefore, instead of trying to go crashing through some door and find out nothing is there I think I would improve my odds if I went into homes that had security systems and maybe if I helped install that security system I would know now to turn it off; and, since I was in the home installing the system I would probably know something about the valuables that are inside that house. So, now I have installed the system, I know how to maintain it, I know how to turn it off, and also, since I have been servicing this home I know when they are not there.

It just makes sense. Well, if we are going to allow it to the Department of Defense, they are to protect us; we are going to allow it to the CIA, they are there to protect us, they have losts of sensitive information; the FBI, they are exempted because they are providing security, providing protection, let's allow the private firms that are also engaged in protection with the caveats of making sure that these tests are not used in an abusive manner—which is provided for in the Senator's bill. We provided for that in our amendment as well. So we are concerned not only about individual and employee's rights, we put in the identical protections that Senator KENNEDY and Senator HATCH have. We just expanded, and not only allow just the public sector to use preemployment tests, but also we would allow the private sector that is engaged in protecting individuals and property to use preemployment tests as well.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, that has been subject to a variety of different drafts. I point out that it still, as it is drafted, has the same kinds of openness, in terms of those that are involved in any kind of a design, any aspect of installation, any aspects of the maintenance of the systems. I think we are talking about the tens of thousands or hundreds of thousands of people and because of the arguments I made before, in terms of the unreliability as a preemployment device, and we tried to make that case earlier, I have trouble in seeing the justification or the wisdom of this.

I refer back not to just the statements that I make, Mr. President, but I will refer back to what the National Institute of Justice said. They are the principal research arm of the Justice Department on criminal activity. They are the principal guide to the Justice Department and to the Congress. This is what they said:

We found that applying the law enforcement model to theft does not work very well. For example, assessing previous theft activity outside the work setting by using polygraph exams has little relevance to future workplace behavior.

Mr. President, I am mindful of what the Senator would like to do but I believe those that are concerned about security in their banks, all the rest, you pass this amendment, they hire various firms to go on out and get security guards; those security guards are given that polygraph, they pass it, they come right on in that bank. It creates a false sense of security. That is what all of the scientific and medical information is, and that is the conclusion of the principal institute of the Federal Government dealing with crime and criminal behavior. That is their conclusion. That is just not the conclusion of the chairman of the Human Resources Committee or the Senator from Utah. It is an agency of the Justice Department that studies these kind of issues and evaluates the various tests.

I think rather than increasing the security in these areas, we would be creating a false sense. I think the way we have balanced this in terms of the way of the program, in terms of creating a reasonable suspicion after the employment situation, we would hope they would use all the other investigative techniques and personnel reviews that are absolutely essential in the guarding of the areas the Senator has outlined.

But I would hope that the Senate would accept the amendment. I am going to move to table the underlying amendment.

Mr. NICKLES. Will the Senator withhold for a few minutes?

Mr. KENNEDY. I withhold for 2 minutes. I ask consent that I be recognized after 2 minutes.

Mr. NICKLES. If the Senator would give me about 4 or 5 minutes.

The PRESIDING OFFICER (Mr. EXON). Is there objection to the 2 minutes?

Mr. KENNEDY. You cannot object, anyway. I will give you 4 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES] is recognized for 4 minutes, and then the Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. NICKLES. Mr. President, statement made by the armored car industry were that they transport and store over $15 billion per day. Of the majority of monetary losses from the industry, 65 percent result from internal theft.

Furthermore, I might mention employees in this industry frequently are required to carry guns.

I also mention one other result if we do not adopt this amendment. You are going to have a lot of airports not able to use the polygraph to screen those security guards. If the cities themselves hire the security guards, then they could do it. But a lot of airports use private firms to provide for security at the airports, screening, et cetera.

If this amendment is adopted, those private firms would not be entitled to use the polygraph. Again, let us think about that because we have had a lot of terrorism, a lot of it in other countries involving airports.

It would seem to be a terrible thing for us to be telling private firms that only a city can use the polygraph. Let us make sure we keep terrorists out by screening people as they enter the aircraft or coming through the airports, but a private firm, who may have been providing that function to the city for years, would not be entitled to do it.

Again, we keep the same protection that the Senator from Massachusetts and the Senator from Utah do to protect employee rights. We would just allow those private firms who are engaged in security and protection of employees and property in this country to continue the use of the polygraph.

I hope the Senate will reject the motion to table.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I move to table the underlying amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the underlying amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

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

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 20, nays 76, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—20

Armstrong	Evans	Metzenbaum
Bradley	Ford	Mikulski
Cranston	Harkin	Proxmire
Danforth	Hatfield	Reid
Dixon	Heinz	Stennis
Dodd	Kennedy	Weicker
Durenberger	Leahy	

NAYS—76

Adams	Grassley	Packwood
Baucus	Hatch	Pell
Bentsen	Hecht	Pressler
Bingaman	Heflin	Pryor
Bond	Helms	Quayle
Boren	Hollings	Riegle
Boschwitz	Humphrey	Rockefeller
Breaux	Inouye	Roth
Bumpers	Johnston	Rudman
Burdick	Karnes	Sanford
Byrd	Kassebaum	Sarbanes
Chafee	Kasten	Sasser
Chiles	Kerry	Shelby
Cochran	Lautenberg	Simpson
Cohen	Levin	Specter
Conrad	Lugar	Stafford
D'Amato	Matsunaga	Stevens
Daschle	McCain	Symms
DeConcini	McClure	Thurmond
Domenici	McConnell	Trible
Exon	Melcher	Wallop
Fowler	Mitchell	Warner
Garn	Moynihan	Wilson
Glenn	Murkowski	Wirth
Graham	Nickles	
Gramm	Nunn	

NOT VOTING—4

Biden	Gore
Dole	Simon

So the motion to lay on the table Amendment No. 1607 was rejected.

Mr. HEINZ and Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. NICKLES. Mr. President, will the Senator yield for just a moment?

Mr. HEINZ. I yield without losing my right to the floor.

Mr. NICKLES. We have not yet disposed of my amendment. Can we do that first?

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 1608) was agreed to.

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

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

The motion to lay on the table was agreed to.

WORLD BANK STEEL LOAN TO MEXICO

Mr. HEINZ. Mr. President, earlier today Members of the Senate Steel Caucus which is chaired by Senator METZENBAUM, myself, Senator BYRD, Senator SIMPSON, and others met with the Secretary of the Treasury, Jim Baker, to take strong exception to the plans of the World Bank tomorrow to act on a $400 million loan to Mexico for the benefit of their steel industry.

Part of our reason for meeting with Secretary Baker was to ascertain what our Government's position on this loan might be. The scale and scope of this loan is such as to be a very grave concern; that is, $400 million, a substantial portion of which represents a financial commitment by the United States and our taxpayers to a steel industry that currently produces about 5 million tons from about 10 million tons of capacity annually, compared to a U.S. industry that has about 100 million tons of capacity and when healthy is producing 70 or 80 million tons annually. And one might therefore compare that $400 million World Bank so-called loan to the equivalent of a $4 billion financial package of assistance to the American steel industry, if not more.

I call it a so-called loan because it is a deal that nobody could ever get in the private sector. It has a very generous term. It is a 15-year loan, it is at below market interest rate, and the nice thing is for the first 3 years the money is absolutely free. Would it not be nice if Americans, whether they are steelworkers or in the steel industry, could get free money, $400 million, let alone $4 billion for 3 years? I think we would be all very happy about that.

In following up a discussion that we had with Secretary Baker in which we all voiced our concerns about tomorrow, we urge Secretary Baker to express our concern to the president of the World Bank, Barber Conable, who, as a former colleague of many of ours from the House of Representatives, we have a great deal of respect for, and to urge Barber Conable to withdraw or postpone the action that the Bank was intending to take tomorrow so that it could reconsider not only the merits of the proposal but the wider implications of the Bank's proceeding.

We also wanted, as I say, to find out whether our Government intended to support, by the vote of our U.S. Executive Director to the Board of the World Bank, that loan. And we urged, of course, as one might expect that a proposal that we felt was ill-advised in the first place and certainly hastily considered, we were only informed of this within the last 48 hours—that our U.S. Executive Director should vote against that loan. But it does not do anybody very much good if the U.S. Executive Director votes against the loan and it goes through anyway.

If the loan is to have any economic value to it, the effect has to be to

either increase production, to reduce imports, or to increase exports of steel, presumably at higher value-added categories. Otherwise, this is a bad loan.

So the position the World Bank is in is that it is either making a loan that can only pay for itself if Mexican production increases and imports decrease—imports of some of that steel at higher value added from the United States—and/or if their exports to countries like the United States increase.

I point that out because the argument for this loan is, "Don't worry; it's not going to hurt anybody."

Well, if it is not going to hurt anybody and it is not going to help anybody in Mexico, it is a bad loan.

So the World Bank, in my judgment, cannot make a consistent argument. It is either a bad loan that will not earn its keep or it is a loan that will earn its keep in way that is bound to affect international steel trade; and if there is one thing we know it is that we have enough steel capacity in the world, probably 100 percent more than we need. It is against everybody's interests to have institutions such as the World Bank putting more money into an industry with overcapactiy at subsidized rates. That just subsidizes more capacity or the upgrading of more capacity, and there is no justification for that. If people want to do it using money at nonconcessional rates, that is something else; but these are public funds, world funds, at concessional rates.

I made these argments in the course of a discussion within the hour with the president of the World Bank, Mr. Conable. I had hoped that these arguments would be persuasive to him and that he would withdraw the loan for consideration from the Bank's agenda tomorrow.

I am in the position of having to carry bad news to the Senate and to my constituents and to the American taxpayer. Barber Conable, who was very honest and direct, said: "I can't withdraw this loan. It will be put up to a vote tomorrow."

The implications were, I am sorry to say, that he thought it would be approved by the World Bank board, notwithstanding the vote of our U.S. Executive Director.

I suspect that he is probably right, because if there is one thing he did learn—he was in the House of Representatives, as ranking member of the Ways and Means Committee—it was to count votes.

I bring this to the attention of our colleagues because I think we should try to do something about it. What I want to urge is that this body at least take the modest step of going on record now against this loan. I do not doubt that should the loan go ahead—and I hope it will not—we may have to take additional action. But the most honest thing we can do is to express the policy of this body in the type of resolution that the Senator from Ohio [Mr. METZENBAUM] introduced yesterday. I see that he is on the floor, and I do urge him to offer his resolution. I will support it, as one might guess from my remarks, in the strongest possible terms.

Mr. President, I do not wish to impinge upon the debate right now, and I yield the floor.

POLYGRAPH PROTECTION ACT OF 1987

The Senate continued with the consideration of the bill S. 1904.

Mr. NICKLES and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER [Mr. FOWLER]. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from South Carolina.

Mr. NICKLES. Mr. President, I urge the adoption of the amendment, as amended.

The PRESIDING OFFICER. Is there further debate on the question? If not, the question occurs on the amendment of the Senator from South Carolina.

The amendment (No. 1607), as amended, was agreed to.

Mr. NICKLES. I move to reconsider the vote by which the amendment was agreed to.

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

Mr. President, I see the Senator from Ohio on the floor. I know that he is very interested and committed on this issue. I would like to find out what the desire of the Senator from Ohio is. We would obviously like to cooperate. We know he feels intensely about it.

I inquire: What is his program?

The PRESIDING OFFICER. The Senator from Ohio (Mr. METZENBAUM).

WORLD BANK STEEL LOAN

Mr. METZENBAUM. Mr. President, I want to announce to my colleagues that we offered this resolution yesterday. It is a sense-of-the-Senate resolution which specifically provides that it is the sense of the Senate that the purpose of the loan is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization, and the Government of the United States should use its best efforts to prevent approval of that loan.

After a meeting with Jim Baker, the Secretary of the Treasury, this morning, which was called by Senator BYRD, with the assurance of Secretary Baker that the United States would vote against the loan, I had hoped that, at a minimum, the World Bank would see fit to postpone this issue.

I had hoped that we would not have to get into this again today, because I thought that the World Bank would postpone the matter while we discussed it further.

However, according to Senator HEINZ, we have been informed by Barber Conable, the president of the World Bank, that they are going ahead with the vote tomorrow, which means they are going to approve the $400 million loan to Mexico.

Sometime before the evening closes, I will be prepared to offer a sense-of-the-Senate resolution as an amendment to this bill or as an amendment to a pending amendment. The manager of the bill has indicated that he would hope we would hold off for a bit, in order that he might try to get the bill closer to fruition. I am perfectly willing to be cooperative in that respect, with an assurance from him that before the bill is closed down, the Senator from Ohio, the Senator from Pennsylvania, and the Senator from West Virginia, who have an interest, would have an opportunity to come forward.

In view of the vote that will occur tomorrow, I feel that it is imperative that we act this evening. As long as the Senator from Massachusetts has indicated to me that he expects to finish this bill tonight—on that assumption I have no reason to go forward with the amendment now. If, for some reason, we do not finish the bill tonight, I hope I will have the assurance of the Senator from Massachusetts that an opportunity will be made so that we can offer this amendment, because offering it tomorrow will be after the fact.

Does the Senator see any problem with that?

Mr. KENNEDY. Is it the intention to offer it on this bill?

Mr. METZENBAUM. Yes. The intention is to offer it as an amendment or a second-degree amendment on this bill. I do not believe there is any opposition, with the possible exception of one Member. I may be wrong about that. There is tremendous interest by those Senators who have steelmaking operations in their States. I think there are 36 members of the steel caucus, on both sides of the aisle.

The answer is, yes, I do intend to offer it on this bill, because I cannot get it to a vote otherwise.

Mr. KENNEDY. I recognize the Senator's position and am in sympathy with it. We are in a situation now where we are not going to get final action on this, and I will have to reserve my position.

I want to make that clear to the Senator from Ohio. I have made a commitment that we keep off matters that were not relevant to this. I feel committed to that position. I voted against the position last evening with regard to labeling which I strongly support in terms of its merits. I have given those assurances to the floor.

I know this is an exceptional set of circumstances, and I am in sympathy with what the Senator is trying to do. He might be able to find that I am

sometimes persuasive and sometimes not around this body.

But I am not able nor would I at this time give the assurances that we are going to be willing to accept that on this particular measure at this time.

Mr. METZENBAUM. Mr. President, will the Senator from Massachusetts be good enough to give me assurance that he will protect my position before closing down for the night?

Mr. KENNEDY. I would be glad to notify the Senator when we are closing or we are not able to make further progress on further amendments. I will certainly do that.

Mr. METZENBAUM. So I will have an opportunity. I do not wish to interfere with the Senator's handling of the bill. I want to be able to at least have an opportunity to offer this.

Mr. KENNEDY. Yes; I will be glad to notify the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1609

(Purpose: To permit an employer to administer a lie detector test to an employee if the employee requests the test)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an amendment numbered 1609.

Mr. BOSCHWITZ. If you would read the amendment?

The legislative clerk read as follows:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR VOLUNTARY TESTS.—This Act shall not prohibit an employer or agent of the employer from administering a lie detector test to an employee or prospective employee if—

(1) the employee or prospective employee requests the test; and

(2) the employer or agent administering the test informs the employee or prospective employee that taking the test is voluntary.

The PRESIDING OFFICER. The Senator from Minnesota is recognized in support of his amendment.

Mr. BOSCHWITZ. Mr. President, this amendment would allow an employee or prospective employee to voluntarily ask to have a polygraph test. It is not a condition of employment. It cannot be made a condition of employment by this bill. Nor does this amendment intend to create that result.

The polygraph test, Mr. President, has proven its worthiness in assisting defense agencies in guarding national security, and Congress has repeatedly endorsed the polygraph for the purpose of preserving national security.

Similar security considerations really should be able to apply to the private sector.

In 1985 the House of Representatives voted 331 to 71 for an amendment which would allow the Department of Defense to increase polygraph screening of personnel with access to sensitive information. The Senate agreed to a conference report containing these polygraph provisions.

In 1987 a similar vote occurred, 345 to 44, for an amendment to the defense authorization bill that established a permanent polygraph program for national defense agencies.

The Senate voted 89 to 6 to accept conference reports that contained those permanent polygraph provisions.

Mr. President, Congress has clearly expressed its support for polygraph as a means of ferreting out possible illegality within the Government in the areas of defense and the areas of security. If polygraph works for the Federal Government, it certainly should work equally well for the private sector in its battle against illegal conduct in the workplace. When you consider drugs and the distribution of drugs and other such things, certainly the public needs to be protected.

Employee theft raises the cost of goods. The U.S. Chamber of Commerce reports that it raises them significantly.

The Drug Enforcement Administration, which supports polygraph screening, estimates that over 1 million doses of drugs each year are stolen from drug retailers, wholesalers, distributors, hospitals, and the like. Crime in the workplace is really quite a serious threat to the economy. It can bring a whole company down.

In my experience as a businessman, Mr. President, I have often had that problem. Interestingly, I have never used a polygraph. But that this amendment would do is allow an employee to come to an employer and say, "I know that there is thievery going on." And unfortunately, it is a common occurrence in business. "And I want to take a polygraph in order that you know that you can rely upon me." That option should be open to an employee and under this bill it is not.

This amendment is really an encapsulation of Minnesota statutes, and in Minnesota this amendment has been made part of the law and really simply preserves an employee's right to request a test.

The evidence in Minnesota suggests that it has worked very well; that there has not been abuse, and I understand and agree that we should protect employees against such abuse. But it really in no way alters the approach taken by this bill for the employees in the use of polygraph. It is the employer which we seek to regulate, not the employee, and therefore I offer this amendment as an effort to give employees, honest employees, employees who want to protect not only their own position, their own job, but who want to protect their place of employment, an opportunity to ask for a lie detector test.

It will not be used in every instance, I am sure. It may be that the very suggestion by an employee to his employer that he wants to take a polygraph test will be enough in most instances, as I would assume it would be, for an employer to believe that this employee at least is not guilty of some of the problems that they may be having.

In my years in business, Mr. President, time and again I had that problem, and they are very difficult problems. I often had employees and their wives and their families approach me. Those were very difficult things to do in the conduct of business, to say to a person "you have to leave us because we believe you are stealing" or in some instances even proof was available and in some instances not. It is a very difficult situation. The use of a polygraph in such situations helps both the employer and the employee. It helps people protect their jobs and helps people protect the companies for which they work.

Many companies, Mr. President, have been brought down, many companies have had to go out of business due to employee theft, due to very many situations where people have acted in contravention of the law. So it is important that we allow the employee every ability to prove his innocence and to continue the business of his employer.

Mr. President, I understand that the managers of the bill will not accept this amendment. I would ask that they respond.

I yield the floor.

Mr. KENNEDY. Mr. President, I understand the purpose for which this amendment is offered. Under the best of circumstances, I imagine that the Senator from Minnesota is trying to offer opportunities to those individuals who truly want to take a polygraph and permit those circumstances to be available under this legislation. So I understand what the purpose is.

The amendment of the Senator from Minnesota is very closely patterned after the State law. As I understand, in Minnesota employers can solicit or require the polygraph.

Now, Mr. President, there are similar laws in a number of the different States, and what we have found even in the State of Minnesota, in the Kamrath versus Suburban Bank case of 1985, even though it might look voluntary, inevitably there is a sense of coercion when the States have prepared legislation that even indicates that they cannot solicit or require. The Kamrath case in Minnesota pointed that out.

But there are cases in Maryland, cases in Pennsylvania, in California, other States besides Minnesota which

have similar kinds of requirements, and they have been just open-ended invitations to employers to say "Well, look, this is all voluntary, Mr. or Miss so-and-so, and we can't fire you or require you to take it as a condition of employment." You can imagine how that works in the various employment halls or personnel centers around the country. There is just instance after instance where this has created an enormous loophole.

In the legislation we do provide that when there are circumstances where there is reason to believe that an individual has been involved in some wrongdoing, the employer can make a request of the employee to take the lie detector, and the individual can either take it or not take it. We spell out exactly the circumstances when that will or will not be available.

So we do in the legislation permit an employer to make that request, and in a sense it is voluntary. There has to be other evidence besides the fact that the employee did not take the test if the employer wants to dismiss that employee. That is all laid out in the legislation.

It seems to me that that provides the kind of safeguards that are necessary in terms of assuring both the employer's interest and the employee's.

Basically, where similar kinds of legislation have been put into effect in the several States, there has been a wide record of abuse. They say it is voluntary, but the overwhelming evidence—and we have evidence in our committee records from Maryland and other cases, other than the State of Minnesota, which we have reference to in our record—just creates an absolutely enormous loophole.

It is really for those reasons that the Senator from Utah and myself find it difficult and unacceptable. I will be glad to yield.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. The distinguished senior Senator from Massachusetts points out the Kamrath case in Minnesota where implicit coercion was indeed found and where damages were awarded to the employee. The courts will protect the employees where there is implicit coercion.

The distinguished Senator from Massachusetts says the employer will make this request of the employee, under certain circumstances. Why cannot then the employee make a similar request of the employer? Why should he not have the right to make a similar request?

I think indeed there has to be other evidence. My friend from Masschusetts says that in the event the employer makes the request and the employee says no, there has to be other evidence before you can dismiss the employee. In the real world, other evidence can always be found, and other evidence is a very subjective type of thing. The other evidence, I presume, does not have to relate to the appearance at hand.

Really that is not very much protection at all, and I ask that the employee have at least the same rights that the employer has.

I would say to my friend from Massachusetts, I note that my amendment talks about administering a lie detector test to an employee or prospective employee. I would tend to agree with the Senator from Massachusetts when he says that you can ask somebody before he becomes an employee, "Would you be willing to take a lie detector test?" In the event a person says no and the employer would no longer consider that employee, I do not understand that that is permissible under this law, and it is not really covered by my amendment.

I wonder if the Senator from Massachusetts and the Senator from Utah would accept the amendment if we removed the term "prospective employee" so that there would not be consideration or a feeling, in the event a prospective employee does not volunteer to take a lie detector test, that he would not be considered.

For instance, the employer does not even really have to ask a prospective employee. As the distinguished Senator from Massachusetts points out, the employer can make it quite well known to an employment agency, for instance, that "we like employees who will come and volunteer to take lie detector tests." The employment agency will find a way to say to a prospective employee, "I would mention, if I were you, when you talk to this fellow that you suggest that you are willing to take a lie detector test." That can almost become a condition of employment. I agree.

In the event we take "prospective employee" out of this, and it would just be an "employee" rather than a "prospective employee," that certainly should make the amendment more palatable.

As a businessman, I have never used, and I wonder if the distinguished Senator from Utah is in the Chamber or nearby because I would like to hear his thoughts about it as well, but as an employer over many years, employing as many as 1,200 people at any one time, and often having had experience with theft and often having some very difficult moments with employees about it, I did not use it for employees and had never even considered using it for prospective employees.

Would that make the amendment more palatable, I would ask my friend from Massachusetts?

Mr. KENNEDY. I would answer the Senator, it really would not because basically what we are talking about is the real potential for coercion. In the preemployment situation, what individual is going to go to the extent of bringing a case, paying the expenses, following all the way through the legal process in order to get, what, in terms of damages? It is basically unrealistic, and it is extremely difficult for me to understand——

Mr. BOSCHWITZ. Would the——

Mr. KENNEDY. Let me just finish one other point. It is extremely difficult for me to understand why an employee would take the test in the first place when, under the OTA study it says only half, "53 percent of the test subjects were correctly identified by the polygraphers." It is a flip of the coin. That is what we are dealing with, and the only way we can understand it. It is difficult for me, in common sense values, to think someone is going in there to say voluntarily, "Give me a polygraph" with a 50-percent chance of being caught wrong, unless there is going to be some type of coercion. We permit it under limited circumstances described as an investigatory tool.

Given the record that we have, preemployment, it is virtually difficult, if not impossible, to expect that there would be cases that would be brought into the court system. In the postemployment situation, which is the Minnesota case, the Kamrath case, that individual had to come into court and demonstrate by the evidence that they had nightmares and bed wetting in order to get a judgment. Now who in the world is going to do that when we have testimony before our committee that it has been used in the States where they have these sort of protections: will not be used to coerce or solicit or required be taken. Virtually the identical words.

I have difficulty being persuaded. I understand what the Senator is trying to do. I just find it difficult to be persuaded that even adjusting it from the preemployment to the postemployment, without the kind of protections that we included, that the polygraph would be useful.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I must tell you I respectfully think that my friend from Massachusetts has missed the point. We will take out the "prospective employee." We will only leave in the "employee" so that you cannot submit a person to a lie detector test as a condition of employment which, as I say, really can be implicitly done. The employer does not have to say anything to the employee directly. As you mentioned, he lets it be known to the employment agency in advance that he wants employees who will take lie detector tests. I can see where coercion could occur, but an employee who is already in the firm, if you want to put them in the firm for 3 months or something, fine, but take out the words "prospective employee" wherever it occurs in the amendment. Then an employee should have the right.

I would ask my friend from Massachusetts, if it is only 53 percent effec-

tive, why in the world are you allowing polygraph tests in the first place?

I mean I have never heard the percentage of 53 percent. If properly applied, the polygraph is certainly more effective than 53 percent. At least that is what the people in the security end of our Government have led me to believe. They sure believe in the polygraph test.

As the Senator knows, sometimes the security of the Nation is relying on the results of those tests. If it is so ineffective, why does the Senator make the exception at all? If we make the exception and allow the employer to make the request of an employee in the event that the employer makes an insurance claim or makes a report to the police of a missing item which is really not a very complicated procedure to make, then if the employer under those circumstances can make the request, certainly the employee should be able to make the request.

We would take out the word "prospective" employee. Very frankly, I, during my business career, had any number of break-ins, and thieves in our buildings. We had buildings all over the place. The police came in. It is not a very complicated matter to file some kind of a report with the police and thereby give the employer the opportunity to make a test.

So I ask my friend from Massachusetts once again. If we take out the words "prospective employee" and only apply the polygraph test to employees who wish and make that request, then why should it not be acceptable when he allows the employer to make a similar request?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just in response as to why we still permit it, the figures I gave the Senator were the correct ones. You have some that are incorrect and some that are doubtful, is the way this particular study that was conducted referred to in the OTA study, but just in terms of the study that is referenced in the OTA study on page 65.

But let me come to this: We only permit it then under very limited sets of circumstances. But let me just get back to the proposal. In the amendment of the Senator from Minnesota, he says exemption for the voluntary test.

> This act shall not prohibit an employer or agent of the employer from administering a lie detector to an employee or prospective employee if the employee requests a test and the employer or agent administering the test informs the employee that taking the test is voluntary.

Will you have that employer saying, look, this is voluntary. It is the employer telling that individual it is voluntary. I just find that given the record, Mr. President, as just being unrealistic. If we have eliminated the preemployment circumstances, now we are just taking those that are working. We set out where the individual will take that voluntarily under the circumstance of the bill. We are trying to move back from those other kinds of incidents. I just think that the record is so replete with instances of coercion, so replete with it that it just is not worth doing.

The way that this is crafted is the result of careful consideration of both the State laws, the professional testimony of the various polygraphers, and we have tried to devise a way both in terms of the business and the workers looking after each of their interests. I think we have been able to thread that needle in a rather different way. It is different from where the House came out. That is why we have been able to get the broad support from the business community that has opposed the House bill—nine different trading organizations with broad support.

I think what the amendment of the Senator from Minnesota is talking about would open up this whole proposal in a completely unworkable way, and still include the types of coercions, and exploitation that we have seen in the past.

Mr. President, I move to table the amendment.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Would the Senator withhold?

Mr. KENNEDY. Mr. President, I think we really have to get action. We have taken a good deal of time. I would be glad to withhold for a couple of minutes. We waited for the good Senator for a good deal of time. I am glad to, if he wants to make additional comments.

Mr. QUAYLE. Could I have 3 or 5 minutes to make sure I understand?

Mr. BOSCHWITZ. I want to respond to the Senator and ask for indulgence so we do not move to table the motion. We have not discussed the motion at great length. And we are not going to discuss it at great length but we want to have a fair amount of time. So I respectfully request we not move to table this at this time.

Mr. KENNEDY. The Senator is persuasive as always.

I cannot wait to hear from my friend from Indiana, and I always enjoy his eloquence on this subject matter. So we withdraw the motion.

The PRESIDING OFFICER. The Senator withholds his motion.

Who seeks recognition?

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Thank you, Mr. President.

I see my dear friend from Massachusetts has seated himself to listen to what the Senator from Indiana has to say in a few brief moments. He did not want to stand up, and then have to sit down.

Let me make sure that I understand this amendment assuming that prospective employee is dropped. I want to make sure that the Senate understands what it is going to be voting on.

Let us take an example where there has in fact been a theft in a plant, and the employer decides not to polygraph the people, say there is a section out there where the theft occurred and there are 20 people, 30 people, or 50 people in that section. And there has been a theft. There has been something done that puts a cloud over that whole section of all the employees that are there.

The employer says "I am not going to go through the time of polygraphs. As a matter of fact, I just do not want to waste time to do this." However, an employee in that section says, "Wait a second. I may want to go on to another job and I certainly don't want anything on my record or anybody to think that I was involved in this. And I demand and I want to have a polygraph. I want you to polygraph me."

The employer says, "Well, if you want to, OK." Now, I believe that is what the amendment of the Senator of Minnesota is going to. It goes to where you have an entire cloud that could be passed over a lot of employees. And what you are going to be doing is showing the degree of really involving ourselves in these employer-employee relationships. The employee may say, "I want to clear the record; I as an individual."

What we are saying is no, that individual cannot do that, no matter what. I believe we are going very far. I know the Senator from Massachusetts is a strong proponent of individual rights and civil liberties. And he takes a back seat to no one. But I want him to think of that particular situation of where an employee that has a cloud cast over the section, where they work, and he or she says, "You know, I want to make sure that they know that I am not involved and I want to, I myself want to go forward and ask for this polygraph." The employer says OK.

We are saying it would be prohibited under the bill, but would be allowed under the Boschwitz amendment. I think that makes common sense. I think that is the only decent thing we can do. I do not believe this amendment is that controversial. I think it goes to a very narrow fundamental point; that is, if an employee volunteers, I think the Senator from Massachusetts makes a good point that these prospective employees perhaps think there would be this intimidation factor. But an employee who wants to clear the air, clear the record, comes forth and says, "You give me a polygraph" and the employer says "OK," it is precluded. It would be allowed under the Boschwitz amendment. It goes to a very, very narrow situation, one that I hope the sponsors of the bill might agree to. I do not believe it is going to do that much damage to this piece of legislation.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I thank the Senator from Indiana. Indeed, the situation that he described could certainly come up. Again from my business experience, I am aware of companies that have gone out of business due to theft. Indeed, that becomes a well-known fact. And employee theft within a company normally is not a well-known fact. It does not become knowledge that is to say. But in the event a company is widely affected or perhaps even goes out of business, the cloud indeed could be cast over all of the employees who were associated with that business, and make it more difficult for them to obtain employment thereafter.

My friend from Massachusetts talks about the fact that he has broad support from the business community. Nine associations, I understand, support this bill as it is. I understand that the Senator from South Carolina [Mr. THURMOND] has introduced a list of 80 associations that oppose it.

I say to my friend from Massachusetts, with respect to the second part of this amendment that he read, that the employer or agent administering the test inform the employee or prospective employee that taking the test is voluntary, we added that from the standpoint of protection. Just as a policeman must inform a suspect that he has certain rights, we just wanted to be sure that the employer must state to him that this is voluntary, so it is said out loud.

If the distinguished Senator from Massachusetts objects to that provision, we will take it out.

I ask for the attention of the Senator from Utah, as well, if the Senator from Utah will listen to the resubmission of this amendment. It would read:

This act shall not prohibit an employer or agent of the employer from administering a lie detector test to an employee if the employee requests the test.

I would like to change the amendment. I would withdraw and resubmit the amendment, and I ask at this time that my amendment be withdrawn.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

Mr. KENNEDY and Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has retained the floor.

AMENDMENT NO. 1610

(Purpose: To permit an employer to administer a lie detector test to an employee if the employee requests the test)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] proposes an amendment numbered 1610:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR VOLUNTARY TESTS.—This Act shall not prohibit an employer or agent of the employer from administering a lie detector test to an employee if—

the employee requests the test.

Mr. BOSCHWITZ. Mr. President, the amendment is simple and direct. I hope that the manager of the bill and the minority manager of the bill will be able to accept it.

Mr. KENNEDY. Mr. President, I have outlined the reasons earlier about my own reservations. They are reinforced with the example that has been given by the Senator from Indiana.

If you take the OTA study—say, you had a hall with 100 people. Something is missing, and they want to come forward. According to the OTA study, you would have 12 polygraph tests that would be incorrect. Given the false positives and false negatives, what it would say is that eight innocent people would be labeled guilty and four who are guilty would be labeled innocent, if they volunteer, under the most conservative of the studies, and 35 percent of the examinations are inconclusive.

So, here you have 35 people of that 100 in that building. They are under a cloud—their tests are inconclusive. You have eight people who are innocent and who are going to be labeled liars or deceitful, and you are going to have four who may be lying about it, who, under these tests, will be cleared. What possible sense does that make?

We have been through this. We have worked out the formula about how this can be used and used under restricted circumstances as a part of an investigation of specific incidents. The example that is given, I find, substantiates that point and makes it even less convincing than before.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. QUAYLE. If you take that hypothetical of 50 people, I would think that maybe only one or two or three people want to come forward; because most people, frankly, including myself, do not want to take a lie detector test under any circumstances. But there might be somebody who wants to come forward, and you are precluding that one person, not all of them. Is there not some concern about someone who voluntarily wants to come forward?

Mr. KENNEDY. A hundred are in there, and they are missing a shoe box: "Now, Harry, Jim just came in and volunteered and he is free. He is not guilty. Do you think you would like to volunteer? You would or you would not want to volunteer?"

Let us be realistic about these circumstances. We have the conditions now where those tests can be requested and how those procedures would be made.

Mr. HATCH. Mr. President, I admire my colleague from Minnesota and what he is trying to do. I have to say that I know his intentions are very good, but I happen to disagree, and I will say why.

We have carefully crafted this section on post employment so that I think it basically takes care of his problem. I do not want to have his amendment in the bill for a very specific reason:

First of all, under section 7(2)(d), limited exemption for ongoing investigations:

Subject to section 8, this Act shall not prohibit an employer from requesting an employee to submit to a polygraph test if—

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, including theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage;

(2) the employee had access to the property that is the subject of investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(4) the employer—

(A) files a report . . .

Where this type of language is included in State laws, the record in our committee is replete with examples where it has been the subject of considerable abuse. We are now under the third revision of this amendment. It seems to me that this substantiates that the way this was crafted in the committee, after a good deal of consideration, makes excellent sense.

I think it takes care of almost every situation, except one, and that is this: If we adopt the amendment of the distinguished Senator from Minnesota, then basically an employee who may be one of a number who are under suspicion, where there is a reasonable suspicion, may say, "I will be glad to take the lie detector test," and it may be the guilty employee, figuring that you can beat the lie detector, which you can. Sometimes, the most dishonest people can beat it. The most honest are the ones who are a little jittery about a lie detector test. Let us say there are three or four others there who are under reasonable suspicion.

One of them may be an extremely nervous person who just has heard that lie detector tests are not accurate. If they heard that they are right. They are not accurate.

Under the very best of circumstances which I described earlier they would be accurate maybe 85 percent of the time, but 15 percent that poor fellow is going to be thinking "because I am nervous and I am upset it is going to be inaccurate with regard to me."

So you develop a situation where the one who may be guilty may want the test and the other who is not guilty looks like he does not want the test and I think it becomes a subtle form

of discrimination if not overt discrimination.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. HATCH. I would be happy to yield if I could make a line of points and then I think the distinguished Senator would want to ask me some questions perhaps.

Maybe there are three or four in that group of people, and I do not know anybody who would want to voluntarily take a lie detector test under the circumstances of knowledge that they may not be accurate. Most people perhaps do not know that they are generally inadmissible under evidentiary rules in our courts of law, but if they heard that they would be very concerned about the accuracy of lie detector tests, and maybe the honest guy will fail it.

I have actually seen cases of honest people where the polygrapher was so well skilled that he knew what looked like deception really was not, it was really honesty, but you have to have a very skilled polygrapher to be able to determine that because people who are very honest are sometime the most uptight. The one with the highest set of ethics and the highest principles may be the ones who come out deceptive under an improperly administered polygraph or even under one administered by a person who has skills but not the ultimate skills in administering polygraphs.

Under our bill you need the evidentiary basis before the employer can use the polygraph. That is a protection to both the employer and the employee.

Under the amendment the reality of coercion is always there. That is what I want to get rid of.

I know the distinguished Senator has noble goals here and noble aims, but literally the reality will be that of coercion.

Frankly that is what we are trying to get around here.

For instance, let us push it to its logical extreme. Let us say that one employee is under reasonable suspicion. By this bill let us say that one employee requests a polygraph. Why would he or she request a polygraph? The reason he or she is requesting a polygraph is that somebody accused them or they are afraid they are under reasonable suspicion for having done something wrong. That is the only reason anybody would request a polygraph test. Nobody in their right mind would request it otherwise.

If there is the evidentiary basis, if there is a reasonable suspicion, nothing stops that employee from saying to his employer, "Look, I will be glad to take a polygraph." The employer might say to him, "Why, I don't want to pay for it."

Under this bill, you know there is a real question whether the employee can be fired under those circumstances.

The fact is that the employer probably would be glad to pay for it if he is any kind of employer.

Let us say the employer says, "I don't want to pay for it," and the employee says, "I will pay for it. Let us agree on the polygraph institution or the polygrapher and I will pay for it."

I cannot imagine an employer, unless they are really trying to discriminate against the employee, who would not accept that situation and allow the employee to demand a polygraph test for which the employee pays.

Now I think that the carefully crafted language of this bill solves the problem of the distinguished Senator from Minnesota but it also solves this problem of coercion, and that is what bothers me.

I cannot support the amendment of my friend from Minnesota, and I wish I could, but I think the bill is crafted properly.

Let us face it. There are good arguments that we should have preemployment screening, but I think on balance when you consider those who really are hurt by the process that exists today that outweighs the arguments in favor of preemployment screening. I think the arguments I made outweigh the arguments of the distinguished Senator from Minnesota even though I am sure he disagrees with that. I think we have it crafted. I think we can resolve these problems. I think the employee can demand a polygraph examination and pay for it himself or herself, but the fact of the matter is there is no reason to change this bill as it is written because if we adopt the language of my friend from Minnesota, then we are adopting language that I think leads to coercion in the workplace. That is what we are trying to avoid.

I am happy to yield to my friend.

Mr. BOSCHWITZ. I ask my distinguished colleague from Utah if these tests can be so easily fooled——

Mr. HATCH. They can.

Mr. BOSCHWITZ. They can, you say.

Mr. HATCH. They can under certain circumstances.

Mr. BOSCHWITZ. Why do you have this section in here at all in this case? If you think that polygraphs work so poorly why do you not just outlaw them out of hand?

Mr. HATCH. We know they work if they are properly administered under the best of circumstances with good analysis and good questions and a reasonable time. We know that they can work 85 percent of the time.

Now, the way we have written this is we have written it so that the polygraph does not solely become the instrument of discharge for the employee. It can be a part of the consideration and it may very well be that the polygraph examination will exonerate the employee so that the employer will really feel satisfied.

So we have acknowledged that under those circumstances where a reasonable suspicion arises or appropriate evidentiary basis the employee can administer the polygraph and we also suggest standards better than the standards that presently exist.

This bill does two things. It sets up an evidentiary basis so that the polygraph itself is not the sole reason for discharging the employee and it sets up a system whereby better standards can be developed and more uniform standards.

Mr. BOSCHWITZ. Mr. President, will the Senator yield?

Mr. HATCH. I am happy to yield.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I do not want to extend this debate and I know that the senior Senator from Massachusetts wants to make a motion to table which will effectively end debate.

But in the event the Senator from Utah wants to put some conditions on this amendment that say that the tests have to be taken by a licensed person or something like that I have no objection.

Mr. HATCH. Will the Senator yield on that point?

Mr. BOSCHWITZ. I yield.

Mr. HATCH. We cannot do that because one of the biggest problems we have——

Mr. BOSCHWITZ. What?

Mr. HATCH. We cannot do that because one of the biggest problems we have is what standards will be set or imposed on the States or the Federal Government. We are going to leave that to the people to whom it should be left.

Frankly, we can do that.

The Senator's amendment is effective in one particular and that is that it results in coercion of the workplace. It results in that. I know what he is trying to do but the way it is written it results in that.

Frankly, I think our language on which we spent really quite a bit of time solves the problem.

Mr. BOSCHWITZ. Mr. President, we would be very happy to make this amendment subject to section 8 of the bill that lists qualifications of examiners and I presume that the bill would be broad enough that if the amendments were added it would be subject to all of those conditions.

But you know we deal with examples, I would say to my friend from Utah, and the example is that you cast a cloud over people who cannot exonerate themselves.

If you think that people are going to volunteer for this test, that people who are liars or know that the tests can be fooled, that they are going to volunteer for this test, you are really not dealing with the real world, I would say to my friend from Utah, because in my business career I never imposed a lie detector test on any of my

employees but others that I knew in business did. That is a hard decision to make. That means that you do not trust your employees and if you do not trust your employees I tell you that you begin the path toward not doing very well in business and perhaps even ending your business career.

There has to be a mutuality of trust, but in the event that an employee wants to take the test, in the event that the business is going to fold due to employee theft, certainly an employee should be able to volunteer for a test so there will not be a cloud over his head.

To think that people will volunteer for a lie detector test on the basis that they are going to be able to fool the lie detector when the bill has provisions as to how the lie detector test is going to be administered I think that is not dealing with the real world.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Minnesota.

On this question, the yeas and nays were ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

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

The PRESIDING OFFICER (Mr. PELL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 38, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—56

Adams	DeConcini	Johnston
Armstrong	Dodd	Kassebaum
Baucus	Durenberger	Kennedy
Bentsen	Evans	Kerry
Bingaman	Exon	Lautenberg
Boren	Ford	Leahy
Bradley	Glenn	Levin
Burdick	Graham	Matsunaga
Chafee	Grassley	McCain
Chiles	Hatch	Melcher
Cohen	Hatfield	Metzenbaum
Conrad	Heinz	Mikulski
Cranston	Hollings	Mitchell
Daschle	Inouye	Moynihan
Nunn	Riegle	Shelby
Packwood	Rockefeller	Stafford
Pell	Sanford	Weicker
Proxmire	Sarbanes	Wirth
Reid	Sasser	

NAYS—38

Bond	Hecht	Quayle
Boschwitz	Heflin	Roth
Breaux	Helms	Rudman
Bumpers	Humphrey	Simpson
Byrd	Karnes	Specter
Cochran	Kasten	Stevens
D'Amato	Lugar	Symms
Danforth	McClure	Thurmond
Dixon	McConnell	Trible
Domenici	Murkowski	Wallop
Fowler	Nickles	Warner
Garn	Pressler	Wilson
Gramm	Pryor	

NOT VOTING—6

Biden	Gore	Simon
Dole	Harkin	Stennis

So the motion to lay on the table amendment No. 1610 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if we could have the attention of the Members here? As I understand, there are still two outstanding amendments to be made. Perhaps there are more, but at least two that the Senator from Utah and I know about. We are glad to consider and debate these issues this evening or we are glad to accommodate whatever the leadership is inclined to do; if there is a request by the leadership.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, how many Senators have amendments that they intend to call up? Mr. GRAMM? How many amendments does the Senator intend to call up?

Mr. GRAMM. Less than 10, I think.

Mr. BYRD. Less than 10.

Mr. COCHRAN?

Mr. COCHRAN. Mr. Leader, I have three amendments.

Mr. BYRD. Anybody else? Mr. METZENBAUM?

Mr. METZENBAUM. I have one on the steel matter, a sense-of-the-Senate resolution.

Mr. BYRD. Well, Mr. President, I think we ought to just stay and let the Senators offer their amendments.

As to tomorrow, would the distinguished acting Republican leader at this time be ready to discuss the proposal that we talked about earlier?

Mr. SIMPSON. Mr. President, I think it would be very appropriate to discuss that. I am hoping that those who have amendments might finish them tonight, rather than at a postcloture attitude tomorrow. The majority leader may go ahead and express what he and I have discussed. I think it sounds highly reasonable and I have discussed it with those on my side of the aisle. You may wish to propose it or I could suggest what it is but I leave that to you, sir.

Mr. BYRD. Very well. I ask unanimous consent that on tomorrow, at 9 o'clock, there be, on another matter, 4 hours of debate under the control of the distinguished acting Republican leader; that there be 1 hour of debate under my control on the same matter; that the vote on cloture then occur which would be at 2 p.m.

As I understand it, I would hope that following tonight's work, there would not be any further amendments, but perhaps when the evening is over, we could determine whether or not there are one or two amendments. I hope there will not be any. And then the Senate would complete its action.

I assume that cloture will be invoked. We already have the order that upon the disposition of the pending bill, the Senate will go to the intelligence authorization bill. It is possible that that could be finished tomorrow, and if it is not finished tomorrow, it would go over until Friday. Hopefully we could complete action on that bill Friday.

There would be a vote on Friday on the nomination on the executive calendar of William F. Burns, of Pennsylvania, to be Director of the U.S. Arms Control and Disarmament Agency.

As to the unanimous-consent request, as I say, it would provide for beginning at 9 o'clock tomorrow, time under the control of the distinguished acting Republican leader to be 4 hours, to be followed by 1 hour controlled by me, on an extraneous matter. He and I have an understanding as to how we will arrange the last hour and a half of that. Then the vote on cloture would occur at 2 p.m. with the mandatory quorum call under the rule being waived.

The PRESIDING OFFICER (Mr. CONRAD). Is there objection?

Mr. SIMPSON. Mr. President, I would respectfully add, if I may, to the majority leader that we would convene at 8:30 and then 10 minutes with the leaders, leader time, and then recognition of Senator PROXMIRE, and then beginning at 9 o'clock with the 4 hours.

Mr. BYRD. That was the understanding. Not knowing what time the Senate will complete its work tonight, I thought I would leave that 8:30 convening hour out of the order for the moment. It may very well be that we are going to come in at 8:45, whatever. The 4 hours under the control of the distinguished acting Republican leader would start running at 9, the control of time.

For the moment, let me include the rest of the agreement that the distinguished Senator referred to.

I ask unanimous consent that when the Senate completes its business today that it stand in adjournment until the hour of 8:30 tomorrow morning; provided further, that after the two leaders, or the designees, have

been recognized under the standing order, there be morning business not to extend beyond the hour of 9 a.m. and that Senators may speak during the period for morning business for not to exceed 5 minutes each; that if no motion or resolution over, under the rule come over and that the call of the calendar under rule VIII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, would the leader be good enough to tell us what the subject is for that 5 hours?

Mr. BYRD. I would yield to the distinguished acting Republican leader.

Mr. SIMPSON. Mr. President, it is best described as a sensitive issue, one that would come to pass even under the most extraordinary parliamentary procedures. It has to do with a sense-of-the-Senate resolution which will be proposed by Senator SPECTER which directs itself to the rule to the motion to compel absent Senators through the use of the Sergeant at Arms, setting out the procedure in the future, which will be referred to the Rules Committee.

Mr. METZENBAUM. I have no objection.

Mr. SIMPSON. And that is what that is.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, and I do not plan to object, I am wondering if the majority leader and the acting Republican leader, together with the distinguished manager, the Senator from Massachusetts, might not propose some sort of a time agreement on the amendments to be offered tonight, debate those amendments and then tomorrow morning, having stacks of votes, let us start voting at an earlier time, rather than keeping the Senate in until 10 or 11 o'clock this evening.

I wonder if that is within the realm of possibility to perform in that manner?

Mr. BYRD. Mr. President, the Senator makes a good suggestion. I would want to hear from the manager of the bill first. I would like to say that at least there should be a vote on the amendment by Mr. METZENBAUM because of the limits of that sense-of-the-Senate amendment. And we could, over the next few minutes, attempt to see if we could work out a time agreement on the other amendments, possibly stack votes on them at some time. I suppose the stacking would have to begin after the cloture vote tomorrow or prior thereto.

Mr. PRYOR. Mr. President, further reserving the right to object, I have just discussed with the Senator from Ohio the possibility of a time agreement on his sense-of-the-Senate amendment. While a discussion is being held, would it be possible to move to his sense-of-the-Senate resolution and let disposition be taken of that and possibly go back to this, thus making us have only one vote tonight?

Mr. BYRD. Mr. President, I think there will definitely be a vote on the amendment by Mr. METZENBAUM this evening. I still want to hear from the manager of the bill. I would be happy to propound a time limitation of 15 minutes for each Senator or less, say, 10 minutes to a side. We already have had a good bit to say on it.

Mr. METZENBAUM. I do not care. My opinion is it would take 3 minutes or so.

Mr. BYRD. I would like to hear from the manager.

Mr. KENNEDY. Mr. President, I do think in fairness to my colleague, the Senator from Connecticut, I am glad to continue the debate on this issue. I am glad to debate it tonight. I am glad to follow whatever procedures the Senators want. I do note the Senator from Connecticut, I think in terms of the time limit, as I understand it, is the one Member who has brought to my attention his own concern about this issue.

I would hope that before a time limit is developed on the Metzenbaum amendment at least he be consulted. I am prepared to agree to any time limit that is worked out.

Mr. BYRD. Very well.

Mr. KENNEDY. I think he ought to be consulted on the time limit.

On the other issue, I imagine there would be objection to stacking. Quite frankly, I am glad to debate the Senator from Texas as long as he would like to.

I will point out to the Members that the bill was laid down at 2 o'clock yesterday, and we waited until well into the midafternoon before we had any amendments. So for those who have this burning desire to debate these issues, it is not that we have not had a reasonable period of time in which to do it.

Having said that, if there is objection, and there probably will be, I am more than glad to take some time to debate it. But I want to give the assurances as the floor manager of this bill that I do not feel a sense of constraint. I am sorry that we are going into the hours this evening, but I will remind my colleagues, and they can review the RECORD both yesterday and today, that we did not involve ourselves with the substantive issues.

The Senator from Texas made an eloquent statement, which I heard through the television because I necessarily had to be off the floor for about 15 to 20 minutes. But after that, we did not really have substantive amendments.

I think the membership ought to understand that if this was such a burning issue and people wanted to get over here, they certainly had an opportunity before 7 o'clock on this evening.

I am quite prepared to stay here and follow whatever the indications are of the Members on any of these matters. If they want to stack, that is agreeable with me. If they want to continue, I would hope that we would continue to move toward further progress on the bill.

Mr. GRAMM. Would the distinguished majority leader yield?

Mr. BYRD. I yield.

Mr. GRAMM. I would like to say I think the amendments we have had have been substantive. I have spoken on the floor twice today on this issue. In fact, I sat here waiting for an opportunity to offer an amendment while several Members spoke and others were recognized, in terms of offering amendments. So there have been no dilatory tactics on my part. Each of my amendments are germane. They would be eligible to be offered after cloture. They address fundamental issues like, do you want to exempt common carriers?

Fundamental issues such as given that you have exempted contracts with the Department of Energy. Do we want to exempt contracts with the Drug Enforcement Administration on the use of lie detectors?

So my amendments have nothing to do with dilatory tactics. They are all germane. They all address the issue. My problem has been that other people have been here, and when I was prepared to offer an amendment, other people were recognized. So I am willing to do it tonight. I would be happy to do it tomorrow. I would like to know when we are going to do it. If there is only going to be one amendment tonight, I would like to know it so I can go to the Banking Committee.

Mr. BYRD. Mr. President, if there is anybody here who is probably having some difficulties with respect to standing on his feet for the rest of this evening, it is the manager of the bill. I certainly want to accord him every courtesy and follow his wishes in this matter.

I have this suggestion: I suggest that Mr. GRAMM proceed with an amendment. Perhaps we could get a time agreement on that one amendment. That would give us time to contact the Senators for whom Mr. KENNEDY alluded earlier. Perhaps we can get a time agreement then on the Metzenbaum amendment. Then by that time I think we should be able to have a list of amendments and the time that we would propose on each of those amendments.

Mr. SIMPSON. Mr. President, I think we can do that. I have two amendments of Senator COCHRAN. He has agreed to a time agreement of 10 minutes equally divided on each amendment. That is Senator COCHRAN.

I have now Senator GRAMM, who has agreed to go with his first amendment, which is 10 minutes equally divided on this first amendment. In any event, on his remaining amendments, it would

not be more than 20 minutes equally divided. Perhaps that time will be yielded back or perhaps it might be accepted as we go along. But that would be the extent of the activity here. There are timely amendments, but any that are not brought in this evening or not known as per differently from Senators COCHRAN and GRAMM can be handled tomorrow under postcloture. But we can certainly pull it down to that.

Mr. BYRD. Mr. President, I have the approval of the distinguished manager of the bill.

I ask unanimous consent that there be 10 minutes on each of the two Cochran amendments, equally divided in accordance with the usual form; that no amendment to the amendment be in order in each instance; and that on the amendment which Mr. GRAMM will call up presently there be 10 minutes equally divided with no amendment to the amendment be in order. The reason I say that we do not exclude amendments to the amendment is any amendment, no matter how far-reaching, that was offered to his amendment would have to be voted on without debate. So I say that for the protection of all Senators.

That way, the Senator could proceed. He would have 10 minutes equally divided, and in the meantime I would hope that we could be able to clear the Metzenbaum amendment. Then we would proceed accordingly, if we could get these requests now.

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

Mr. BYRD. Was the request put by the Chair, the earlier request that I propounded?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. PRYOR. Mr. President, I reserve the right to object; I did not quite hear the distinguished majority leader. Involved in this, was there any provision of stacking of votes?

Mr. BYRD. No, there was not. As I understand Mr. KENNEDY, he would like to proceed for a while and there is an inclination on the other side about a certain time on amendments. So perhaps we are making progress, if we could go along for a little while to see where we are.

Mr. PRYOR. Might I just suggest, if we are going to have four or five votes tonight, as it looks as if we are, might I respectfully suggest to the majority leader that those votes be 10-minute votes?

Mr. BYRD. Mr. President, I guess we should not do that on the first vote certainly. Then we can put that request later. I thank the distinguished Senator.

But, Mr. President, I ask unanimous consent that on each 15-minute vote the call for the regular order be automatic at the conclusion of the 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Reserving the right to object, I missed the majority leader's description of what amendments were going to come and how frequently they would come. Is there a window?

Mr. BYRD. No. There is not any window. We expect votes frequently and without much debate.

Mr. BRADLEY. After half an hour or so?

Mr. BYRD. No. I think there should be a vote within 10 minutes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1615

(Purpose: To provide a common carrier exemption)

Mr. GRAMM. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1615.

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

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

The amendment is as follows:

(e) COMMON CARRIER EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any common carrier as defined by section 10102(4) of title 49 United States Code, including any air transportation as defined in section 101 of the Federal Aviation Act of 1958 and any other common carrier engaged in the hauling of passengers or freight.

The PRESIDING OFFICER. If the Senator will suspend, may we have order in the Chamber so the Senator can be heard?

Mr. GRAMM. Mr. President, this is a very simple amendment. The bill before us allows the Federal Government, State governments, and local governments to use polygraph for the purposes they may deem within State law and within Federal law. It in essence has a blanket government exemption.

It then specifically exempts from coverage under this bill, which is prohibition against use of polygraph, contractors that are doing work for the Department of Energy and some other specific Government agencies.

The amendment that I have offered simply allows the private sector within State law, within Federal law that part of the private sector that is involved in common carriage—that is, ground transportation, air transportation, water transportation—to have the right within Federal law and State law to use polygraph.

Mr. President, this is a clear-cut issue. If we are going to give the Department of Agriculture power to use polygraph for the public purpose related to people who are in seed research, if we are going to give local government that power, surely we dare not deny that power involving airline pilots, railroad engineers, pilots of ships where human life is potentially endangered.

We have already acted on a similar amendment related to drug testing. The problem is, however, that with the drug test you are testing drugs that are in people's bodies at the time. I for one am not willing to say to an airline, that has the potential of having a pilot flying an airplane that my wife and children may be on or that the distinguished Senator from Massachusetts might be on, that you do not have the right to use a polygraph within the constraints of State and Federal law to find out if that airline pilot has used cocaine or is likely therefore to use it in the future.

It seems to me we are denying the tool here related to common carriers that is not prudent public policy. So the vote here is do we want to give private companies engaged in common carriers the right to use polygraph obviously relating to those areas where we are talking about mechanics that are repairing airplanes, pilots, and people who are running railroad engines. I think this is a prudent exemption, and I urge the distinguished Senator from Massachusetts to not close his heart on this important exemption that could mean the life and health and safety of the American people.

I believe this is a reasonable exemption, and that it should be adopted.

Surely, if we can allow every agency of the Federal Government, every agency of every State government to use polygraph, we dare not deny that tool for use to protect the skyways, the waterways, the highways, and our railroads.

I urge my distinguished colleague to support this amendment. Perhaps we could adopt it by unanimous consent.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Do we have a time limit?

The PRESIDING OFFICER. Five minutes a side.

Mr. KENNEDY. How much time now remains?

The PRESIDING OFFICER. The Senator has 6 minutes and 11 seconds.

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, we have to make a decision whether the polygraph is effective and reliable or is not. That is the basic issue. The Senator from Texas has an irrefutable argument if it is accurate. It is not accurate. We have tried over the course of this debate to demonstrate it is not accurate. Even the National Institute of Justice has found that it is not effective.

For that reason, the Association of American Railroads, representing one of the prime common carriers, rejects

it as a condition of employment and supports our particular proposal because we have aligned the request on polygraph with other investigative techniques. That way you provide safety in the common carrier area. We are providing it. Where you do not provide the protection for those that ride in the airlines or railroads or in other areas is by putting reliance upon safety by giving a polygraph. We have demonstrated that time in and time out with the OTA study. That is overwhelmingly powerful evidence, Mr. President.

The fact is, if we are concerned about the use of various drugs, we say, as we heard from the Senator from Indiana, we are not dealing with drug tests—this bill doesn't address drug tests. We are not dealing with that. But do not give the people in the back of the plane the sense that their pilot is OK because he passed a polygraph, because it is not that reliable in the kinds of circumstances in which it has been used in the private sector.

I heard the debate earlier of the Senator from Texas. He said, "Well, why don't we use the Federal rules?" Four to eight hours? Eight hours of investigation? Up to $800? The industries and the chamber of commerce out there in the waiting room would be appalled at that.

So you are having to deal with both safety and the extent that this should be used as an investigative technique. We have devised a balance and we believe that that provides for safety and security in the area of common carriers and the other areas as well.

That is basically the argument against.

I reserve the remainder of my time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. The distinguished Senator from Massachusetts makes a total non sequitur, and the equivalent would be that because building a fence or putting a lock on your door does not guarantee you will not be burglarized; therefore, do not go out spend money on fences or locks.

Nobody is guaranteeing that the tool of a polygraph is going to prevent someone on cocaine from flying an airliner into the ground, nor is it a guarantee that you are going to have ironclad protection by using a drug test or by using psychological testing. But the question is, Do we want to deny the airlines access to that tool?

I was little amazed in listening to our distinguished colleague talk about how polygraphs were no good. I hope the Soviets were listening or the CIA because the Soviets told the Walker family when they were spying for the Soviet Union "Get all the information you can except do not apply for a job where you have to take a polygraph." So obviously the Soviets do not understand this issue the way the distinguished Senator from Massachusetts does.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The fact remains that, for example, Delta Air Lines, which I do not believe, is less concerned about their passengers than the Senator from Texas, refused to use it. They studied it, researched it, and refused to use it because they felt that it creates a false sense of security.

Now, Mr. President, it is not only Delta Air Lines; the railroad industry has endorsed our bill.

The Senator from Texas talks about the Russians. What does that have to do with it?

The scientific information, Mr. President, shows that it is not reliable, and that if you are going to use it as a tool, it may have some value in association with other investigative tools.

The Senator wants it both ways. On the one hand, he says it is not reliable and, on the other, he says let us use Federal standards—4-8-hour investigating, carefully trained investigators, two tests a day, $800 cost.

The military does not even have enough trained people to provide adequate polygraph tests, and the Senator wants to use it on others who may be able to escape detection and thus give a false sense of reliability.

If you want to go with the various kinds of drug testing, go ahead and do it, but do it in the way that is scientifically and medically sound.

The amendment of the Senator from Texas does not do it, and it deserves to be tabled.

I reserve whatever time I have.

The PRESIDING OFFICER. The Senator from Massachusetts has 31 seconds.

Mr. LEVIN. Mr. President, I will vote against the Gramm amendment because it provides a blanket exemption to the restrictions this bill places on the use of polygraphs for a certain class of workers, and does not provide any assurance that the results of these tests will not be used as the sole basis for firing, demoting, or denying employment to those workers.

Under the provisions of S. 1904, the underlying bill, common carriers are permitted to use polygraph testing as one of a number of tools to investigate a specific incident. It specifically provides that the results of a test cannot be used to take action against an employee "without additional supporting evidence."

The Gramm amendment, on the other hand, would permit the use of polygraphs for preemployment screening or random testing of employees without reasonable suspicion of their involvement in a specific incident. And it does not even provide a guarantee that the polygraph—which according to scientific studies has a questionable record of accuracy—won't be used as the sole basis to fire or demote an employee, or even to deny someone a job in the first place.

Last year, I supported an amendment offered by Senator DANFORTH which provided for drug testing of those involved in air transportation, and I would support similar amendments applying to other types of common carriers. Such proposals enhance public safety by allowing carefully prescribed use of a type of testing that has a reasonable record of accuracy.

Earlier today, I voted for the Nickles/Thurmond amendment, which provided for a wider use of polygraphs for security personnel. The security personnel amendment, in contrast to the Gramm common carrier amendment, has provisions defining employers' obligations and limiting the use of the test results. It emphasizes the employer's obligation to comply with State and local law and negotiated collective bargaining agreements that limit or prohibit the use of lie detector tests; and it provides that the results of the test are not to be used as the sole basis for adverse action against a current or prospective employee.

The Gramm amendment does not contain these safeguards, instead creating a wide open exemption for a certain group of employers to use polygraphs. Therefore, I cannot support it.

Mr. KENNEDY. I yield back the time.

The PRESIDING OFFICER. All time is yielded back.

Mr. KENNEDY. I move to table the amendment.

The PRESIDING OFFICER. The question is on the amendment.

Mr. KENNEDY. I ask for the yeas and nays.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

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

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Sen-

ators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—55

Adams	Evans	Melcher
Armstrong	Exon	Metzenbaum
Baucus	Ford	Mitchell
Bingaman	Fowler	Moynihan
Boren	Glenn	Nunn
Boschwitz	Grassley	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Proxmire
Bumpers	Heinz	Reid
Burdick	Hollings	Riegle
Chafee	Humphrey	Rockefeller
Cohen	Inouye	Sanford
Conrad	Johnston	Sasser
Cranston	Kennedy	Shelby
Danforth	Kerry	Stafford
Daschle	Lautenberg	Weicker
Dixon	Leahy	Wirth
Dodd	Levin	
Durenberger	Matsunaga	

NAYS—37

Bentsen	Karnes	Rudman
Bond	Kassebaum	Sarbanes
Byrd	Kasten	Simpson
Cochran	Lugar	Specter
D'Amato	McCain	Stevens
DeConcini	McClure	Symms
Domenici	McConnell	Thurmond
Garn	Murkowski	Trible
Graham	Nickles	Wallop
Gramm	Pressler	Warner
Hecht	Pryor	Wilson
Heflin	Quayle	
Helms	Roth	

NOT VOTING—8

Biden	Gore	Simon
Chiles	Harkin	Stennis
Dole	Mikulski	

So the motion to lay on the table the amendment (No. 1615) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1616

Mr. COCHRAN. Mr. President, I send an amendment to the desk in the nature of a substitute and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 1616.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Polygraph Protection Act of 1987."

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR TEST.—The term "lie detector test" includes—

(A) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual; and

(B) the testing phases described in paragraphs (1), (2), and (3) of section 9(b).

(4) POLYGRAPH.—The term "polygraph" means an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.

(5) RELEVANT QUESTION.—The term "relevant question" means any lie detector test question that pertains directly to the matter under invstigation with respect to which the examinee is being tested.

(6) SECRETARY.—THE TERM "SECRETARY" means the Secretary of Labor.

(7) TECHNICAL QUESTION.—The term "technical question" means any control, symptomatic, or neutral question that, although not relevant, is designed to be used as a measure against which relevant responses may be measured.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE

Except as provided in sections 7 and 8, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, dismiss, discipline in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test; or

(B) any employee or prospective employee on the basis of the results of any lie detector test or;

(4) to discharge, discipline, or in any manner discriminate against an employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act;

(B) such employee or prospective employee has testified or is about to testify in any such proceeding; or

(C) of the exercise by such employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice, in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2)—

(A) any employer who violates section 4 may be assessed a civil money penalty not to exceed $100 for each day of the violation; and

(B) any employer who violates any other provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) INJUNCTIVE ACTIONS BY THE SECRETARY.—The Secretary may bring an action to restrain violations of this Act. The district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act.

(c) PRIVATE CIVIL ACTIONS.—

(1) LIABILITY.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including but not limited to employment, reinstatement, promotion, and the payment of lost wages and benefits.

(2) COURT.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by any one or more employees for or in behalf of himself or themselves and other employees similarly situated.

(3) COSTS.—The court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(d) WAIVER OF RIGHTS PROHIBITED.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement of a pending action or complaint, agreed to and signed by all the parties.

SEC. 7. GOVERNMENTAL AND FEDERAL EXEMPTIONS.

(a) NO APPLICATION TO GOVERNMENTAL EMPLOYERS.—The provisions of this Act shall not apply with respect to the United States Government, a State or local government, or any political subdivision of a State or local government.

(b) NATIONAL DEFENSE AND SECURITY EXEMPTION.—

(1) NATIONAL DEFENSE.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any

counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor such Department in connection with such activities.

(2) SECURITY.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligenc or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency, (ii) any expect or consultant under contract to the National Security Agency or the Central Intelligence Agency, (iii) any employee of a contractor of the National Security Agency or the Central Intelligence Agency, or (iv) any individual applying for a position in the National Security Agency or the Central Intelligence Agency; or

(B) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for the National Security Agency or the Central Intelligence Agency.

(c) EXEMPTION FOR FBI CONTRACTORS.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

SEC. 8. STATE CERTIFICATION OF PLANS EXEMPTION.

(a) Subject to Section 9, this Act shall not prohibit any State, or political subdivision thereof, which, at any time, desires to assume responsibility for development and enforcement therein of standards relating to the use of polygraphs by employers and polygraph examiners, shall file a written statement with the Secretary of Labor certifying that is has adopted an administrative plan to insure compliance with the standards of this Act. Such certification shall:

(1) identify the agency or agencies designated as responsible for administering the plan;

(2) describe the standards contained in the administrative plan governing polygraph examiners and the use of polygraph examinations, which standards (and the enforcement of which standards) shall be at a minimum in full compliance with the standards set out in section 9 of this Act; and

(3) explain the manner in which the standards contained in the administrative plan are being administered and enforced by the designated agency to insure compliance with this Act.

(b) The Secretary shall make a continuing evaluation of each administrative plan which has been certified as in compliance with this Act. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that the plan is not being administered in a manner that insures substantial compliance with the standards set out in this Act, he shall notify the State or political subdivision of his withdrawal of certification of such plan and, upon receipt of such notice, such plan shall cease to be in effect.

(c) Review of a decision of the Secretary to disapprove an administrative plan under this section may be obtained in the United States Court of Appeals for the circuit in which the State or political subdivision or individual examiner is located by filing a petition for review with such court within 30 days after receipt of the withdrawal of certification.

SEC. 9. MINIMUM FEDERAL STANDARDS FOR POLYGRAPH TESTING.

Each State, or political subdivision thereof, seeking to establish a polygraph testing program under Section 8 of this Act, shall certify to the Secretary of Labor that its program meets the following minimum federal standards—

(a) OBLIGATION TO COMPLY WITH CERTAIN LAWS AND AGREEMENTS.—The exemption provided under section 8 shall not diminish an employer's obligation to comply with—

(1) applicable State and local law; and

(2) any negotiated collective bargaining agreement, that limits or prohibits the use of lie detector test on employees.

(b) RIGHTS OF EXAMINEE.—

(1) PRETEST PHASE.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is not subjected to harassing interrogation technique;

(C) is informed of the nature and characteristics of the tests and of the instruments involved;

(D) is informed—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed;

(ii) whether any other device, including any device for recording or monitoring the conversation will be used; or

(iii) that the employer and the examinee, may with mutual knowledge, make a recording of the entire proceeding;

(E) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment;

(ii) that any statement made during the trest may constitute additional supporting evidence for the purposes of an adverse employment action described in section 8(b);

(iii) of the limitations imposed under this section;

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(v) of the legal rights and remedies of the employer; and

(F) is provided an opportunity to review all questions (technical or relevant) to be asked during the test and is informed of the right to terminate the test at any time; and

(G) signs a notice informing such examinee of—

(1) the limitations imposed under this section;

(ii) the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(iii) the legal rights and remedies of the employer.

(2) ACTUAL TESTING PHASE.—During the actual testing phase—

(A) the examinee is not asked any questions by the examiner concerning—

(i) religious beliefs or affiliations;

(ii) beliefs or opinions regarding racial matters;

(iii) political beliefs or affiliations;

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, or opinions regarding unions and labor organizations;

(B) the examinee is permitted to terminate the test at any time;

(C) the examiner does not ask such examinee any questions (technical or relevant) during the test that was not presented in writing for review to such examinee before the test;

(D) the examiner does not ask technical questions of the examinee in a manner that is designed to degrade, or needlessly intrude on, the examinee;

(E) the examiner does not conduct a test on an examinee when there is written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the test; and

(F) the examiner does not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and does not conduct any such test for less than a 90-minute duration.

(3) POST-TEST PHASE.—Before any adverse employment action, the employer must—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test; and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(C) QUALIFICATION OF EXAMINER.—An individual who conducts a polygraph test must—

(1) be at least 21 years of age;

(2) comply with all required laws and regulations established by licensing and regulatory authorities in the State in which the test is to be conducted;

(3)(A) successfully complete a formal training course regarding the use of polygraph tests that has been approved by the State in which the test is to be conducted or by the Secretary; and

(B) complete a polygraph test internship of not less than 6 months duration under the direct supervision of an examiner who has met the requirements of this section;

(4) maintain a minimum of a $50,000 bond or an equivalent amount of professional liability coverage;

(5) use an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards;

(6) base an opinion of deception indicated on evaluation of changes in physiological activity or reactivity in the cardiovascular, respiratory, and electrodermal patterns on the lie detector charts;

(7) render any opinion or conclusion regarding the test—

(A) in writing and solely on the basis of an analysis of the polygraph charts;

(B) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test; and

(C) that does not include any recommendation concerning the employment of the examinee; and

(8) maintain all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

(D) PROMULGATION OF STANDARDS.—The Secretary shall establish standards governing individuals who, as of the date of the enactment of this Act, are qualified to conduct polygraph tests in accordance with applicable State law. Such standards shall not be satisfied merely because an individual has conducted a specific number of polygraph tests previously.

SEC. 10. DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—A person, other than the examinee, may not disclose information obtained during a polygraph examiner may disclose information acquired from a polygraph test, except as provided in this section.

(b) PERMITTED DISCLOSURES.—A polygraph examiner, polygraph trainee, or employee of a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any person or governmental agency that requested the test as authorized under subsection (a), (b), or (c) of section 7 or any other person, as required by due process of law, who obtained a warrant to obtain such information in a court of competent jurisdiction.

(c) DISCLOSURE BY EMPLOYER.—An employer (other than an employer covered under subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to a person described in subsection (b).

SEC. 11. EFFECT ON OTHER LAW AND AGREEMENTS.

This Act shall not preempt any provision of any State or local law, or any negotiated collective bargaining agreement, that is more restrictive with respect to the administration of lie detector tests than this Act.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. COCHRAN. I am happy to yield to the distinguished leader.

Mr. BYRD. This is an amendment on which there has been a time limit entered of 10 minutes equally divided; am I correct?

Mr. COCHRAN. The leader is correct: 10 minutes equally divided.

Mr. BYRD. Does the Senator intend to ask for the yeas and nays?

Mr. COCHRAN. I suspect the yeas and nays will be requested. I assume the managers will be moving to table and the yeas and nays will be requested on the motion to table.

Mr. BYRD. Does the Senator want the yeas and nays?

Mr. KENNEDY. I do not unless the Senator does it.

Mr. BYRD. Does the Senator ask for the yeas and nays?

Mr. KENNEDY. We are going to vote on it.

Mr. COCHRAN. It is all right with me to have an up or down vote or vote on the motion to table.

Mr. KENNEDY. Then we will probably do a motion to table. I am glad to do a voice vote. I will do whatever anybody wants.

Mr. COCHRAN. If the motion to table is made, I intend to ask for the yeas and nays.

Mr. KENNEDY. If it is up or down, the Senator will ask for a voice vote.

Mr. COCHRAN. We will ask for the yeas and nays.

Mr. BYRD. Mr. President, there will be a rollcall vote beginning 10 minutes from now and that will be a 15-minute rollcall vote.

I urge the cloakrooms to so announce to Senators.

Mr. COCHRAN. I understand that time did not get charged to my 5 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. Mr. President, this is an amendment in the nature of a substitute.

Let me state what the amendment seeks to do. The bill reported by the committee bans the use of polygraphs in screening applicants for jobs in selected industries. The bill exempts Department of Defense contractors, and it exempts certain other employers.

This substitute puts all employers on an equal footing, whether we are talking about a drug company interested in screening applicants to see whether they have a past history of drug abuse——

The PRESIDING OFFICER. The Senator will suspend. We should have order in the Chamber so the Senator can be heard.

Please empty the well.

The Senator from Mississippi.

Mr. COCHRAN. I thank the Chair.

The second thing the substitute does, Mr. President, is to permit States to regulate by meeting the standards set by the Secretary of Labor under the committee bill. It does not change the effort to establish minimum standards.

I have a problem with the fact that we are presuming standards are better if they are established in Washington than if they are established by a State government. In my State, for example, we have a good law regulating polygraph examiners and the use of polygraphs, and the law has been on the books since 1968.

Frankly, I do not see any good reason to jettison that law and have it preempted by a new Federal law without good cause.

What we seek by this substitute is to change the committee bill so that it does not ban the use of polygraphs. It lets the States decide how they may be used.

In the State of Massachusetts, the State of the manager of this bill, they have a ban and that will not be changed by the adoption of this substitute.

This substitute permits a State to legislate a ban if it wants to, but it does not provide for Federal preemption in that area.

I urge Senators to adopt the substitute. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

I hope that this amendment will not be accepted for a number of the reasons that we have outlined earlier in the course of the debate.

One of the prime findings that we detected is that there is a variety of different States that have prohibitions on polygraphs and have regulations on polygraphers. But the fact that remains is that there is an enormous loophole in which we have seen massive abuse of the polygraph procedure and that is in the States which have the lesser regulation and lesser rules there are no prohibitions and the pattern and practice that is replete in the course of our hearing record is and is becoming increasingly true now with the various mergers of companies and corporations all over this country that for people who are going to be able to gain employment they are tested or they enter the whole job market in a particular area in a particular State and they go to that area instance after instance where there are limited restrictions or no restrictions or poor restrictions and the polygraph is abused. That happens to be the record. That happens to be the course of action.

And the substitute of the Senator from Mississippi—and it is a basic, fundamental substitute—effectively guts the balance that we have put in here which prohibits preemployment but permits the use of polygraph as one of a range of tools—it is just one of a range of tools—if there is reasonable suspicion or reason to believe that there has been some transgression or violation of the law.

Now, that is a balance. That is what has been accepted in the bill. That is what has been supported. And this effectively vitiates and undermines that whole process. It effectively guts the whole bill. It will not really deal with the kinds of excesses that today are so evident in the use of polygraph; as I mentioned, 2 million last year. It has virtually doubled in about the last 3 years. It has gone to eightfold in the last 7 years. The use of it and the abuse of it are going right up through the roof with all the kind of false labeling of individuals.

We do not prohibit the polygraph use, but we have prescribed it in a very narrow and limited way. The Senator from Mississippi would undermine that, and I think effectively gut the bill.

I reserve the remainder of my time.

Mr. COCHRAN. Mr. President, let me point out that at hearings before the Labor Committee, a representative of motel owners testified that in 1986 polygraphs helped to reduce annual losses in that industry from $1 million to less than $115,000. Another witness testified in behalf of the jewelers of Amercia and the American Retail Federation. He stated that his company had found, in States where there are no restrictions on polygraphs, their inventory losses are only 25 percent of what they are in States where the company cannot use polygraphs.

It has been shown that the selective use of polygraphs reduces consumer costs. This bill is going to outlaw it in many instances where it has been proven to save consumers and citizens of this country a great deal of money.

Mr. President, the Senator from Florida had asked me to yield him time. I am happy to yield to the distinguished Senator from Florida if he would like to be heard on this amendment.

I yield 1 minute to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I have asked to see a copy of the Senator's amendment, which I have not had an opportunity to do. I am not certain that the amendment that is before us is the amendment that I wish to speak on. I wish to speak on the amendment that I understand you were going to offer which would allow preemployment testing.

Mr. COCHRAN. The amendment would do that, Mr. President.

Mr. GRAHAM. I understand you do it in a broad bill which essentially strikes at the principle of Federal regulation of polygraph tests as opposed to that one issue within the current bill, is that correct?

Mr. COCHRAN. Mr. President, if I can answer the Senator's question, if the polygraph is banned, it is banned by the States under the substitute which I have offered. The substitute does not ban polygraphs as a matter of law as the committee bill does. It leaves to the States the regulation of the use of polygraphs in the workplace. I think that is what the Senator from Florida supports.

Mr. GRAHAM. So I do not use your time under any false pretenses——

The PRESIDING OFFICER. The Senator from Florida's 1 minute has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional 1 minute.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute and 50 seconds.

Mr. KENNEDY. I yield half of that to the Senator from Florida.

Mr. GRAHAM. To be fair to the Senator from Mississippi, the issue I wish to speak to and on which I hope you will have an opportunity to do so is the issue of the total prohibition which is contained in this bill on preemployment testing which I believe is excessive and which I believe denies employers in certain reasonable conditions and under appropriate standards a tool which they should have available to them, if they choose to use it, in a nondiscriminatory and acceptable procedural manner.

I do not support an amendment which would substitute total State control for reasonable Federal standards in this area. So I cannot take the floor on behalf of this basic amendment. I hope that there will be an opportunity before this debate is over to discuss the amendment which deals with the specific issue that is of concern to me.

Mr. KENNEDY. Mr. President, the Senator from Mississippi quoted some anecdotal evidence about certain industries, what was happening to them. I think it is perhaps useful, rather than quoting anecdotal evidence, to look at the evidence of the FBI in the areas of bank fraud, and embezzlement. Twelve States that have a total ban on polygraphs have 22.9 incidents per million of bank fraud, and embezzlement. Now we have 12 other States that permit the polygraph. If we were to follow the logic of the argument of the Senator from Mississippi, you would think that there would be less bank fraud, and embezzlement. But it happens to be 33.2 incidents per million; 50 percent higher where it is banned entirely.

This idea that it has an impact in the areas of bank fraud and embezzlement is just not sustained, by statistics from the Federal Bureau of Investigation. If we accept the amendment of the Senator from Mississippi, you are creating this false sense of security and reality and you are effectively undermining this bill.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired. All time has expired at this point.

The question is on the amendment.

Mr. KENNEDY. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts [Mr. KENNEDY] to table the amendment of the Senator from Mississippi [Mr. COCHRAN]. The yeas and nays have been ordered and the clerk will call the roll.

The Legislative Clerk called the roll.

Mr. CRANSTON: I announce that the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON announced that the Senator from Kansas [Mr. DOLE] is necessarily absent.

The PRESIDING OFFICER (Mr. DECONCINI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 29, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—65

Adams	Durenberger	Matsunaga
Armstrong	Evans	Melcher
Baucus	Exon	Metzenbaum
Bentsen	Ford	Mikulski
Bingaman	Fowler	Mitchell
Boren	Glenn	Moynihan
Boschwitz	Graham	Nunn
Bradley	Grassley	Packwood
Burdick	Hatch	Pell
Byrd	Hatfield	Proxmire
Chafee	Heinz	Reid
Chiles	Humphrey	Riegle
Cohen	Inouye	Rockefeller
Conrad	Johnston	Sanford
Cranston	Kassebaum	Sarbanes
D'Amato	Kasten	Sasser
Danforth	Kennedy	Shelby
Daschle	Kerry	Specter
DeConcini	Lautenberg	Stafford
Dixon	Leahy	Weicker
Dodd	Levin	Wirth
Domenici	Lugar	

NAYS—29

Bond	Karnes	Rudman
Breaux	McCain	Simpson
Bumpers	McClure	Stevens
Cochran	McConnell	Symms
Garn	Murkowski	Thurmond
Gramm	Nickles	Trible
Hecht	Pressler	Wallop
Heflin	Pryor	Warner
Helms	Quayle	Wilson
Hollings	Roth	

NOT VOTING—6

Biden	Gore	Simon
Dole	Harkin	Stennis

So the motion to lay on the table the amendment (No. 1616) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BRADLEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, just from my understanding, and the conditions can change, as we have all seen, very rapidly, there is one additional amendment of the Senator from Mississippi. I believe we can hopefully dispose of it either one way or the other without, perhaps, a vote, and then there are additional amendments of the Senator from Texas. I think there are probably two that can be accepted. I think on the next one there will be a requirement for a vote.

Anyone obviously has a right to offer an amendment after that. However, it is at least my judgment at this time that we may be within a reasonable period, at least, of hopefully concluding this aspect of our debate.

Then we will have the Metzenbaum-Heinz amendment. The proponents can describe what the condition is in terms of the length of any debate.

Mr. President, that is the general condition. It might alter or change, but I think hopefully it might hold. That is just as a matter of information.

AMENDMENT NO. 1617

(Purpose: To remove the provisions establishing qualifications standards for polygraph examiners)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 1617.

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

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

The amendment is as follows:

Beginning on page 33, strike out line 10 and all that follows through page 35, line 7.

Mr. BYRD. Mr. President, if the Senator will yield, I ask unanimous consent that I may proceed for 2 minutes without the time being charged against the Senator from Mississippi.

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

Mr. BYRD. Mr. President, I have been discussing this with the distinguished Republican leader. It would be that we vote on cloture, say, at 9:30 tomorrow morning, and then proceed to dispose of this bill before we have the lengthy discussion which we had earlier talked about, following which the Senate would take up the intelligence authorization bill.

In that way, Senators would not have to wait until 2 o'clock tomorrow to vote on cloture and we would put this lengthy discussion off until afterward, following the action on this bill.

The distinguished Republican leader may wish to respond now, but that is what I am proposing, if I can change the order.

Mr. SIMPSON. Mr. President, I think that might be acceptable to those of us on this side of the aisle. Nothing else would change with regard to the order, the 4 hours under my control and the 1 hour under the majority leader's control.

Mr. BYRD. Yes.

Mr. SIMPSON. And going to the intelligence authorization bill right after that.

Mr. BYRD. Yes.

Mr. SIMPSON. Then we would complete cloture and any amendments suitable under postcloture, and then go through the scenario, with the cloture vote at 9:30.

Mr. BYRD. Yes. The first thing tomorrow would be the cloture vote. Assuming that that cloture vote carries, of course, the pending business would be the pending business to the exclusion of all other business until completed, following which we would do the 4 hour—1 hour talkathon, mini talkathon.

Following that, we would go to the intelligence authorization bill.

Mr. SIMPSON. Mr. President, that is not being proposed now as a unanimous-consent request or an agreement. I would suggest that we go forward with the next amendment, and I will get the information for the majority leader.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, the distinguished Senator from Mississippi has the floor.

Mr. COCHRAN. I yield.

Mr. DANFORTH. With regard to the program for tomorrow, I think this might be a good occasion for us to think about stacking votes. Most of the votes we have had in the last hour or so have been following about 10 minutes of debate. It seems that Senators might be willing to stay around tonight and debate their amendments and then have them voted on tomorrow.

Mr. BYRD. I would certainly be happy to consider that. It may be that the amendments are running down pretty fast. I do not know how many remaining amendments there are. There is one by Mr. METZENBAUM. That may or may not be a voice vote.

Mr. METZENBAUM. It may not be. We are trying to see if we can postpone the World Bank amendment.

Mr. BYRD. Let us go forward with this amendment and we will find out.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. If the Senator will suspend for a moment so that the record is clear, on this amendment there is a 10-minute time limit equally divided between the Senator from Mississippi and the manager of the bill.

Mr. COCHRAN. I thank the Chair.

Mr. President, the amendment I have sent to the desk is designed to delete a provision of the committee bill that provides authority to the Secretary of Labor to develop and promulgate Federal standards for licensing polygraph examiners.

The previous amendment I offered in the nature of a substitute assumed the Senate would probably vote to have a Federal preemption in the establishment by the Secretary of Labor of qualifications for polygraph examiners but I frankly did not like that.

As a member of the committee, I can remember the day that we reported the bill out; I was sitting there waiting for us to get a quorum to transact business, and I made the mistake of reading the bill. I probably would not be as troubled as I am tonight if I had not read it. But I found that the presumption the committee was making was that Federal decisions made here in Washington about the qualifications of polygraph examiners were of a higher quality than decisions made on the same subject by State government officials.

I just do not buy that. I think it is a mistake for us to assume bill after bill, program after program, that Washington decisions are necessarily better than State decisions.

In my State we have had a polygraph examiner bill on the books since 1968, and it has been working fine. But now, suddenly, the Federal Government decides that it can do it better.

I do not know that is necessarily true. This amendment simply says that the States should be allowed to establish their own criteria for licensing polygraph examiners. We do not have a Federal preemption on the licensing of medical doctors. We leave that up to the States. In profession after profession we leave to the States the decision as to who is qualified to do the job. Licensing is a matter of State law, and here we are departing from that principle, and I object.

I hope the Senate will vote for this amendment and go on record as giving credit to the careful, deliberate decisions that can be made by State governments in this area.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the Senator has objected to establishing some reasonable standards in terms of the administration of the various polygraph examinations. I have in my hand what is established in terms of Defense, in terms of the CIA, in terms of the NSA, the most important agencies protecting our security. We are not requiring that. We are requiring less stringent standards.

If you accept this amendment, you are accepting what is done in a wide majority of cases, and that is the examiner gets the machine, they have very little training, and they are in business.

Now, either we are or are not serious about trying to ensure that there are some reasonable standards, not that we have the answsers to all of them. But what we have seen in the course of our hearings is the kind of instance I just described—a polygraph machine arrives in the warehouse; they take it out of the box; someone who has very little understanding either about the machine, the behavorial sciences or investigations, at least in many of the firms, goes out and performs the test.

Now, I do not know what would be the reasonable grounds. We did not try to insist upon the kind of training that is required by the DOD or by the CIA. In the kinds of circumstances that we permit it, we are not even requiring that the people have the kind of training we insist on at the national level.

What we are asking for is a reasonable amount of training and standards that will ensure that at least, if they are going to administer the polygraph, those who are administering it meet some reasonable standards.

Now, I believe, Mr. President, that is not an unreasonable kind of provision. As the committee testimony has pointed out, the greatest instances of abuse are when the polygraphers do not have that kind of training or standards.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes and 8 seconds.

Mr. KENNEDY. These are the qualifications that are so objected to: At least be 21 years of age, has complied with all required laws in the State, successfully completed a formal training course regarding the use of polygraph tests—we do not say what the test is—completed an internship for not less than 6 months, renders an opinion in writing, and maintains reports and records for a minimum of 3 years. These are the objectionable standards.

It is difficult for me to understand how intrusive the long arm of the Federal Government is in that area, that they be 21 years old and have 6 months of training and comply with State laws. We do not talk about the course. We say 6 months. You must render any opinion in writing.

If everybody thinks that is the long arm of the Federal Government, I find it difficult to understand.

Mr. President, I do not know how much time I have.

The PRESIDING OFFICER. The Senator from Massachusetts has 40 seconds; the Senator from Mississippi has 2 minutes 50 seconds.

Mr. KENNEDY. I reserve the remainder of my time.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am not going to prolong the debate. I think we have discussed the issue so that Senators understand what is being questioned here by this amendment. Frankly, I was hoping that we would get a majority vote in favor of the substitute that was offered in the form of the previous amendment, but we did not. We had 29 votes. Somebody changed their vote at the end.

But the fact is that was the better amendment. This amendment is targeted to one objectionable provision that bothers this Senator. Obviously, it does not bother a majority of the Senate, so I am not going to insist that we belabor this point. But I did want to make the point. I think we continue to make a mistake by substituting the judgment of Washington officials for that of State officials. That is the point I am making, Mr. President.

I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I will just take 30 seconds.

The kind of requirements that we have here are the minimum requirements of any court reporter in the country. Is that intrusive? It is difficult for me to understand why there be such objection. It is established in the Federal legislation. I understand and respect the objection of the Senator from Mississippi to this legislation, but I am prepared for a voice vote.

I reserve the remainder of whatever time I have.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 1617) was rejected.

AMENDMENT NO. 1618

(Purpose: To provide for national security exemptions)

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1618.

At the appropriate place, add: "Nothing in this Act shall be construed to preclude the use of a lie detector test to any expert or consultant or any employee of such expert or consultant under contract with any federal government department, agency or program where a security clearance is required by the federal government for such expert or consultant and such expert or consultant, as a result of the contract, has access to classified and sensitive government information."

Mr. GRAMM. Mr. President, this simply corrects what I perceive to be an error in the bill. Contractors working for the Department of Defense and the Department of Energy, the National Security Administration, CIA, and FBI that are dealing with sensitive matters and subject to lie detector. This brings in such agencies as the Drug Enforcement Administration and the Nuclear Regulatory Commission. I understand the distinguished Senator from Massachusetts has no objection to the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this has gone through a series of revisions, and I think is an acceptable amendment. I have no objection to it. I understand that the Senator from Utah has no objection to it. So I would support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Texas [Mr. GRAMM].

The amendment (No. 1618) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1619

(Purpose: To provide a nuclear power plant exemption)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1619.

On page 28, between lines 14 and 15, insert the following new subsection:

"(e) NUCLEAR POWER PLANT EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any nuclear power plant. This subsection shall not preempt or supersede any state or local law that prohibits or restricts the use of lie detector tests."

Mr. GRAMM. Mr. President, I am told that so clear is the argument for this amendment that the distinguished Senator from Massachusetts is willing to accept it.

Mr. KENNEDY. Mr. President, this is a very limited amendment targeted in a very specialized area which is of enormous sensitivity. I have really no objection to this amendment. I would urge the Senate to adopt it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas [Mr. GRAMM].

The amendment (No. 1619) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1620

(Purpose: To provide an exemption for use of polygraph tests administered in accordance with Department of Defense Directive 5210.48)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1620.

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR TESTS CONDUCTED IN ACCORDANCE WITH DOD DIRECTIVE.—Nothing in this Act shall prohibit an employer from administering a polygraph test to an employee or prospective employee if the test is administered in accordance with Department of Defense Directive 5210.48 published on December 24, 1984.

Mr. BYRD. Mr. President, would the distinguished Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BYRD. Would the Senator agree to a time limitation on this amendment?

Mr. GRAMM. It is my understanding that we have 10 minutes on each side. I would be willing to cut that down to 5 minutes.

Mr. KENNEDY. Let us keep the 10 minutes evenly divided.

The PRESIDING OFFICER. There is no time agreement on this, the Chair would advise.

Mr. BYRD. Could the Senator make it 10 minutes?

Mr. GRAMM. Excuse me. I just remembered the distinguished other Senator GRAHAM wants to speak on this as well.

Mr. KENNEDY. That is all the more reason to keep it to 10 minutes.

Mr. GRAMM. We could have 10 minutes. If the distinguished Senator from Massachusetts wants 5 minutes, we have no objection.

Mr. KENNEDY. That is awfully nice. Mr. President, I am always glad to hear both of my good friends and colleagues. If they make an overly persuasive case, let us do it 20 minutes equally divided, and I will try to move it along.

Mr. BYRD. Mr. President, I ask unanimous consent it be 20 minutes equally divided on this amendment, with no amendment in order thereto. Does this accommodate the distinguished Senator from Florida?

Mr. GRAHAM. Yes, it does.

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes without the time being charged.

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

Mr. BYRD. Mr. President, Mr. METZENBAUM plans to call up an amendment this evening.

Mr. President, I wonder if we could agree, if the Senator would agree, on a 10-minute limitation on the amendment by Mr. METZENBAUM, 5 minutes to Mr. DODD and 5 minutes to Mr. METZENBAUM.

Mr. METZENBAUM. No objection.

Mr. DODD. I have no objection to that.

Mr. BYRD. Mr. President, also 5 minutes to Mr. HEINZ; with no amendment in order to the amendment.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. METZENBAUM follow the amendment by Mr. GRAMM.

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

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1620

Mr. GRAMM. Mr. President, I have been so moved in listening to the passionate arguments of the distinguished Senator from Massachusetts that I have offered this amendment. This amendment takes the Department of Defense directive as to how a polygraph examination must be given and the provisions that govern those who administer the test. We have heard at great length as to how the Government is so efficient that they administer the test in 8 hours, and the private sector does it in 15 minutes, one of the miracles of American Government.

This amendment says that if the private sector follows the Department of Defense directive, that they then can use the polygraph as a tool to protect the young, to protect the airline passenger, to protect those that are in sensitive areas that might be affected negatively.

I ask my colleagues to look closely at this amendment. This amendment preserves States' rights, except that it sets the highest existing Federal standard for those who employ the lie detectors within the private sector. Remembering that over 40 States have already set out procedures, we preempt only those procedures in terms of the quality of the test and the quality of the tester, but we preserve the ability of the private sector to use such test in the interest of trying to promote the public welfare.

Mr. President, there is a great paradox that we exempt Government in this bill. We exempt those riding in the wagon. We say they can use the polygraph but the people that are pulling the wagon, earning the income, paying the taxes, making the whole Government possible are effectively precluded except under the most limited circumstances.

Perhaps the distinguished Senator from Massachusetts is right. Maybe the quality of private testing is inadequate. This deals with that problem. This is a States' rights issue with a Federal preemption which sets the highest standards that exist in the Federal Government on the testers and the test.

I urge my colleagues to support this amendment. I reserve the balance of my time. And after the distinguished Senator from Massachusetts has spoken, I will yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, I yield 5 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I support the basic premise of this bill which is that there should be Federal standards, Federal conditions under which polygraphs are utilized.

I do not believe that requires an absolute prohibition or an absolute prohibition subject to industry-by-industry exception of employment of prospective employers. Our State of Florida, and a number of other States in this Union, have high mobility in their populations. In areas where it is virtually impossible to make a judgment based on community reputation, readily available other sources of information employers have found that the use of these examinations is an appropriate element of reaching the employment judgment.

I start from the premise that an employer who is already constrained by other provisions, and will be further constrained by the standards in this act from using these devices for discriminatory or other invidious purposes, is not going to be spending the money, taking the time, investing the effort, to have a polygraph administered, unless that employer feels that it has some value. It has significant value in many instances in reaching that preemployment decision as one element of the total information which an employer would utilize.

An employer bears a legal responsibility for the act of his employee. One important function the polygraph can serve is as a tool—and I underscore "a tool"—available to reduce the expense, the legal exposure, and the threat to other employees which the employment of a relatively unknown person requesting employment would be, where that use of the polygraph could be of assistance in identifying those who are inappropriate.

We have already recognized the appropriateness of preemployment use of polygraphs by the number of areas which have been expanded by amendments here today, in which we have provided an exemption, including an exemption to all Government employees.

I believe that by applying this highest standard available, the standard of the U.S. Department of Defense, to the applicator and the equipment used, we have protected the interests of those persons who would be the subject of a polygraph examination, but have made it available where the employer feels that it is a necessary and appropriate part of the information package in preemployment.

Mr. President, I have a letter which I have received from a leading firm in our State which is in the food business, a business that is not of the nature of high security, of nuclear powerplants or security guards, but a business which requires a high standard of its employees; a business that, under the best of circumstances, has a high turnover—in many of the communities in our State, we have heavy transit and tourist business, even more than would be true in most places in this Nation—has found that the use of polygraph is an important tool in reaching that decision.

Mr. President, I ask unanimous consent to have this letter, dated February 29, from Mr. Bern Laxer, of Bern's Steak House, in Tampa, FL, printed in the RECORD.

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

BERN'S STEAK HOUSE,
Tampa, FL, February 29, 1988.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: My wife and I own a restaurant that employs 243 people and is considered by our city fathers to be an asset to our community. In fact, when a rumor reached one of the editors of our local Tampa Tribune that our restaurant was sold, the front page of the paper was held open until the editor located me to learn whether the rumor was true. Of course it was not. Yet my thoughts (for the first time in our 35-year existence) are to consider

closing. The reason is the possible passing of bill SB 1904.

Please permit me to explain.

If all people were honest and told only the truth, polygraphs would never be necessary and I would have no dilemna. But although I have interviewed at least 30,000 applicants (out of over 40,000 applications)—there is absolutely no way for me to judge who is telling the truth and who is not.

So many applicants will tell you with great conviction that they are telling you the truth; yet thoroughly lie. I have personally seen it again and again and again—so many times!

This is why there is absolutely no way to bring in honest, drug-fee employees without a polygraph program!

About 90% of all applicants who apply for employment with us have used illegal drugs. This is the prime reason for our polygraph policy.

I fully understand that not all examiners are equal, and yes, errors are made (in my experience, however, less than one percent). But using polygraph examiners is costly, so I have investigated every other possibility for determining truthful answers on applications.

Nothing comes close.

Some people who oppose polygraphs have not experienced first hand what I have seen in my 25 years of its use. I know both the good and the bad. And the good, and the potential good, far outweighs the bad.

Wouldn't it be a wise idea, then, for our government to direct efforts toward improving the best method that exists now to screen out cocaine sellers, cocaine users, and people who regularly steal or harm others?

Alternative methods like putting people in jail have not worked too well in reducing sales of drugs yet. Law enforcement agencies have also spent enormous sums of money and manpower, but drug use is still strong.

However, our local police and sheriff departments spend a lot of time and effort in conducting background investigations on applicants, but still use polygraph examinations; becaue it's worth it to them. So why not permit private industry to continue to do the same—we generally see excellent results every day. The expenses are ours alone.

Look at the damage firearms do. If we permit almost anyone in America to possess firearms for protection, why can't business be allowed to continue to use polygraph for its protection? It certainly is less damaging.

Complaints have come from some who have been examined. It is, of course, true, that this certainly must be addressed. There is no question that examiners who are not fully qualified should be given the opportunity to improve or be removed. Twenty years ago, physicians made more mistakes than they do today. They have been practicing medicine for how many years—1000, 2000? Polygraphs run about 97% accuracy, nationwide, but how old is their profession—60 years, 40 years? Why not ask the industry to raise its standards?

Then it would be easier to take a look at another side of the coin. Question those who have been examined and are pleased. Consider the failures, but also explore the successes.

Ask our own employees what they think about polygraphs. I invite you to come and ask each and every one if they would prefer for us to give up our polygraph program.

Ask employees of other businesses all over America who use the polygraph also—service stations; drug, convenience and department stores; hotels and motels; super market, insurance and trucking companies; banks—would they like polygraphs discontinued?

Our reason for the polygraph is very simple, but serious. You fly and drive in from all over the world to eat with us, and we are responsible to have the nicest employees serve you the best food. When you tour our facilities and speak with our employees, we want you to enjoy yourself. People continuously visit our kitchens and often comment on the niceness of our employees.

In fact, many applicants have applied to us because of our reputation for being a nice place to work. Our restaurant is like a family, and my job is not only to please our customers, but also to provide my employees with a safe and enjoyable place to work. Hot stoves, hot fryers, and kitchen work pressures are not conducive for an employee to come to work "high" on drugs or alcohol. Many employees have worked with us for over 20 years, and I have a definite obligation to them to employ other honest, drug-free, quality people to work alongside them. That does not mean discrimination. We just prefer to employ only nice people like you would like to hire yourself—like a babysitter or maid who you would willingly trust to leave in your home when you were not there.

If you could experience the hundreds of times that the polygraph saved us grief, you probably would also agree to enhance it; not destroy it. Like the applicant for our farm who had already "raped two women" (unknown to the law, and not mentioned in his application, who acknowledged this during the pre-employment polygraph examination). My wife and young son and daughter worked on our farm at this time (we raise vegetables for our restaurant).

Another applicant's daytime employment was to dispose ("get rid of") murdered, dead bodies (a factual case, but also not mentioned in his application).

And the lovely young applicant, who was awaiting trial for possession of 24 pounds of marijuana, denied any contact with drugs in her application.

Another applicant had been a "paid assassin." (He had never mentioned that in his application either.)

The above may be extreme examples, but these come to mind quickest. Most applicants lie about their involvement with drugs. (All who take our polygraphs have already been screened and interviewed first and seemed fine.)

Let's consider the positive side. I am very proud of the fact that I have helped many people give up drugs—or certainly reduce its use. Our polygraphing has been a great assistance in helping our employees improve themselves, and many who were not employed because drug use gave it up and returned to be hired later. Being able to ask them, "may we check you again?" permits this idea to work. The ability to give them a second chance is made possible only because of the polygraph program.

We have hired many employees who promised to never use illegal drugs again, and many did stop.

Wouldn't it be a great boon if all employees used polygraphs as we do? Drug use would have to decease.

A work environment where all employees are polygraphed has to be the best work environment there is; not only do you feel much safer in it, but once you pass the polygraph, you are a prouder person because of it. If you could show me a method that works better than polygraph to help me hire better quality employees without discrimination, I certainly would use it.

Please oppose bill SB 1904, and allow us to employ only honest, drug-free people. Please do not destroy the best tool many of us have for providing you, our customers, with quality employees.

I know that you and our other legislators and government officials work in the best interests of every citizen, and I thank you for permitting me to share my experiences and thoughts with you.

Very respectfully yours,

BERN LAXER.

Mr. GRAHAM. Mr. President, I have been looking for this amendment. I am pleased that my colleague and namesake from Texas has offered it.

I urge that those who accept the need for Federal involvement in standards also be receptive to the fact that there is legitimate concern on the part of employers to be able to utilize for their own interests, where their interests coincide with the interests of the prospective employee, in being honest, fair, reliable, and credible, to be able to use this as a piece of information. I suggest that the standards set out in this amendment by the Senator from Texas achieve that purpose, and I urge its adoption.

The PRESIDING OFFICER (Mr. PRYOR). The time of the Senator has expired.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, if I may have the attention of the Senator from Texas, we have heard a lot of amendments around here, and this is the most cockamamy amendment we have seen during this whole debate. This is what he has said:

> Nothing in this act shall prohibit an employer from administering a polygraph test to an employee or prospective employee if the test is administered in accordance with Department of Defense directive. . . .

Who is going to decide, Mr. Private Company, what your polygraph test is going to be? It is going to be the Inspector General, the Department of Defense, authorized use of polygraph examinations.

You talk about the Federal Government and the private sector. You are going to have the Secretary of Defense, the IG, the Department of Defense, right here—authorizing the use of polygraph examination.

Do you want to know what the training program is going to be? Page 7: The Secretary of the Army shall establish a manager retraining program.

Boy, you talk about the Federal Government reaching right down in terms of the private sector. What in the world are we doing?

The interesting point is that this is not even what DOD uses. DOD uses this along with the regulations and the standard operating manual procedures. That is not the whole program. You want the long arm of the Federal Government deciding, in every one of these private industries, what they are going to do about polygraph training, waivers. There are 2 million tests a year in the private sector. You want a waiver. Who do you go to? You go right down to the Secretaries of the

military departments, the Director of NSA. That is nice.

We are at 20 minutes to 9, and this is the third attempt to try to deal with preemployment testing. We know that genesis of this. We establish under DOD and NSA careful kinds of reviews, where a polygraph is part of a range of different investigative techniques, where people are trained well, are limited to two tests a day, and it has value. But to try to take that thought and graft it on to this program, at this hour of the night, makes no sense whatever.

I reserve the remainder of my time.

Mr. GRAMM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 2 minutes remaining.

Mr. GRAMM. I yield myself 1 minute.

Mr. President, the distinguished Senator from Massachusetts is so concerned about the Federal Government reaching down into the private sector and setting standards that he wants to outlaw tests altogether.

This amendment simply takes the highest standards set by the Federal Government and says that if the private sector complies with those standards, it still has to meet all existing State standards. But we are defining the highest level of Federal standards in terms of application, in terms of the test and qualifications of those administering the test.

So we have a pure and simple vote here on State's rights. The Federal Government can set the standards that have to be applied in the private sector, but the States determine whether the private sector can use those standards to administer the test.

The argument that this is overreaching by the Federal Government, when the bill denies the ability to use tests for prescreening, period, I think is disingenuous.

I yield 1 minute to the distinguished Senator from Indiana, and I reserve the remainder of my time.

Mr. QUAYLE. Mr. President, this amendment is very straightforward. It is basically an antidouble standard amendment. We have two different standards, one for the public sector and one for the private sector.

We have heard all along the Senator from Massachusetts and others saying, "We don't want those $15 polygraphs. We don't want those fly-by-night polygraphers in there."

Well, we are not going to have it with this amendment, because they have to meet the very high standards that you have to have to a polygrapher for the Government. We are saying it is ok to do it for the Government if you meet certain high standards.

We are saying, OK, we will meet those standards. We will have the high tests. We will have the high caliber. And then we are going to say if you met those standards, it is OK to do it for the Government. Then it will be all right to do for the private sector.

This gets away from the double standard that is in this legislation. It is a very straightforward situation. It gets to the point where we are going to do away with the $15 polygraphs and have the high-class ones which they say is OK.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. As much as the Senator from Indiana and the Senator from Texas would like to believe it, the amendment does not do it. It refers to the directive. The various provisions that are followed in the DOD and NSA are here in the regulations and standard operating procedures.

Now, the fact is the members of the Army and the military forces ought to be doing other things than training guards and security officers for Stop and Shop and Wal-Mart.

You have it right there, and it just says it authorizes the use. Here you are going to have it.

I mean, let us be realistic. We understand that the Department of Defense having reviewed this and studied it has established procedures which they think are important and useful in terms of important national security questions.

We know that is considerably more than even is required in the special circumstances of this bill.

And, Mr. President, I am surprised quite frankly at two members of the Armed Services Committee who are familiar with this issue. I have been in the deliberations on this issue on that committee conference report. We have debated and discussed this issue with the Senator from New Mexico about the numbers that we are going to permit in terms of it. And to make light of this kind of a procedure, I think, is unfortunate indeed.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

Mr. GRAMM. Do I not have a little time left, Mr. President?

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. GRAMM. Mr. President, I send a modification of the amendment to the desk.

Mr. KENNEDY. Mr. President, I move to table——

Mr. BYRD. Mr. President, there was action taken on this amendment by virtue of the time agreement.

Mr. KENNEDY. I move to table.

Mr. BYRD. The Senator needs unanimous consent to modify the amendment.

The PRESIDING OFFICER. The Senator needs consent to modify.

Mr. KENNEDY. I move to table amendment.

Mr. GRAMM. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator's motion to table is not in order.

Mr. KENNEDY. I yield back the remainder of my time and move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is now on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. I move to table.

The PRESIDING OFFICER. The motion to table is now in order.

The question is on agreeing to the motion to lay on the table the amendment of the Senator from Texas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Kansas [Mr. DOLE] and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 35, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—57

Adams	Dodd	Melcher
Armstrong	Domenici	Metzenbaum
Bentsen	Durenberger	Mikulski
Bingaman	Evans	Mitchell
Boren	Exon	Moynihan
Boschwitz	Ford	Packwood
Bradley	Glenn	Pell
Bumpers	Hatch	Proxmire
Burdick	Hatfield	Reid
Byrd	Heinz	Riegle
Chafee	Hollings	Rockefeller
Cohen	Humphrey	Sanford
Conrad	Johnston	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerry	Shelby
Danforth	Lautenberg	Specter
Daschle	Leahy	Stafford
DeConcini	Levin	Weicker
Dixon	Matsunaga	Wirth

NAYS—35

Baucus	Helms	Pryor
Bond	Karnes	Quayle
Breaux	Kassebaum	Roth
Chiles	Kasten	Rudman
Cochran	Lugar	Simpson
Fowler	McCain	Stevens
Garn	McClure	Thurmond
Graham	McConnell	Trible
Gramm	Murkowski	Wallop
Grassley	Nickles	Warner
Hecht	Nunn	Wilson
Heflin	Pressler	

NOT VOTING—8

Biden	Harkin	Stennis
Dole	Inouye	Symms
Gore	Simon	

So the motion to lay on the table amendment No. 1620 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia, the majority leader, is recognized.

The Senate will be in order.

Mr. BYRD. Mr. President, I believe under the order previously entered, Mr. METZENBAUM is now to be recognized to call up his amendment. I ask unanimous consent that I may proceed for not more than 3 minutes, prior to the Senator's being recognized.

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

Mr. BYRD. Mr. President, earlier an order was entered whereby beginning tomorrow at 9 o'clock, there would be 5 hours of debate on an extraneous matter prior to the vote on cloture.

I ask unanimous consent that, with respect to the time limitations in connection with that extraneous matter, that order remain as was, but that the discussion of the extraneous matter follow, rather than precede, final action on the pending measure.

The PRESIDING OFFICER. (Mr. LEVIN). Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, this would mean that tomorrow morning the Senate would proceed with further votes on amendments to this matter and cloture, if there be further votes on amendments.

Now, Mr. President, it is my understanding that there are two, possibly three amendments, that remain on the other side of the aisle to be called up. Let me put the request.

First of all, I ask unanimous consent that on the not more than three remaining amendments, that there be a time limitation on each of those amendments of 10 minutes to be equally divided and controlled in accordance with the usual form; that no amendment to any one of the amendments be in order; provided further that the amendments be discussed this evening and that the votes be stacked for tomorrow morning, beginning at 9:30 a.m., and that the first rollcall vote be a 30-minute rollcall vote; that the time on each of the two succeeding amendments be limited to 10 minutes each in view of the fact that they would be stacked and back-to-back votes; that the vote on cloture then immediately occur, that if cloture is invoked the Senate then proceed immediately to the vote on final passage of the bill without further amendment or debate or motion of any kind, and that the motion to reconsider—that there be no debate on that motion, and that paragraph 4 of rule XII be waived.

Let me put that request for the moment.

Mr. GRAMM. Reserving the right to object, Mr. Leader, there are amendments that have been filed that meet the germaneness rule. I think those of us who have been concerned about the bill have had some amendments adopted by unanimous consent that have not been debated. I think we would like to go back and look tonight and in the morning at where we stand on the bill. It would be very difficult tonight to decide whether to go forward with any additional amendments without going back and making that review.

Mr. BYRD. I understand what the distinguished Senator is saying. I withdraw that request. Let me present another request.

Mr. President, I ask unanimous consent that there be no more than three amendments in order after this evening, that those three amendments be the type of amendments that would be in order postcloture, that the amendments each be limited to 10 minutes to be equally divided in accordance with the usual form, that at 9:30 a.m. tomorrow the Senate vote on cloture, that that be a 30-minute rollcall vote with the call for the regular order to be automatic at the conclusion of the 30 minutes and that, upon the disposition of the not more than three amendments, all of which are to be amendments that would qualify under the rules postcloture, the vote then occur on final passage immediately without further amendment, debate, or motions—let me modify the request. Following the disposition of the three aftermentioned amendments, there be 20 minutes of debate to be equally divided between Mr. KENNEDY and——

Mr. GRAMM. Mr. Leader, could we have that on each side? I know there will be four or five people on this side.

Mr. BYRD. That there be 40 minutes to be equally divided on the debate following the three aforementioned amendments; the time to be equally divided in accordance with the usual form; that the vote then occur without further motion, amendment, debate, action of any kind on final passage; no time on the motion to reconsider and upon the final disposition, therefore, of the bill; that the 4 hours of debate to be controlled by the distinguished Republican leader, 1 hour to be controlled by this Senator on the extraneous matter, occur; after which 4 hours, plus 1, if all time is used or upon the yielding back thereof, the Senate proceed immediately to the consideration of the intelligence authorization bill.

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

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. And I hope I will not object. I may.

Mr. President, am I to understand from the majority leader and the distinguished acting Republican leader that we are going to have probably one more rollcall vote this evening on the sense-of-the-Senate resolution offered by the Senator from Ohio, Senator METZENBAUM; then we will come in tomorrow, have votes, probably three or four on this legislation now pending, and then have a 4-hour special order——

Mr. BYRD. Actually, it amounts to 5.

Mr. PRYOR. A 5-hour special order; that is what it amounts to. And then after that, we will have probably a vote on the Intelligence Committee authorization?

Mr. BYRD. Yes.

Mr. PRYOR. If this is true, I object.

Mr. BYRD. Mr. President, I hope the Senator will not object. May I point out that if the Senator objects, the Senators over here can take time on this bill. There is nothing to keep them from it prior to cloture. They can take time on this bill after the Pastore rule has run its course on the morrow, and they can take, not only 4 hours, they can take 6 hours, 7 hours, 8 hours of time under the rules of the Senate.

I would like for this cup to pass from me, but it is not going to. There are Senators on this side who want to say some things, and they are entitled to that. I suppose, I do not know, I may have to say a few words myself. I will try to restrain myself as much as possible. But I hope the Senator will not object because this really is something that has been worked out laboriously and in the long run it will save the time of the Senate; I assure the Senator of that.

Mr. SIMPSON. Mr. President, I think there is one other element that might be helpful to the Senator from Arkansas, that if we do not finish tomorrow with the intelligence authorization, we will deal with that Friday morning. There is no question that we will finish it then. We will also have a rollcall vote Friday morning on the Executive Calendar, William F. Burns. So I would think that if we are allowed to go forward like this, we will finish our work on—maybe not likely at all tomorrow night on the intelligence authorization, and go out at a reasonable hour, I would trust tomorrow evening, and then Friday deal with the intelligence authorization and then complete that in midafternoon and go on with laying down—or if it is the majority leader's intention to lay it down—the House version of Price-Anderson.

Mr. BYRD. Price-Anderson.

Mr. PRYOR and Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I would like to ask the leaders and the managers of this bill if it is conceivable that a slight amendment may be made. That is, before we get to the "sensitive extraneous matter," the 5-hour special order, that we do the Intelligence Committee legislation. It is of time es-

sence. We know that. Why is it that we not consider that and vote on that, and then those Members wishing to decide whether or not we can arrest the other Senators can talk about that?

But in the meantime, while we are considering whether we can arrest each other, why do we not talk about something else? Why do we not talk about the principle of holding all of us hostage here while we wait around 5 hours, 6 hours, 7 hours to vote on the Intelligence matter?

I see no reason not to take the intelligence issue up first, and then those who wish to discuss this sensitive matter can debate it.

I see no reason in having us wait all day and all evening tomorrow night, holding us hostage so we can have that one final vote on the Intelligence Committee authorization.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. I ask for 3 additional minutes.

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

Mr. BYRD. Mr. President, the distinguished Senator from Arkansas makes a very plausible proposal on the surface, but there are some things involved here that we have considered. I would like to have done that first. I would have liked to have gone to the Intelligence Committee authorization first. That occurred to me also. But I happen to know that there is going to be at least 5 hours of debate. I say there will be at least 4; 1 hour will be under my control. I would hope that Senators would let us proceed as I have suggested because, in this way, we will not be in long tomorrow evening, and we will not be in much longer this evening.

We have one vote on the Metzenbaum amendment. That vote is already set. We have one more vote on the Metzenbaum amendment, and then tomorrow we will complete action on this bill. We will not stay in too late tomorrow evening. We can finish the other bill either tomorrow evening or the next day, and do the nomination, lay down Price-Anderson, and go home.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, parliamentary inquiry. Is there a time certain for when the debate will end and passage of the pending matter?

Mr. BYRD. There is not a time certain. We do not know what time the final vote will occur on the pending matter. The 5 hours begin running on the disposition of the pending matter.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I do not wish to complicate a difficult job any more than I have already. So I make a suggestion that might speed the process.

As I understood it, the unanimous-consent request just put to the body was that there be 3 amendments and 3 amendments only regarding the bill before the Senate, and they would be debated and taken up tomorrow, is that correct?

Mr. BYRD. Yes.

Mr. EXON. May I suggest that those who want to offer those amendments be allowed to do so this evening, and debate them this evening, and any rollcall votes that are required on any of those three amendments be stacked for an appropriate time.

There will be an agreement between the majority and minority leader. It seems to me that will save an awful lot of time tomorrow.

Mr. BYRD. Perhaps the distinguished Senator was not on the floor. That was the request I made just a few minutes ago, and the distinguished Senator from Texas did not feel disposed to agree with that.

Mr. EXON. I am appealing to the good sense and judgment of our respected friend from Texas. I listened to what he had to say. He said he wanted to review the voting today on the bill. We can dispose of that in a great hurry by having the Parliamentarian, through the Chair, explain to all of us what happened today. I think we already know that.

I do not happen to buy the argument realistically that we need to wait overnight to work this matter out. I would just appeal to my colleague from Texas to expedite the procedure and let those who want to offer their amendments, which I think are in order, to speed things along, and let us not put that over on top of everything else we have to do tomorrow and the following day.

Mr. GRAMM. Would the distinguished majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. GRAMM. I would just like to remind my colleague that under the rules of the Senate in a postcloture situation, any germane amendment that has been filed is in order. We have limited all of the amendments that are currently at the desk. We have limited ourselves to only three that can be offered. We have said on those three that there be 5 minutes on each side. We have already started the process of going back and looking at what has been filed and trying to pull it down to a total of three.

I think, quite frankly, we are trying to save everybody time. There is always the possibility that they will not be offered. We have spent more time here discussing all this than we possibly are going to save tomorrow and, in my view, the leadership has worked it all out. We ought to do it and go home tonight.

Mr. BYRD. Mr. President, how many amendments are at the desk that are filed for postcloture?

Mr. SIMPSON. Mr. President, there are 140.

The PRESIDING OFFICER. The Chair is informed there are about 120-plus amendments.

Mr. BYRD. Mr. President, I would appeal to Senators. I assure my friends, I can understand their frustrations, but the distinguished Republican leader and I have gone over this, and I think this is the very best arrangement that could be possibly hoped for. I would hope that Senators would not object to this.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if I may inquire of the Chair, has a time agreement been reached on the amendment by the Senator from Ohio?

Mr. METZENBAUM. Fifteen minutes.

Mr. PRYOR. Fifteen minutes, 7½.

The PRESIDING OFFICER. Has the question of the Senator been answered?

Mr. PRYOR. I thank the Chair. I think the question has been answered.

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

Mr. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. The Senator from Ohio is recognized under the previous rule.

AMENDMENT NO. 1621

(Purpose: To express the opposition of the Senate to the proposed $400 million World Bank loan to restructure Mexico's steel industry)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Senator HEINZ, Senator BYRD, Senator DOLE, Senator SHELBY, Senator HOLLINGS, Senator ROCKEFELLER, Senator GLENN, Senator DIXON, Senator HEFLIN, Senator DURENBERGER, and Senator NICKLES, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1621.

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

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

The amendment is as follows:

At the end of the committee amendment add the following new section:

"SEC. . MEXICO STEEL LOAN.

The Senate finds:

(1) during the past decade the United States steel industry has witnessed signifi-

cant economic disruption and employment losses due to increased foreign competition;

(2) the United States steel industry has lost more than 12 billion dollars; more than half its workforce, and closed scores of plants throught out the country;

(3) in order to regain its competitive posture, the United States industry has invested more than 8 billion dollars on modernization, obtained painful wage concessions from its remaining workforce, and slashed production capacity by one-third;

(4) there are more than 200 million excess tons of steel capacity worldwide, causing severe financial strains on steel industries in many countries;

(5) the proposed loan by the International Bank for Reconstruction and Development (hereafter referred to as the "World Bank") would provide Mexico's steel companies with subsidized financing to further the glut of worldwide steel production;

(6) the proposed loan could do irreparable damage to the United States steel industry. Therefore, it is the sense of the Senate that the proposed loan is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization; and the World Bank should reject the proposed loan.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, this sense-of-the-Senate resolution, which is an amendment to the pending bill, arises by reason of the fact that within the last 3 or 4 days we learned that the World Bank intends to approve a $400 million loan to the Mexican Government for the development of steel. Frankly, we had no prior notice of that. When we learned about it, we discussed the matter with Jim Baker this morning in the leader's office and Jim Baker agreed that the United States would vote "no" in connection with the approval of that loan.

Some of us subsequently today spoke with Mr. Barber Conable, president of the World Bank, and urged him not to go forward with this loan.

There are unemployed steelworkers in Ohio, Pennsylvania, West Virginia, Texas, and almost every State in the country.

Approval of $400 million to develop the steel industry in Mexico to compete with the steel industry in America is difficult for this Senator to undertand. We have already heard from the American Iron and Steel Institute indicating their concern and objection—from U.S. Steel, from Inland, Bethlehem, and LTV.

There is at this moment 200 million tons of excess steel capacity worldwide. Why we would under those circumstances want to help Mexico develop a steel industry to compete with American steel is difficult for me to understand.

Let me make it clear. It is not out of a lack of concern or affection with respect to Mexico. We want to see Mexico's economy strong. We want to continue the good trade relationship that we have with Mexico. But it is not logical. It is not right to take the American taxpayers' dollars, because we pay about 20 percent of the $400 million, to take the American taxpayers' dollars and make them available to the Mexican Government to develop a competitive steel industry.

Mr. President, I reserve the remainder of my time. At this point I yield 1 minute to the Senator from West Virginia,

Mr. ROCKEFELLER. I thank the Senator from Ohio.

Mr. President, I join the Senator in my stunned reaction to this proposal by the World Bank. I also thank Secretary Baker for agreeing to vote against this matter, but, unfortunately, it probably will not do any good.

It is appalling to me, first of all, that the Senate did not know about this. Also appalling to me is the insensitivity of the administration these last several years not only to the steel industry as a whole but especially to the unemployed steelworkers in this country.

My vote has nothing to do with Mexico itself. It there were any country to which the World Bank was considering a loan in order to help its steel industry, I would be opposed. I would join a resolution to fight it. Our steel industry has not come back. Weirton and Wheeling-Pittsburgh Steel for example still have a long way to go. This resolution ought to pass and the World Bank ought not to make this loan to Mexico for the purpose of competing with the American steel industry.

I thank the Senator from Ohio for yielding.

The PRESIDING OFFICER. Who yields time.

Mr. HEINZ. Mr. President, I yield 1 minute to the Senator from Texas.

Mr. GRAMM. Mr. President, I am struck by the fact that we are here, after the horse is out of the barn, talking about money that is loaned to Mexico to develop the steel industry—that is in competition with our own—when we have people out of work.

We have had numerous other opportunities when we were voting on the World Bank to do something about this problem. In fact, when you let other people loan your money, you lose control. I hope those who are outraged by what is happening here tonight will remember that the next time we vote on World Bank authorization and appropriations. That is the time to do something about the problem. What we ought to be doing is not letting other people lend the American taxpayers' money, because when they do it, we do not have control over it.

Mr. HEINZ. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

Mr. SPECTER. I thank my distinguished colleague.

Mr. President, this movement is very surprising in light of the fact that there have been repeated assurances from the administration, including the Secretary of the Treasury, that there would not be United States acquiescence in loans of this sort which unfairly compete with U.S. industry.

I put this question to the Secretary of the Treasury: Why should a Pennsylvania steelworker pay taxes to the U.S. Government, which in turn makes advances to the World Bank, which then makes loans to a country like Brazil or Mexico in this instance, which then uses those loans to subsidize steel which comes back into the United States and puts that Pennsylvania steelworker, who paid the taxes, out of a job?

It is just fundamentally unfair and this resolution ought to be passed and these practices ought to be stopped.

I thank the Chair, and I thank my colleague.

Mr. HEINZ. Mr. President, if there are no further requests for time on this side, I will make one comment.

Mr. President, there has been a lot of debate about this matter, and I am pleased to join with the Senator from Ohio in supporting his resolution. Maybe the authorities at the World Bank should consider, if they are determined to go ahead with this loan which will put still more American steelworkers out of work, extending such loans to those unemployed steelworkers and others on the same generous terms of 3 years to pay with interest rates about half what they could get if they were lucky.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I would like to make four points.

The first is this amendment has no impact on the loan that will be authorized tomorrow. It has no impact.

The second point is, do we really want to start voting on every loan that is made by the World Bank? Do we not have enough things to vote on?

The PRESIDING OFFICER. The Chair will interrupt the Senator from New Jersey. On whose time is the Senator speaking?

Who yields time?

Mr. STEVENS. Who has time in opposition?

Mr. CRANSTON. Mr. President, is not time equally divided in some fashion?

The PRESIDING OFFICER. Time is controlled by Senator DODD, Senator HEINZ, and Senator METZENBAUM.

Mr. HEINZ. Mr. President, parliamentary inquiry. Is it not that the time in opposition is controlled by Senator DODD?

The PRESIDING OFFICER. There is no time in opposition. The time is allocated to three Members.

Mr. METZENBAUM addressed the Chair.

Mr. BRADLEY. Mr. President, I ask unanimous consent that I may continue for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object. I think we ought to comply with the rules and give the opposition time to the minority leader, if there is no time designated. He is entitled to equal time.

Mr. BRADLEY. If the Senator will yield, I am the opposition.

Mr. STEVENS. The Senator does not have any time.

The PRESIDING OFFICER. Objection is heard.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. SIMPSON. Mr. President, at the time that unanimous-consent request was propounded, I had been advised that Senator DODD was speaking in opposition to the measure or else I would not have concurred with it. If we have three people, each with 5 minutes, speaking in favor of it and no one in opposition, I hope our colleagues would give 5 minutes through unanimous consent to the Senator from New Jersey or someone who wishes to speak on the other side so we might have total fairness in the debate.

Mr. METZENBAUM and Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, there is an element of unfairness but it was not intended to be that way because the proponents have 10 minutes and the opposition has 5 minutes.

If the minority leader agrees, I would suggest we give Senator DODD the additional 5 minutes and let him dispense time to Senator BRADLEY.

I ask unanimous consent that Senator DODD be given an additional 5 minutes.

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

Mr. BRADLEY. Will the Senator yield?

Mr. DODD. I yield 2 minutes to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, just to recap, this amendment has no impact whatsoever on the loan that the World Bank will approve tomorrow.

Second, I do not think we want to start voting on every loan that the World Bank offers. We have enough things to vote on as it is.

Third, half the population of Mexico is under 15 years of age.

There is no way that they are going to generate enough jobs to employ their population if they do not get sufficient investment. If they do not get sufficient investment to generate jobs, there is only one place that those young people are going to head, and that is north.

Fourth, we are in the middle of a Presidential campaign in Mexico. The Presidential candidate of one party is known to be pro-American. This is the kind of amendment which is offered for domestic political consumption that can become a lightning rod in an election in Mexico.

Mr. President, I hope that we will approach this a little more soberly, and we will, of course, be concerned about the plight of steelworkers in this country but that we will actually do something to improve the plight of steelworkers in this country as opposed to making a gesture that will have no impact on the loan that will be approved tomorrow.

Mr. STEVENS. Mr. President, would the Senator yield a minute of his time?

Mr. DODD. I would prefer to comment, if I could and if there is some time remaining, I will yield.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ROCKEFELLER). Eight minutes.

Mr. DODD. Let me commend my colleague from New Jersey, who is always succinct and eloquent. Obviously, if there is anything that will legitimately help the steelworkers in this country, then I think all of us would join in that kind of an effort.

The fact of the matter is this amendment, even if it were meaningful—I will briefly describe it to you—would have absolutely the opposite effect if you knew what was included in this $400 million loan to Mexico.

First of all, it has been said that the World Bank has been used to develop Mexican steel. That is not the case with this loan. It is not a loan to develop Mexican steel, but rather to improve the quality of their steel.

Let me tell you what the Mexicans have agreed to as a result of the negotiations over this loan.

One, Mexican officials have been and are willing to cut even further tariffs on steel imports which is vitally important to United States steel interests as a result of this $400 million loan agreement.

Second, officials have agreed to stop subsidizing their steel industry over the course of this loan, something we have been trying to get them to do for years. They have agreed to do it as a result of this loan.

Third, the loan is not designed to increase Mexico's steel. A unique feature was included in this particular loan agreement. That is built into this which would allow the package to make sure no additional economically unsound expansion of Mexico's steel industry occurs during this particular period.

All of these things we have been trying to get for years from Mexico. As a result of tough negotiations for this loan we were able to get those concessions. In fact, the U.S. steel industry will be assisted by this particular proposition.

My colleague from New Jersey is absolutely correct. We have an interparliamentary meeting beginning 48 hours from now which this Senator chairs with a group of Senators and Congressmen from Mexico in New Orleans' as we do every year. We are going to go down there and we are going to fight to get them to be more supportive of our interests in drug interdiction, we are asking them to be more supportive about expanding and opening up Mexican markets for United States investment, we are asking them to be more supportive to pay back those loans on the debt that they have incurred, and they are going to have to be tough with their own people.

How do you expect us to go down and try to convince them to be supportive of us? We are going to ask them as well to help us out with Noriega in Panama.

How willing do you think they are going to be to help us on those things when the U.S. Senate passes a meaningless resolution for domestic political consumption which in fact will hurt the U.S. steel industry? How do you explain that? That is exactly what we are doing. Tonight if you want to be helpful, if you want to send a good message to our colleagues to the south, and our colleague from New Jersey is absolutely correct, Mexicans are only going in one direction. It is a desperately poor country. It is on its knees. It needs help.

If you want to beat Marxism, if you want to take on the Communists in Latin America, we have heard more speeches about that, then let us do something to help these countries struggling with it; not turn around and give the speeches about Marxism and then cut off a loan that tries to help Mexico when it is in trouble.

So I would urge my colleagues tonight to vote against this resolution and to do something sensible for once, and not try to interfere with every decision the World Bank makes when in fact they negotiate a loan that is in our interests.

I yield to my colleague from Kansas.

Mrs. KASSEBAUM. Mr. President, time is running for those of us who wish to speak in opposition. I would like to associate myself with the remarks of the Senator from Connecticut.

I understand the frustration of those who initiated this resolution but it is a serious mistake I think for the U.S. Senate to go on record trying to dictate, regardless of the merits of the issue the World Bank will do in their vote for or against, individual votes taken at the World Bank. It places us in a difficult position.

I think the Senator from Connecticut has stated it very well.

I yield.

Mr. DODD. Mr. President, I yield to the Senator from the State of Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I join with the Senators from New Jersey, Connecticut, and Kansas in opposing this resolution. I am appalled at the

laxity with which we jump into foreign affairs, knowing half of what we are talking about or half of what we are doing, and we ask people in a 15-minute period to vote on something that could have extraordinarily adverse effects on our foreign policy.

Frankly, I am appalled that the Secretary of the Treasury would have his arm twisted to even vote against this loan. That is what I think is wrong about what we are doing. I would hope my colleagues would join with us in taking a second look and a second thought about the hasty action we are taking that could have some very, very bad effects on our ability to conduct foreign policy with the nearest neighbor we have to the south, and one which has plenty of problems.

Mr. DODD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 26 seconds.

Mr. DODD. I reserve the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have heard it said that this action will have no impact on the loan. I do not know about that. I think that there is a possibility that if the World Bank learns that the U.S. Senate is not in favor of this loan and recognizes what it will do to the American steel industry that we still might save the World Bank from the error of its own ways.

I think the World Bank performs a useful purpose in many instances but quite often I think it goes overboard. I would not be here standing supporting the World Bank creating a new insurance industry in Mexico, and I am not in favor of creating a new steel industry in Mexico. It does not make any sense when we have steelworkers walking up and down the streets of every State in the country where there are steel operations in effect, and they are unemployed. And they do not understand this. You would not understand it either if you were they.

It has been stated this will hurt the domestic steel industry if we defeat this resolution. I do not understand that at all. The domestic steel industry does not want this loan to be made. And it should not be made. It is wrong to make it. And the only reason we are acting as we are here this evening is because the World Bank gave us 3 days' notice—3 days' notice—before we learned what was involved. And we urged them to postpone it, and if they did we would not have gone forward with the resolution this evening.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I yield 1 minute to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, it is almost impossible for this Senator to conceive an action by the World Bank that would not involve a conflict with some industry in the United States. I cannot conceive how these countries can repay our banking system the amount that they owe us unless we keep our nose out of their business, and I really cannot understand why in a 15-minute period we are asked to pass a resolution of this gravity without any prior study, without any reference to a committee, and without any compliance with what I consider to be the proper procedure for consideration of such a far-reaching question.

I am going to oppose this because I think those countries need jobs; and if they have jobs, they will buy more of our products, not less.

Mr. DODD. Mr. President, I yield 1 minute to the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we want Third World countries to pay their debts to us. We want Third World countries to be good customers of ours, but apparently we do not want those Third World countries to compete with us in any respect; we do not want to, apparently, lend them any money to improve their capacity to purchase goods from us and to pay back their debt. That, to me, is ridiculous. I think we are making a great mistake in meddling in this business.

I want to commend the Senator from Connecticut and others who have made remarks in that connection. I think we ought to oppose this resolution.

Mr. DODD. Mr. President, let me mention, because I think it is worth noting here, that we have been fighting for so long to get the Mexican Government to lift those restrictive tariffs, not to subsidize their industry. Somehow we happen to believe or think that if we can reject the World Bank loan, the Japanese or someone else is not going to go in, divide that kind of money which probably will not secure for us the kind of improvements we would like to see in Mexican public policy decisions when it comes to tariffs and subsidies.

I would just implore, if there were more time, my colleagues to read in fact what this agreement involves, in fact what we have secured from the Mexican Government as a result of this loan.

Mr. President, I know there is time remaining on the other side, but at the appropriate time I would move to table this resolution and ask for the yeas and nays on it, but I will withhold that motion until my colleagues have expended their time.

I reserve the remainder of my time.

(By request of Mr. SIMPSON the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, I am pleased to join as a sponsor of this amendment in opposition to the proposed World Bank loan to Mexico. We all would applaud most efforts to help Mexico improve its economy, but it seems to me that this $400 million loan targeted to Mexico's steel industry is misguided.

The global market for steel already suffers from serious overcapacity. Our domestic industry has gone through the pain of reducing capacity, as has the steel industry in Europe and elsewhere. This pain has been very real. It has meant lost jobs, lost incomes, devastated communities.

Our domestic steel industry continues its efforts to modernize, to become more productive, to become more competitive in the world marketplace. The effort has not been easy, and we still have a way to go.

In this context, I question the wisdom of targeting assistance to the Mexican steel industry. It seems clear that the world market does not need additional production. I understand that the proposed loan will not add capacity, but it certainly will add product.

After all our own steel industry has gone through to reduce capacity and become more competitive, it seems particularly aggravating that the World Bank would strive to increase world production.

I am especially gratified that the administration has changed its position and will now vote against this loan when the matter comes before the World Bank tomorrow. I can understand the desire of the administration to help Mexico revitalize its economy, but I am sure there is a better way to do it.

I want to emphasize that this is not "Mexico bashing." That would be in no one's interest. However, it would seem far preferable both for Mexico and our own steel industry if the World Bank would look for ways to help Mexico develop its economy in industries where there is an excess demand, not where there is an excess supply.●

Mr. HEINZ. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 3 minutes.

Mr. HEINZ. I yield myself 1 minute.

Mr. President, as the Senator from Ohio has stated, this comes to the floor because we have no alternative. The World Bank will act tomorrow, and, as he says, they have given us less than 3 days's notice.

I think I know the reason. The Senator from Connecticut has said, "Let us examine what is part of this agreement." The first part of it, I say to the Senator from Connecticut, is $100 million to subsidize—straight subsidy—raw materials for the Mexican steel industry. This is not simply $400 million of investment; it is subsidy.

Mr. President, if we made a loan of this equivalent size in the United States to our steel industry, it would be the equivalent of a $4 billion loan.

I listened to my colleagues who say this is not a good amendment because we should do anything the Mexicans

want us to do for them. I do not know how much is too much. $4 billion? $40 billion? $400 billion? This Senator says enough is enough.

Mr. DODD. Mr. President, does the Senator yield back the remainder of his time?

Mr. HEINZ. Is the Senator prepared to yield back the remainder of his time?

Mr. DODD. Yes.

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

Mr. DODD. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

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

The result was announced—yeas 45, nays 48, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—45

Adams	Fowler	Nunn
Baucus	Graham	Packwood
Bingaman	Hatfield	Pell
Boren	Humphrey	Proxmire
Bradley	Johnston	Pryor
Breaux	Kassebaum	Reid
Bumpers	Kennedy	Sanford
Chafee	Kerry	Simpson
Chiles	Lautenberg	Stafford
Cochran	Leahy	Stevens
Cohen	Matsunaga	Trible
Cranston	McCain	Warner
Daschle	Mitchell	Weicker
Dodd	Moynihan	Wilson
Evans	Murkowski	Wirth

NAYS—48

Armstrong	Glenn	Metzenbaum
Bentsen	Gramm	Mikulski
Bond	Grassley	Nickles
Boschwitz	Hatch	Pressler
Burdick	Hecht	Quayle
Byrd	Heflin	Riegle
Conrad	Heinz	Rockefeller
D'Amato	Helms	Roth
Danforth	Hollings	Rudman
DeConcini	Karnes	Sarbanes
Dixon	Kasten	Sasser
Domenici	Levin	Shelby
Durenberger	Lugar	Specter
Exon	McClure	Symms
Ford	McConnell	Thurmond
Garn	Melcher	Wallop

NOT VOTING—7

Biden	Harkin	Stennis
Dole	Inouye	
Gore	Simon	

So the motion to table was not agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the call for the yeas and nays be vitiated.

Mr DODD. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I believe some Senators have gone home.

Mr. President, I ask unanimous consent that the call for the yeas and nays be vitiated.

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

Mr. BYRD. Mr. President, that is the last rollcall vote.

The PRESIDING OFFICER. The question is on the amendment.

All those in favor will signify by saying "aye."

Opposed, "no."

The Chair has a doubt.

The Chair will have a vote count. All those in favor of the amendment will raise their hands and the clerk will count.

All those opposed, raise their hands.

The amendment is agreed to.

The amendment (No. 1621) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I rise today in support of S. 1904, the Polygraph Protection Act of 1987.

I am very pleased that the Senate is taking up this matter today. This is an issue Congress has struggled with for several years now, and it is one of great importance to employers and employees alike. According to the Office of Technology Assessment, there were approximately 2 million polygraph tests administered in 1986, 98 percent of them by private employers. Clearly, the use of these tests is widespread, and both employees and employers have very important and real concerns. Employees want and deserve to have their rights protected. Employers want and deserve to be able to protect themselves from dishonest employees.

Previous polygraph proposals have stalled in Congress because they have not embodied a consistent and logical approach to this problem. As all of us know, the House twice in the past 2 years has passed legislation restricting polygraph use. In 1986, the full House considered a bill that would have completely banned polygraph testing except by nursing homes and day care centers, which could have used the test to screen applicants for positions involving direct contact with children or the elderly. On the floor, amendments were added to allow testing of security guards as well as workers and contractors employed by public utilities.

This year, the House passed a similar bill, H.R. 1212. Again, the ban was to be complete, but in floor action amendments were adopted to exempt security firms from the prohibition. Manufacturers and/or distributors of controlled substances were also permitted to use polygraph tests, but only in the conduct of criminal investigations.

Mr. President, the problem with the House approach in the past two Congresses is that it would create selective and subjective polygraph bans that vary according to the type of business concerned. This is illogical, and contrary to the very reasons we want to national polygraph policy in the first place. Lie detectors are inherently unreliable and there is no empirical way to differentiate one industry from another in terms of their respective need for exemptions form the polygraph ban. Security firms versus day car centers; nursing homes versus nuclear powerplants; who needs the polygraph more?

I am proud to take at least partial credit for the new approach to polygraph legislation embodied in S. 1904. In 1986, the Senate Labor Committee reported polygraph legislation based on the bill which had just passed the House of Representatives. However, that legislation was never considered on the floor of the Senate because prospective amendments to create industrywide exemptions eroded political consensus for the bill. In anticipation of this problem, I discussed seven amendments during that 1986 committee markup, six of which form the basis for the radically different approach before us today.

Two of my amendments sought to ensure that law governing polygraph use was consistent for all industries, and was based on scientific evidence concerning polygraph reliability. One amendment would have banned all random or preemployment testing, and another would have permitted tests only in the course of an investigation into theft or criminal violations. These proposals were based on expert testimony that both random and preemployment testing programs were simply unreliable and that accuracy is much greater in cases where tests are part of an ongoing investigation. These amendments formed the basis for the approach before us today: a ban on all preemployment and/or random testing programs, with tests permitted as part of ongoing investigations of loss or theft.

Of course this approach makes neither employers nor employees ecstatic. But such is the nature of the legislative process, that opposing sides must compromise. What is significant is that S. 1904 meets the principal objectives of both sides. On the one hand, the ban on random and preemployment screening will protect employees from inaccurate testing and will eliminate approximately 70 percent of the

tests currently conducted. At the same time, employers will be allowed to use the polygraph test in circumstances most useful to them.

Other amendments that I offered in 1986 sought to further protect the rights of employees. One of my proposals would have ensured that employees were not dismissed or discriminated against solely for refusing to take a polygraph test. Another would have prevented similar adverse actions against people who actually fail a polygraph test. In both cases, employers would have been required to show further evidence in order to act against an employee. In addition, I proposed that polygraph test results be kept confidential. All three of these provisions have been included in S. 1904 and these are crucial to the protection of an employee's civil rights when tests are permitted.

I am also pleased that S. 1904 includes my proposal to preclude the preemption of State law. The State of Connecticut, for example, has very tough restrictions on polygraph tests that I do not want compromised by a weaker Federal law. Under S. 1904, the Federal statute would become the minimum standard governing polygraph use, but stronger State laws would remain in force.

Finally, I am pleased that S. 1904 details important and comprehensive guidelines for the conduct of polygraph tests. An employee who takes a test must have notice as to the time, place, nature, and procedures of the test, and must be given an opportunity to review the questions to be asked. The examinee may not be asked questions concerning political or religious beliefs, nor other personal matters, and may not be subjected to probing and badgering questioning. The examine is also allowed to terminate the test at any time. These are important guidelines, because they systematize polygraph tests and take much of the mystery out of the process.

Mr. President, we have before us an excellent opportunity to enact legislation concerning a widespread and questionable industry practice; a practice under which an employee's right to privacy can now be denied under virtually any circumstance; a practice under which employees can now be stigmatized as criminals or liars based on the results of a scientifically unreliable testing procedure. The proposal before us today would apply laws consistently across the board; it is a compromise in which the interests of both sides are taken into account; and it is one based on the hard evidence concerning the accuracy of polygraph tests. I urge the swift passage of S. 1904.

Mr. HEINZ. Mr. President, I rise in strong support of S. 1904, the Polygraph Protection Act of 1987. By prohibiting employers from using lie detectors to screen potential or present employees, S. 1904 will help eliminate a significant and growing hazard in today's workplace.

I support this legislation for several reasons. First, a wide variety of studies have shown that polygraphs are unreliable in detecting truth from deception. I would point out that it is the professional judgment of groups such as the American Psychologists Association, the American Medical Association that no scientific evidence exists to justify the reliability of polygraphs as pre-employment screening tools.

In an effort to quantify the accuracy of polygraphs, Congress' own Office of Technology Assessment conducted an intensive analysis and review of research studies in this area in 1983. The OTA report only found evidence to justify the validity of polygraphs when used to investigate specific criminal incidents. In these instances, OTA rated a polygraph's ability to detect deception at "better than chance, but with error rates that could be considered significant." One study reviewed in the OTA analysis found that a polygraph incorrectly identified innocent respondents 75 percent of the time.

With success rates like this, it is no wonder that most Federal courts refuse to admit polygraph test results as evidence in criminal trials.

But as information about the inaccuracy of polygraphs continues to mount, these machines are increasingly used as a means to screen potential employees. It is estimated that 2 million polygraphs are administered each year in this country, more than four times the amount administered 10 years ago. Over 75 percent of these tests are administered not as part of an investigation into theft where the employer has reason to suspect an employee but rather as a means to disqualify an applicant from being hired. And it is precisely these type of tests that OTA has found to have the highest percentage of "false positives"—instances in which the polygraph incorrectly identifies innocent persons as deceptive. As many as 50,000 Americans each year are wrongfully denied jobs or promotions because of prescreening tests that, according to OTA, have error rates as high as 50 percent. For many of these people, a failed polygraph, accurate or not, leaves a permanent blemish on their employment record.

Mr. President, I would point out that S. 1904 has been tightly drawn to address only the most dangerous and inappropriate uses of polygraphs—to screen potential employees or randomly test present employees. The bill does not prohibit the use of lie detectors in investigations of wrongdoing where an employer has reason to suspect an employee of involvement in such a crime. In these instances, however, no adverse action can be taken against an employee based solely on the results of a polygraph. As such, the polygraph may be used as a confirmatory instrument, which, given its dubious reliability, is appropriate.

Some will argue that polygraph protection is a function best left to State legislatures, 21 of whom have enacted laws to prohibit or restrict the use of these machines. My response to that argument is twofold. First, these laws are fine if a prospective employee is fortunate to live in one of the 21 States that regulates polygraphs. But what of job applicants in the remaining 29 States who may still be forced to take a preemployment polygraph? Furthermore, as the body with control over interstate commerce, the Federal Government has the authority and the responsibility to regulate the use of the polygraph, an instrument widely employed by industries engaged in this type of commerce.

In conclusion, S. 1904 is balanced and necessary legislation. Studies have repeatedly shown that the polygraph is an unreliable instrument. More importantly, its use may have potentially dangerous and unintended effects on the ability of an innocent and honest job applicant or employee to find or keep a job. I urge my colleagues to support this legislation.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 10 minutes and that Senators may speak therein.

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

THE INTENT OF THE HARKIN/HUMPHREY AMENDMENT TO S. 557, THE CIVIL RIGHTS RESTORATION ACT

Mr. KENNEDY. As Democratic floor manager of S. 557, the Civil Rights Restoration Act of 1987, and following my discussion with members of the Subcommittee on the Handicapped and Others, I would like to ask my colleague from Iowa, Senator HARKIN, to help clarify the record with regard to amendment No. 1396 that he cosponsored and that was added to the bill during Senate consideration of S. 557 on January 28, 1988. We believe we had a clear understanding of the purpose of the amendment when we negotiated and agreed to it and I would like that purpose to be established for the record.

Mr. WEICKER. As an original cosponsor of S. 557 and former chairman and the current ranking minority member of the Subcommittee on the Handicapped, I too would like to ask my colleague, the current chairman of the Subcommittee on the Handicapped, to reiterate his understanding of the amendment.

Mr. HARKIN. I would be happy to set forth for the record the background and intent of this amendment. On January 28, I sponsored amend-

ment No. 1396 to S. 557, with Senator HUMPHREY as a cosponsor. The purpose of the amendment was to clarify for employers the applicability of section 504 of the Rehabilitation Act of 1973 to persons who have a currently contagious disease or infection.

In a recent statement in the CONGRESSIONAL RECORD (page S 970, February 18, 1988), Senator HUMPHREY pointed out that those of us who worked out the language of the amendment hoped to avoid unproductive sparring over the fine points of its meaning, and thereby provide direction for the courts, by presenting a concise agreed upon colloquy which addressed certain points regarding the amendment. I agree. I also agree that the intent and effect of the amendment are made quite clear by the language of the amendment itself and are further clarified by the colloquy.

Senator HUMPHREY also points out that the amendment modifies substantive law by specifying that persons with contagious diseases and infections creating direct health threats are not to be classified as "individuals with handicaps" under the employment provisions of the Rehabilitation Act. Senator HUMPHREY is correct that, through this amendment, we have added—as we intended—a new substantive part to the "definition" section of the Rehabilitation Act in order to address specifically the category of people with contagious diseases and infections. But it is important, at the same time, to make clear that the purpose of the amendment was to clarify—and not to modify in any way—the protections of section 504, as they apply to individuals with contagious diseases or infections. The amendment is consistent with the Supreme Court decision in *School Board of Nassau County* v. *Arline*, 107 Sup. Ct. 1123 (1987).

To understand the background and intent of the compromise amendment, I would like to begin briefly with the Arline decision. In that case, the Court held that individuals with contagious diseases were not intended to be excluded categorically from the definition of "individuals with handicaps" under the Rehabilitation Act of 1973. The Court also made clear that the existing requirement in section 504 of the act that a handicapped individual must be "otherwise qualified" protects the public health and safety of those who come in contact with such individuals.

The day the Supreme Court handed down its decision, the press reported that the Court had affirmed that persons with contagious diseases were covered by the Federal civil rights law protecting handicapped persons. That same day, I made a statement in the CONGRESSIONAL RECORD in support of the decision. See CONG. REC. S2748-2749 (March 3, 1987). My hope in making that statement was to clarify the holding in anticipation of questions that might arise by those entities covered under section 504.

As I had anticipated, after the press accounts of the decision, my staff on the Subcommittee on the Handicapped, which I chair and which has jurisdiction over section 504, received numerous inquiries from employers and other regarding the meaning of the Arline decision. Some employers even expressed the unfounded concern that they would have to hire or retain individuals who had a contagious disease or infection and for whom no reasonable accommodation could eliminate the significant risk of such individuals transmitting the disease, thus posing a direct threat to the health or safety of other workers.

My staff responded to these inquiries by explaining section 504 and the Arline decision. As the Court stated in the case:

> A person who poses a significant risk of communicating an infectious disease to others in the workplace will not be otherwise qualified for his or her job if reasonable accommodation will not eliminate that risk.

Thus, for example, the act would not require a school board to place a teacher with active contagious tuberculosis in a classroom with elementary school children if the individual did not meet the standards enunciated by the Court.

Because of the lack of understanding of the decision as evidenced by the inquiries, it became clear to me that there was a need to educate individuals regarding the meaning of current law, as stated by the Supreme Court in the Arline case.

When Senator HUMPHREY announced, as part of the unanimous consent agreement, his intent to offer an Arline amendment to the Civil Rights Restoration Act, I instructed my staff to negotiate with Senator HUMPHREY to ascertain whether he would be willing to agree to an amendment that clarified how section 504 applies to persons with contagious diseases and infections. I believed that such an amendment could serve as a useful vehicle for communicating to employers and employees the existing precepts of section 504, as applied to persons with contagious diseases or infections.

Although I recognized that it was a compromise to place explicitly in statutory language the manner in which existing law applies to a subgroup of individuals—those with contagious diseases or infections—I believed that such an amendment could serve a useful clarifying purpose.

Moreover, as I instructed my staff, the amendment was designed specifically not to change in any way the standards of section 504 and to ensure that it was consistent with the Arline decision. An amendment that did seek to undermine the standards of section 504, as reaffirmed in the Arline decision, had been soundly defeated—2 to 14 vote—by the Senate Labor and Human Resources Committee when it was offered by Senator HUMPHREY during consideration of the Civil Restoration Act.

In negotiating this amendment, therefore, we believed that it was appropriate to clarify the applicability of section 504 to persons with contagious diseases and infections. It was not our intent to change the substantive standards of section 504, as they apply to such individuals.

In negotiating the purpose of the amendment, the terms of the amendment, and the terms of the colloquy we were cognizant of the fact that, as Senator CRANSTON explained in the CONGRESSIONAL RECORD on S723, February 4, 1988, in 1978 the Senate was faced with essentially the same types of unjustified concerns by employers with regard to the hiring or retaining of alcoholics and drug users who could not perform the essential functions of the job or who posed a threat to others.

In other words, our intent in fashioning the compromise was to parallel the changes made in 1978. Thus, it is important that the Senate's efforts in 1978 be fully understood.

The amendment passed by the Senate and accepted in House/Senate conference in 1978 provided that the term handicapped individual does not include "any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to the property or safety of others."

The legislative history of the compromise amendment makes clear that Congress understood that the term "handicapped individual" is to be broadly defined to include alcoholics and drug addicts but that the "otherwise qualified" standard of section 504 already ensures that no employer could be forced to hire or retain an individual who is not otherwise qualified because of the threats to the health or safety of others. Nevertheless, Congress enacted the amendment to reassure employers regarding the two-step process in the existing section 504 statute. (See CONGRESSIONAL RECORD S30322-30325, Sept. 30, 1978. See also CONGRESSIONAL RECORD S19001-19002, October 14, 1978.)

As Senator Williams noted at the time:

> The amendment offered . . . is a compromise that would protect such persons [alcohol and drug users] from discrimination but would reassure employers that it is not the intent of Congress to require any employer to hire a person who is not qualified for the position or who cannot perform competently in his job. (CONGRESSIONAL RECORD S30323, Sept. 30, 1978.)

Senator Williams also emphasized the point that the amendment "clarifies the fact that employers covered by the act need not indiscriminately

hire persons with histories or conditions of alcoholism or addiction, but are obliged to hire and retain only those who are qualified with respect to performance, behavior, and other job-related criteria. Again, the amendment in this regard simply makes explicit what prior interpreters of the act—including those of the Attorney General and the Secretary of Health, Education, and Welfare—have found: Where addiction or alcoholism prevents a person from successfully performing the job, the person need not be provided the employment opportunity in question." (124 CONGRESSIONAL RECORD S19002, October 14, 1978.)

My conclusion regarding congressional intent is consistent with the conclusion reached by the American Law Division of the Congressional Research Service [CRS] of the Library of Congress in a paper entitled, "Proposed Amendment to the Definition of Handicapped Persons Regarding Alcoholics and Drug Abusers." (September 26, 1986.) "In summary, then, the 1978 Amendments relating to drug addicts and alcoholics were seen as codifying the Attorney General's opinion." (page 9) CRS explains (page 4) that the Opinion (43 O.A.G. No. 12 [April 12, 1977]) concluded that alcoholics and drug addicts were handicapped persons and therefore were covered under section 504 if they were discriminated against solely because of their status as drug addicts or alcoholics. CRS also explained that the opinion concluded that the individual must also be "otherwise qualified."

Furthermore, this conclusion is consistent with the Arline decision in which the Supreme Court recognized that Congress reaffirmed in the 1978 Amendments the danger of improper discrimination targeted toward alcoholics and drug users if they were to be categorically excluded from coverage under section 504, while still reassuring employers regarding the standards that the statute demanded of such individuals. See Arline, 107 Sup. Ct. 1123, 1131 n. 14.

In sum, the 1978 Amendments clarified how the standards of section 504 are to be applied to alcoholics and drug addicts; it did not change these standards. It was with this legislative history in mind that we agreed to the statement of purpose preceding the amendment; the language of the amendment; and the colloquy that accompanied the amendment.

The stated purpose of the amendment was "to provide a clarification for otherwise qualified individuals with handcaps in the employment context." CONG. REC. S 256, January 28, 1988. Thus, our intent was to specify—and by so doing clarify—in statutory language the current law as it applies to people with contagious diseases and infections. If our intent had been to "modify" or "change" the standards of section 504 as they apply to such individuals, we would have said so.

The language of the amendment is parallel to the language added in 1978 by the Senate with respect to alcoholics and drug abusers and accepted by the House/Senate conference. Arline at footnote 14. The amendment therefore states that, for purposes of sections 503 and 504, as they relate to employment, the term "individual with handicaps" does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or would be unable to perform the duties of the job.

The colloquy underscores that the purpose of adding the amendment was to deal with a concern comparable to the one faced by Congress in 1978 with regard to coverage of alcoholics and drug users. Thus, as in 1978, the amendment states clearly in statutory language the current standards of section 504 so as to reassure employers that they are not required to hire or retain individuals with contagious diseases or infections who pose a direct threat to the health or safety of others or who cannot perform the essential duties of a job.

The risk of spreading a contagious disease or infection to others is the kind of threat to the health and safety of others that we had in mind. The basic manner in which individuals with contagious diseases or infections can prevent a direct threat to the health or safety of others is when the individual poses a significant risk of transmitting the contagious disease or infection to others. Indeed, the Supreme Court in Arline explicitly recognized this necessary limitation in the protections of section 504 and, as we have discussed, it was to place that standard clearly in statutory language that this amendment was added.

Second, the colloquy explains that the amendment does nothing to change the requirements in the regulations regarding providing reasonable accommodations for persons with handicaps, as such provisions apply to persons with contagious diseases and infections. Thus, if a reasonable accommodation would eliminate the existence of a direct threat to the health or safety of others or eliminate the inability of an individual with a contagious disease or infection to perform the essential duties of a job, the individual is qualified to remain in his or her position.

Third, the colloquy notes that the two-step process of section 504 continues to apply in these cases. That is, a court must first determine whether an individual is protected under the statute under the traditional three-part definition of "individual with handicaps" under the statute. The court must then make an individualized determination as to whether the individual with a contagious disease or infection is "otherwise qualified" to hold the particular position at issue in the case before it.

In sum, Congress noted in 1978, with regard to alcohol and drug users, that the addition of an amendment at that time was necessary simply to reassure employers regarding the requirements that currently existed in law to protect public health and safety. That same purpose motivated the inclusion of this amendment. The protections of section 504 are designed to maintain a proper balance between protecting the public health and protecting private rights. This amendment clearly sets forth this balance so as to allay any unnecessary fears on the part of employers.

Mr. KENNEDY. I thank my colleague from Iowa for his description of the purpose and intent of the amendment we added to the Civil Rights Restoration Act of 1987. It reflects my understanding as well. As those of us who worked on the amendment understand, it is sometimes necessary to place in explicit statutory language the standards of law as they apply to a particular group of individuals with handicaps—in this case, individuals with contagious diseases and infections.

Mr. WEICKER. I would also like to thank the Senator from Iowa for his cogent explanation of the amendment. It reflects my understanding as well.

DRUG CERTIFICATION

Mr. HELMS. Mr. President, yesterday the administration sent to Congress its annual certification for narcotics source and transit countries. Each year the President must decide which countries have "cooperated fully" with the United States to control narcotics production, trafficking and money laundering. The President may either fully certify a country, certify for vital national interests of the United States, or not certify at all.

Along with the Presidential determination sent to Congress was the international narcotics control strategy report prepared by the U.S. State Department. It is well known that the drug certification is determined by the State Department, with only minor input from the Customs Service. Out of a total of 24 drug-producing, or drug-transit countries, only four were considered not to have "cooperated fully" with the United States.

It has been reported widely in the press that the original State Department recommendation was to certify Panama for "vital national security reasons." I am pleased that the Department was forced to reconsider Panama's certification after much public outcry. In the end Panama was not certified.

Mr. President, last year I introduced along with the distinguished Senator from Massachusetts [Mr. KERRY], three resolutions to disapprove the certification of Panama, Mexico and

the Bahamas. After much debate, the Senate decided that Panama should not have been certified. Due to delaying tactics by opponents of the resolutions, we were not able to gain approval of the resolutions within the 30-day deadline. Nevertheless, the Senate went on record with regard to Panama and General Noriega. We also sent a strong signal to the administration and to other countries that we take seriously the drug certification.

It is now abundantly clear to the world that Mr. Noriega and Panama were not cooperating with the United States. In fact, Mr. Noriega and his band of gangsters were cooperating with the Medellin drug cartel, and the international drug traffickers. Those of us who have been pointing this out for many years were finally proven right when Noriega and many of his cronies were indicted in February on drug charges in two separate cases in the United States.

I commend the administration for not certifying Panama this year, but I am deeply concerned with the decision to not implement all possible sanctions against Panama under the law. A decision was made to only impose mandatory sanctions against Panama, as opposed to discretionary sanctions.

Let me make clear to my colleagues that all of the mandatory sanctions are already in effect by law since December. Therefore, the failure of Panama to cooperate fully with the United States will result in no additional sanctions. As a result, a bipartisan effort will be made this week in the Senate to impose further sanctions on Panama.

Mr. President, I am distressed by the administration decision to once again certify other countries, particularly in our own hemisphere, that are clearly not cooperating to stop the flow of drugs into our own borders. I am most concerned about the serious lack of cooperation by the Governments of Mexico, the Bahamas, and to a large degree, Colombia.

I am sympathetic to the fact that Colombia has suffered a lot of violence at the hands of the drug traffickers. But that is all the more reason why the Government should resolve to take a tougher stand against the traffickers. They have done just the opposite. The Attorney General is considering legalizing drug trafficking. This can only mean that he has already been co-opted by the Medellin Cartel. I was pleased to see, however, that the President of Colombia has stated publicly that he would oppose the legalization of drug trafficking.

Mr. President, the results of our drug war around the globe are gloomy. By law we have only 45 days to pass into law any resolution of disapproval on this certification. That does not leave us time to introduce legislation on more than a couple of countries.

This year, I have joined with Senator WILSON as the principal cosponsor of a resolution of disapproval for Mexico, and I may be joining with other Senators to introduce legislation on other countries in the coming weeks. I believe that outside of Panama, Government complicity in drug trafficking is probably greatest in Mexico. Certifying full cooperation of Mexico is simply unthinkable.

I will not get into the details of corruption at the highest levels of these Governments until such time as we are prepared to debate the resolutions in the Senate.

Mr. President, I would mention a matter that may be of interest to my colleagues. As ranking minority member of the Senate Foreign Relations Committee, I am entitled to receive the State Department certification report immediately. Even though the report was made available to many in the press yesterday morning, I did not receive copies until 3 p.m. yesterday. When I did finally receive a copy of the Presidential determination, there were five sheets of paper attached to it. Three pages described the reasons for certifying Paraguay, Lebanon and Laos under vital national interests. Interestingly enough, the State Department felt it necessary to explain its justification for fully certifying Colombia and Mexico, and pointed out that they expected more cooperation from both countries in the next year. That clearly does not represent full cooperation.

In attempting to justify its position on full certification for Mexico, the State Department claims that "there are important bilateral and multilateral considerations which would be placed at risk should certification be denied." If that is the case, it might be better to do away with the drug certification requirements rather than make a sham of the law. But the State Department's reasoning is specious, and certainly capricious regarding the sanctity of the law.

Mr. President, the law states that these countries must have cooperated fully during the last 12 months to control narcotics production, trafficking and money laundering. When this law passed in 1986, I didn't hear a single word against it.

The certification law passed by this Senate did not, and does not exempt Mexico. It is ironic that the very week Mrs. Reagan is holding her drug conference, some in this administration elect to ignore Mexico's blatant involvement in every aspect of the drug business.

How can we talk about a national war on drugs without being tough on those countries responsible for producing the drugs, and bringing them across our borders.

Mr. President, Senators should know that the U.S. Customs Service recommended against any certification for Mexico. On February 23, Customs Commissioner William von Raab wrote to Assistant Secretary Ann Wrobleski recommending strong actions with regard to Mexico, Panama, and Colombia.

Commissioner von Raab stated that "powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity." Furthermore, Mr. von Raab explains that out of sheer frustration over Mexican corruption, Customs officials have had to cease working with the Mexicans.

The narcotics related figures for Mexico are staggering. Mexico is still the primary single country supplier of heroin and marijuana to the United States. Moreover, one-third of the cocaine consumed in this country in 1986, transitted Mexico.

Last year when we debated this issue there was a lot of talk about not wanting to upset Mexico because they are on our border. Some complained that I was engaging in Mexico bashing. Perhaps some in the State Department did not want to ruffle any feathers before the United States-Mexico interparliamentary meeting this weekend. But in the opinion of this Senator, the State Department's certification of Mexico is unjustifiable by any standards. If we intend to get serious about our war on drugs, I urge my colleagues to join with me to decertify Mexico and other countries that are sending a deluge of drugs across our borders.

REGARDING JUDGE GEORGE BRODY

Mr. HEFLIN. Mr. President, often on the floor of the Senate, my colleagues and I have the opportunity to bring to the attention of the American people, individuals who have served their country in a manner deserving recognition and our gratitude. I submit for the RECORD an article which appeared in the Detroit Legal News on Friday, December 18, 1987, commending the work and dedication of George Brody who is retiring from the bench of the Bankruptcy Court of the Eastern District of Michigan in April.

As chairman of the Subcommittee on Courts and Administrative Practice, it is a pleasure for me to recognize bankruptcy judges who perform an outstanding service to our judicial system. I do not believe that I could add anything to the tribute already paid to Judge Brody by his colleagues and friends. I would simply like to commend him for a job well done and for his commitment to the furtherance of excellence in the legal profession.

The article follows:

JUDGE BRODY WILL NOT FADE AWAY: HERE'S AN OLD SOLDIER OF BANKRUPTCY COURT

(By Hugh Munce)

The administrative rules of the nation's Bankruptcy Court say that George Brody is retiring from the Eastern District of Michigan in April. A number of people don't think he is the retiring type. I don't.

For the past four weeks I have mentioned his retirement to his friends, colleagues and practicing attorneys and they confirmed my opinion that even though he is over 70, has served on the bench for 27 years and has earned retirement, George Brody will not take it easy.

I asked him if he wanted to go fishing. No. Go visit family. No. Take a Southern Cruise. No. Sleep late and be indolent. No.

George Brody graduated in 1941 from City College of New York in Social Science and a few years later decided that the University of Michigan Law School offered a new challenge. He left there in 1947 with his law degree (and Order of the Coif), but returned to New York University, earning his LLM in taxation, convinced that the academic world was his oyster.

A teaching job at the University of Toledo and intervening work with the U.S. Office of Price Stabilization held his attention for five years, but then in 1958 he was offered a law clerk position with Detroit's federal judge Theodore Levin.

His writing and speaking on the subject of tax law, bankruptcy and the federal system attracted more than average attention and Judge Levin recommended him (in 1960) for a post as Eastern District of Michigan Referee in Bankruptcy (later changed to Judge of Bankruptcy). At every opportunity he spoke, wrote and kept an eye on laws and procedures of the court, earning licenses to practice in California and New York, as well as Michigan.

The Detroit Legal News asked members of the court for opinions of this elder statesman and received the following quotes: "Where would I have gotten such background on the history, the actions of this court without him. No one has such knowledge," said administrator David Sherwood. Others voiced similar sentiments, ". . . always stable, the same, professional, duty-bound. He can't leave the Court."

During the joint Detroit Bar Association/Wolverine Bar Association Honors Luncheon, Chair of the DBA Debtor-Creditor Section Lawrence K. Snider said it all . . . "dedicated."

The Detroit Legal News then talked to outsiders. Phoenix attorney Gerald K. Smith—"For 20 years I've associated with George through the National Bankruptcy Conference. Delightful, scholarly, a major contributor to the law, and, he makes opinions on the leading edge."

"Over 20 years, when the court was in major change, when I was also a member of the Judicial Conference on Administration of the Bankruptcy System, I learned many other judges of the nation realize his strength, his values," said Judge Robert DeMascio. He is joined by Los Angeles attorney George M. Treister—"A friend for more than 30 years, we worked in bankruptcy law improvements and administration. A warm, mature major legal figure."

His law clerk (1981–82), Darlene Nowak, says—"Classic example of temper vs. temperament in law. He was considered contrary. He demanded perfection and damned the faint or failing. He pushed and shoved in those tumultuous years, but remarkable that his temperament was the opposite. He then turned to labor over 20 drafts of an opinion, and labored an hour over a paragraph. He scowled and growled at mediocre attorneys and ill-prepared lawyer motions and briefs. He left not one letter from a citizen go unanswered, nor did he ever refuse to talk to student groups.

"He was more apt to ask advice than to give it and he never demanded it. He was self-effacing and never felt important or profound. I'll always remember his reading a scathing letter I wrote, but he said he always put those types of letters in his drawer and read it the next day, or the second day, but he never sent those letters."

Prominent New York attorney Benjamin Weintraub writes: "Like the Mississippi I thought he just glided along, never to retire. For 20 years we've discussed and reviewed decisions and opinions. Always I said to him, 'George, it is another step in clarifying the law.' And, if we disagreed he held his ground, saying let's leave it to the higher court, but seldom if ever did it disagree. We meet at the National Conference and it's always a pleasure, as he continues to work to improve the Bankruptcy laws. Such a friendship we have."

University of Michigan Professor Frank R. Kennedy declares: "In 1961, shortly after I joined the "M" faculty, I got to really know him. What a help in my arguments, writings, speeches, research, conversations and correspondence. The court has been fortunate to have him, but he left an indelible mark on the laws."

U.S. District Judge John Feikens, Judges Ralph Freeman and George Woods and their praise.

"My friend, my colleague, his law and court are his mistresses. He's an 11 on a scale of 10. Dealing every day with calamity, broken dreams, discontent, scorn, troubles, stress and strains, problems of advocates and litigants, he was the rock and unselfishly helped me, with his wit, charm, subtle humor and wise counsel," said federal judge and former Bankruptcy Judge George Woods.

"When he clerked for Judge Theodore Levin I first met him. We have been good friends over the years, about 30 of them, and his public interest, close supervision, firm but fair principles are not easily duplicated," says John Feikens.

Senior Judge Ralph Freeman sums the qualities of George Brody:

"Quiet, kind, compassionate, with a sense of humor. This I've witnessed for more than 30 years. Dignity, decorum and respect rule his court. This brings respect of colleagues, attorneys and litigants, and his outstanding judicial temperament makes him one of the best I've known."

ACCESS '88 AND RURAL AMERICA

Mr. PRESSLER. Mr. President, I am pleased that my good friend and former Senate colleague from South Dakota, Jim Abdnor, is continuing his efforts, as Administrator of the Small Business Administration, to rebuild rural America. During his Senate confirmation hearing, Jim pledged that he would make rural economic development a top priority of the SBA, and he certainly has kept that commitment. In an effort to bring employment opportunities and stability to our rural areas, Senator Abdnor initiated ACCESS '88, "Assisting Committed Communities with Effective Solutions for Success," a program designed to bring all Federal, State, and local rural economic development programs and people together.

ACCESS '88 provides rural decisionmakers with information they need to locate assistance programs for their communities. The SBA is the catalyst, bringing the "people and programs together." By combining and targeting all of the government's rural development resources, ACCESS '88 will play a key role in brightening rural America's economic future. On February 22, Senator Abdnor outlined SBA's economic development initiatives at the National Governors Association meeting. I applaud Senator Abdnor for his New Alliance, a partnership which calls for a more effective use of the many programs already on the books.

Mr. President, I ask unanimous consent that Senator Abdnor's statement be printed in the RECORD.

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

WINNING IN RURAL AMERICA

(Presentation by Hon. James Abdnor)

I welcome the opportunity to be here at the National Governors Association meeting this afternoon to discuss an issue that is near and dear to my heart, rural development.

I want you to know that rural development holds the highest priority at SBA. I also want you to know that our intent is not credit or praise for SBA, our intent is to help rural America.

I have always been committed to working for Rural America. I have seen the problems first-hand by living them. When I was Vice-Chairman of the Joint Economic Committee of Congress in 1985 and 1986, we focused on the Revitalization of Rural America in a series of hearings that we held both here in Washington and throughout the nation. Our witnesses included some of the nation's leading economists, state and local elected officials, and representatives from dozens of concerned associations. We heard not just about agriculture, but also about problems of communities, health care, education, families, and businesses. We learned enough to fill three books.

Shortly after becoming Administrator of SBA last March, I made rural development one of the Agency's top three initiatives. In fact, I announced my plan during my Senate confirmation hearing!

However, it's high time we stopped talking about the problems in rural America and started doing something.

We all know that the federal government can't afford new programs . . . there are no new federal dollars available for this effort. The important point is that we don't need new programs, there are plenty already on the books. What we need to do is to make better use of them. At SBA, my staff knows that all of our programs are rural development programs. Our initiatives, ACCESS 88, is being done on the budget we already have. I'll go into that a little bit more later.

I don't need to tell you, Governors, that too many of our young people are leaving rural towns for the big cities, too many Main Street businesses have closed. In the last three months, we at SBA have done something that most people probably thought was impossible . . . we brought together all of the Federal agencies, the states, and local people to work together on solutions for rural America. Over 1500 people, representing all 50 states, joined us in ACCESS 88, a combined effort of government and the business community.

Governor Branstad, you will recall when I addressed the Governors in Galena, Illinois last fall at the Midwest Governors Conference, I said that we at SBA are not here to tell you what to do, we are here to help you. We now have the beginning of a new alliance between the Federal government and the states. And SBA is the catalyst.

Today, we are providing you with strategies and solutions devised by economic development professionals around the nation at 10 Rural Roundtables. We have laid the groundwork, but it is up to you to take the next step, and determine which of these strategies will help your state the most. States must take the lead in implementing many of the solutions.

Every Governor in the United States is concerned about economic development, and many of you have done alot in your states to create jobs in rural areas. Governor Thompson in Illinois, for instance, established a Rural Fair Share Initiative and a Rural Affairs Council; Governor Cuomo—you also have an Office of Rural Affairs, Governor Deukmajin has his Rural Renaissance program. I'm sure many other Governors here today are taking similar leadership roles in rural economic development. However much remains to be done, and none of us can do it alone.

Let me suggest, from my experience, both past and present, that without small business development, rural areas cannot prosper. Small business is the economic backbone of our country and the key to rural America's future. 98% of all our businesses in America are small. In many states, and in most rural communities, small business is the only business. Today, our 18 million small businesses provide: ⅔ of all new jobs; about 40% of our gross national product; and half of all major innovations.

In America, small business is big business.

There can be another 10 million small businesses by the turn of the century if we do our job right. But Governors, a concern we should share is the fact that in rural America, small businesses are growing 30% slower than in our cities.

Communities that depend on agriculture, and other natural resources . . . the coal fields of Appalachia, the timber forests of the Northwest, the Oil Patch . . . must face the reality that this isn't a localized problem, but a national competition for jobs in rural America. We can't just depend on any one single industry for our economic well being, we must have a variety of jobs and industries in rural America.

In my early days, I spent a few years as a teacher and coach. I soon learned that winning requires teamwork. Any coach knows that the key to winning is getting all of the players working together. We're all on the same team, Governors, but the game will be played in your states. Each of us has a different role to play, different talents that we bring to the team, but our strength will come from working together.

Let me tell you a little about what we've been doing for the past three months with ACCESS 88. ACCESS stands for Assisting Committed Communities with Effective Solutions for Success. The first phase was to recruit witnesses who gave us both problems and solutions at 5 field hearings. Governor Branstad, you and Governor Hunt were two of our best witnesses. We also heard from other Governors, mayors, business leaders, bankers, and over forty small business owners.

We took these problems and recommendations to the leaders of government agencies, economic development professionals, and key business organizations at 10 Regional Roundtables. Governor Martin, you and Governor Gardner of Washington joined with us. We involved leaders in each Region including State, federal, local, university, and business talent. These players have gone through the drills, done their warmup exercises, and are ready to Win in Rural America.

I want to emphasize that this was not just an SBA effort. At each of the Roundtables we had team members from the Department of Labor, the Department of Housing and Urban Development, the Economic Development Administration, and the US Department of Agriculture, all working together for a common cause. We also had representation from Defense, the Appalachian Regional Commission, Transportation, Education, and Interior.

We emerged from these Roundtables with one common theme:

It's time for a New Alliance, working together on Solutions. This is one thing I want you to remember: It's time to work together on solutions in a new alliance.

Hundreds of solutions and strategies for success were proposed at these roundtables. They all basically fit in to 8 categories:

Capital for small business development.

Training and advice for small business owners.

A workforce which is educated and trained.

Information about all of our existing programs.

Infrastructure to support business development.

Technology that competes in the global economy.

Marketing plans and strategies for future growth; and

Leadership in local communities.

At SBA, we are ready for this New Alliance. Our next step is to hold conferences in every state in this union. And Governors, we invite you to co-sponsor these conferences to bring all of the programs of federal and state government to rural shall businesses. We will also work with other national organizations and associations to make sure that they understand and will work with our programs.

We also plan to publish a Resource Guide listing and describing all of the Federal and state programs for Rural Development. I want you to remember that we're doing this all on the budget we already have, with some help from the private sector. I had hoped to be able to announce the name of our private sector sponsor to you today, but we are still negotiating. This book will be similar to one that we prepared only a few months ago for International Trade, although it will be longer.

The International Trade initiative we have at SBA was also one of my first priorities when I arrived. It goes hand-in-hand with rural development. Instead of exporting young people from our rural communities, we need to start exporting more goods and services! In fact, we are holding 10 International Trade Conferences around the country over the next several months. We know SBA can't solve our trade deficit alone, so we are working with a large Interagency Task Force on Trade. This Task Force is chaired by Simon Fireman, director of the Export-Import Bank. It includes the Agency for International Development, Departments of Agriculture, State, Treasury, Commerce, Education, the GAO, the Trade Representative, and several other agencies.

But getting back to rural development, we are now proposing formal cooperative agreements with both federal agencies and the states in forging the New Alliance for Solutions. Just last week, we signed a Memorandum of Understanding with the Farmers Home Administration. In Maine, they are way ahead of us and have already signed an agreement with SBA, Farmers Home, and the State in January.

This New Alliance is not an end in itself for rural America. If we measure our success by the number of conferences we hold, books we print, or agreements we sign, we will have failed rural America. Our solutions must be measured in the only way that businesses know how . . . the bottom line. How many jobs are we creating, how many businesses have we helped establish or expand, how many main streets have survived, how many failing businesses have we turned around?

I don't have to tell you, Governors, that it's time for Solutions. . . . Solutions must be emphasized to all of our staff. If we can find more capital, better infrastructure, a competitive workforce, and creative small business owners, we'll be well on our way to a victory in rural America. At SBA, our staff is committed to working with you, Governors, to target communities that need solutions the most, and to bring all of the resources of SBA and the other federal agencies into action. Because victory will take time, we need to start right now!

Revitalizing Rural America is a slow process. With renewed enthusiasm and commitment, Rural America has an opportunity to help itself win, to save its small towns, and to have a prosperous future.

In closing, let me emphasize that the key to rebuilding rural America is working together—

Working together to develop new enterprises;

Working together to develop new industry;

Working together to strengthen existing small businesses;

Working together to forge a New Alliance.

Let's commit ourselves today to working together for prosperity in Rural America.

AIRPORT SECURITY SYSTEMS

Mr. HEFLIN. Mr. President, on December 10, 1987, I placed a statement in the RECORD on airport security systems. It has come to my attention that I may have inadvertently misconstrued a statement made by my distinguished colleague from Ohio, Senator METZENBAUM, at a recent hearing on S. 465, the Plastic Handguns bill. To correct any misunderstanding that may have arisen from my earlier statement, I ask unanimous consent that the dialog between Senator METZENBAUM and Mr. Baker of the National Rifle Association at that July 28, 1987, hearing be printed in the RECORD.

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

EXCERPT OF TRANSCRIPT

Senator METZENBAUM. Mr. Baker, I was listening to you very carefully, and your entire statement will be included in the record, of course, and I think that your offer to work to improve airport security generally—I think that is an offer that the government ought to take up with you and work with you on it. I think that is commendable.

But I was sitting here and saying to myself, why the hell are they opposed to this bill. What difference does it make to them? Nobody says you cannot buy a metal gun. Nobody says you cannot buy a half plastic and half metal gun.

Mr. BAKER. There is a very simple answer to your question, Senator. It is because your legislation as drafted would ban thousands of the firearms that are currently possessed in this country that happen to weigh less than eight-and-a-half ounces in terms of metallic content.

Senator METZENBAUM. Our doors are open to you. You are welcome to come and help us draft the legislation. We are only after the plastic guns. We are not after taking

away anybody's right to own a gun. They can own one gun, six guns, twenty-six guns.

Mr. BAKER. Senator, I would be happy to work with you. I do not, quite frankly, see—if we are going to attempt to ban something that does not exist, I do not think that under the federal law—one has to have a standard. If you are going to proscribe something, it has to be clear what is proscribed, especially if you are going to provide criminal penalties for the breach of that law.

Unless you can come up with a standard that is sufficiently clear, I do not think that the law would be constitutional. I think that the best approach, and what I have said in my testimony, is to focus on the inadequacies of airport security today. Senator, I do not need a plastic gun.

Senator METZENBAUM. We are in agreement on that, Mr. Baker. Let us not go back and keep pounding that dead horse.

Mr. BAKER. I do not think it is a dead horse.

Senator METZENBAUM. You said we have to improve airport security. I said okay, let us do that. If you cannot arrange a meeting with the government people, I will help you arrange it, but I am certain that you can.

Mr. BAKER. All right.

Senator METZENBAUM. Now, I want to know what is there in your—is it a knee-jerk kind of reaction?

Mr. BAKER. No, sir.

Senator METZENBAUM. We have knee-jerk liberals; we have knee-jerk conservatives?

Mr. BAKER. No, sir.

Senator METZENBAUM. I want to know if we have knee-jerk gun people.

Mr. BAKER. In fact, I am a registered Democrat, Senator.

Senator METZENBAUM. I do not care whether they are Democrats or Republicans. What I am concerned about is why can we not get you on this bill with us.

Mr. BAKER. Because I think the bill is misplaced; the direction is wrong. I think that we have been shown here today that there are problems with the procedures at airports today.

I think the FAA has testified to that in Congresswoman Cardiss Collins' subcommittee not two months ago over in the House of Representatives. There is a problem with airport security in this country.

Senator METZENBAUM. Absolutely; we have agreed on that.

Mr. BAKER. And I think that is where the legislation ought to focus.

Senator METZENBAUM. But what does that have to do with plastic guns?

Mr. BAKER. Everything, because your legislation talks in terms of interdicting terrorists.

Senator METZENBAUM. Help us rewrite it.

Mr. BAKER. I would be happy to.

Senator METZENBAUM. I do not care how we write it. All I want to do is get at the plastic guns.

Mr. BAKER. Well, all we want to do is get at airport security.

Senator METZENBAUM. But, Mr. Baker, you cannot do that. We have had three important witnesses—the Secret Service, the ATF, and the FAA—who recognize you cannot get at plastic guns at this point. There is no way to do it.

Now, I am saying to you what is there about your position that does not permit you to help us draft a bill, if you do not like the way we have drafted this one.

Mr. BAKER. I would be happy to help you draft a bill that deals with airport security.

Senator METZENBAUM. I do not want you for that. I want to know whether you will help me draft a bill for plastic guns.

Mr. BAKER. I would be happy to discuss it with you.

Senator METZENBAUM. Will you help me draft a bill to zero in on the issue of plastic guns?

Mr. BAKER. Senator, they do not exist. It is very difficult to deal with a hypothetical threat.

Senator METZENBAUM. What difference does it make whether they exist or not? They are going to exist in two years.

Mr. BAKER. I do not think that that is necessarily so. I do not think we have had anybody testify here today that plastic guns are going to exist.

Senator METZENBAUM. They testified in the House to that effect.

Mr. BAKER. And the gentleman was asked whether he had a working prototype and he did not have a working prototype. There is one promoter in south Florida that says he can produce a plastic gun. That is it.

Senator METZENBAUM. Then, Mr. Baker, what difference does it make if we draft a law that is applicable to something that does not exist?

Mr. BAKER. Senator, the difference is what is the issue here. Is the issue airport security or is the issue banning firearms? Once we decide that, we can come to some agreement.

Senator METZENBAUM. Mr. Kapelsohn has pointed out to us that we do not do that great a job as far as airport security at the moment.

Mr. BAKER. And that is the issue as far as I am concerned.

Senator METZENBAUM. Then you do not care about plastic guns. You do not care if a person comes on a plane with a plastic gun.

Mr. BAKER. I do not care about plastic guns; they do not exist. I care about the threat to airports.

Senator METZENBAUM. Mr. Baker, understand that this Chairman—I am not the Chairman of this Subcommittee, but the acting Chairman, but this Committee is willing to work with you.

Mr. BAKER. And I am willing to work with you, Senator.

Senator METZENBAUM. Okay, good enough. Let us go on to Mr. Halbrook.

COLORADO'S PIONEERING OXY FUELS PROGRAM OFFERS LESSONS FOR NATION'S FIGHT FOR CLEANER AIR

Mr. WIRTH. Mr. President, in January, Colorado embarked on a pioneering program to reduce carbon monoxide emissions from cars and trucks by requiring the use of oxygenated fuels along the State's Front Range from Fort Collins to Colorado Springs.

At high altitudes, gasoline burns less completely, meaning that a higher level of carbon monoxide pollutants are emitted into the air. Mixing gasoline with ethanol, methanol and ether-based MTBE increases the oxygen content, which promotes more complete combustion and reduced carbon monoxide emissions.

In its first year, Colorado's oxygenated fuels program was a stunning success. The program reduced carbon monoxide pollution by 9 percent, according to the State's air pollution control division. The experiment shows the tremendous contributions that oxygenated fuels can make toward cleaning up the air in Colorado and across the country.

Next year, the program will be in effect twice as long—from November 1 to March 1. In addition, the program will require higher blends of oxygen fuels than were mandated this winter. As a result, we expect to see even greater reductions in carbon monoxide emissions as this program continues.

Mr. President, I ask unanimous consent that two articles from the Denver Post be included with my statement.

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

OXY FUEL SLASHED CARBON MONOXIDE BY 9 PERCENT, STATE SAYS

(By Lou Chapman)

Health officials were crowing Monday about Colorado's high-oxygen fuels program, saying it cut carbon monoxide pollution more than 9 percent.

"We feel real good with our numbers, they've been blessed by the EPA and they're on target," said Jerry Gallagher of the state Air Pollution Control Division.

WE WERE NERVOUS

"We were nervous going into it. We were worried about how it all was going to shake out."

The two-month program was the nation's first attempt to cut carbon monoxide pollution by setting gasoline standards.

Only high-oxygen gasoline could be sold along the Front Range from Fort Collins to Colorado Springs from Jan. 1 to Monday.

About 2 million vehicles are registered in the area, and they were driven about 40 million miles a day on high-oxygen fuels this winter, Gallagher said.

Even critics of the program agreed that complaints from motorists were minimal. The loss of mileage that worried some drivers could have resulted from the harsh weather in January.

INDUSTRY SKEPTICAL

But representatives of the oil industry, which fought the program, said the state's carbon monoxide figures are "just the best estimate you can get" and not good enough to justify continuing the mandatory program next winter.

"When you're in a mandatory program, you've got to be able to look at a reduction in pollution, and at what the actual pollutants were on those days, and say what difference the program made," said Pam Oldham, attorney for the Rocky Mountain Oil and Gas Association.

Oldham admitted she was unsure how health officials could arrive at that type of information but said her organization will continue arguing that the program be considered a "test" next winter.

The preliminary air-quality numbers released by the state Monday were based on a model recently approved by the U.S. Environmental Protection Agency. Dale Wells of the EPA said a 9 percent reduction in carbon monoxide "sounds about right."

Looking ahead to next winter, Gallagher said the state hopes more service stations will offer ethanol or fuels with similar levels of oxygen.

MOSTLY MTBE SOLD

About 97 percent of the gasoline sold in the metro area during this winter's program were blended with ether-based MTBE, which does not reduce carbon monoxide as much as ethanol.

Health officials also will spend more time and money promoting the program to the average auto mechanic and new-car dealer later this year.

"We want this to be approved at the barber-shop level," Gallagher said. "If

people say, 'Well, my mechanic says it's OK,' then we'll have gotten somewhere."

Starting next year, the program will be in effect twice as long, from Nov. 1 to March 1, and will require higher amounts of oxygen than were mandated this winter.

A HIGH-OXYGEN HIGH

The State's initial experience with high-oxygen fuels, it appears, has been more successful than anyone anticipated. Not only did the widespread fears of mechanical malfunctions prove to be unfounded, but pollution totals dropped even more than expected.

Preliminary estimates released by the Colorado Health Department show that the 2 million cars along the Front Range produced 9.2 percent less carbon monoxide than usual during the two-month program, which ended Monday. State health officials had predicted a reduction of 8 percent or less, considering the fact that virtually all of the high-oxygen fuel sold contained MTBE rather than ethanol, its cleaner-burning rival.

Next winter, when changes in the rules are expected to make ethanol more attractive and boost its share of the market, the pollution levels could fall as much as 16 percent. That would have twice the impact of the voluntary no-drive program, with none of the disruption in people's lives.

Admittedly, owners of some older cars might experience vapor locks or clogged fuel filters if they fill up with ethanol blends in the second go-round. But judging from this season's record, they should have no trouble using MTBE.

Moreover, there is some indication that other non-ethanol blends with an even higher oxygen content may be on the market by the time mandatory sales of such fuels begin again next November. This would give motorists with "performance anxiety" an alternative offering all the anti-pollution benefits of ethanol, but none of its risks.

In short, this controversial strategy has worked out well in its national debut, defying the false cries of alarmists when the program began.

WATER RIGHTS AND THE ENDANGERED SPECIES ACT

Mr. EXON. Mr. President, I rise to voice concern about a potential amendment to the Endangered Species Act. Although I have not been provided many details, I understand this proposal could affect the allocation of North Platte river water in Nebraska and Wyoming. If offered, I am prepared to do whatever it takes to block its adoption.

The dispute which is the focus of this amendment is now before the Supreme Court. It is a complicated dispute involving water for human consumption, irrigation, power generation, and wildlife protection. Nebraska and Wyoming have been at odds over the construction of the proposed Deer Creek Dam on the North Platte River in Wyoming for several years. The Senate needs to think long and hard before asserting itself in this matter. Indeed, it would be improper for the Senate to involve itself in this dispute at this time since it is before the Supreme Court.

We should not, at this juncture, disrupt the Supreme Court's deliberations. It would simply open a legislative Pandora's Box which I will be determined to close.

Water wars are nothing new among Western States. As Governor of Nebraska, and now as U.S. Senator, I have been through my share of them. And given the importance of water to the basic life and economy of Nebraska, I am prepared to do battle again.

MASSACHUSETTS AND CALGARY—A WINNING COMBINATION

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to congratulate the athletes from Massachusetts on their outstanding performances in the winter Olympic Games in Calgary; 17 of the 168 members of the U.S. Olympic team are residents of Massachusetts, and the State is proud of them.

I especially want to commend the accomplishments of two Massachusetts athletes who were medal winners. Eric Flaim of Pembroke earned the silver medal in 1,500 meters speed skating, one of only six medals awarded to Americans in the Games. Eric placed fourth in three other speed skating events—a brilliant showing. None of us who saw joy in his face as he crossed the finish line in the 1,500 meter race will soon forget his achievement. It was one of the most inspiring moments of the Games, and he missed the gold medal by the thinnest of margins—only six-hundredths of a second in a race of nearly a mile.

Diana Golden of Lincoln is gold medal proof that disabled people are not unable. In this first year of disabled skiing as an exhibition event at the Olympics, Diana won the gold medal in the giant slalom. With this victory, she continued an outstanding career in competitive skiing. She already has eight national championships to her credit. Most impressive of all is the inspiration she is bringing to millions of physically challenged young men and women throughout the world.

In addition, I want to commend the extraordinary contingent from Massachusetts—nine players strong—who were part of the U.S. Ice Hockey team—Allen Bourbeau of Falmouth, Greg Brown of Southborough, Scott Fusco of Burlington, Guy Gosselin of Rochester, Peter Laviolette of Franklin, Stephen Leach of Lexington, Jeff Norton of Acton, Kevin Stevens of Halifax, and Scott Young of Clinton. They played some outstanding games, and for a few moments against the Soviet Union, it seemed as if they were on the verge of creating the "Miracle on Ice" of Lake Placid in 1980.

Finally, I commend the six other members of the U.S. Olympic team from Massachusetts: Pam Fletcher of Acton, downhill, Super-G, Alpine combined; who was unable to compete at the last moment because of a freak accident on a cross-trail, but who impressed us all with her cheerful sportsmanship in spite of her bad luck and obvious disappointment; Jim Herberich of Winchester, two-man and four-man bobsled; Hans Johnstone of Carlisle, Nordic combined; Matt Petri of Newton, ski jumping; Scott Pladel of Boston, four-man bobsled; and Heidi Voelker of Pittsfield, slalom, giant slalom.

All of these young athletes deserve praise for their performances. They brought credit to Massachusetts, to the Nation, and to the Olympic ideal, and I congratulate them on their accomplishments.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S. 450. A bill to recognize the organization known as the National Mining Hall of Fame and Museum (Rept. No. 100-294).

S. 840. A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated (Rept. No. 100-295).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Frank G. Zarb, of New York, to be a Director of the Securities Investor Protection Corporation for the term expiring December 31, 1989;

Paul Freedenberg, of Maryland, to be Under Secretary of Commerce for Export Administration; and

Mark E. Buchman, of California, to be President, Government National Mortgage Association.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Howard W. Cannon, of Nevada, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence Foundation for a term of four years.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KARNES (for himself, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HELMS, and Mr. MCCONNELL):

S. 2116. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of

commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

By Mr. MELCHER (for himself, Mr. METZENBAUM, Mr. HEINZ, Mr. CHILES, Mr. WEICKER, Mr. BURDICK, Mr. BRADLEY, Mr. KENNEDY, Mr. DURENBERGER, Mr. STAFFORD, Mr. MOYNIHAN, Mr. REID, Mr. INOUYE, Mr. RIEGLE, Mr. COHEN, Mr. SHELBY, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. SANFORD, Mr. GRASSLEY, Mr. ADAMS, Mr. SARBANES, Mr. GLENN, Mr. HATCH, and Mr. PACKWOOD):

S. 2117. A bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this act; ordered held at the desk.

By Mr. GRAMM:

S. 2118. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for off-highway uses; to the Committee on Finance.

By Mr. HEINZ (for himself, Mr. MOYNIHAN, and Mr. DURENBERGER):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from income of amounts received under qualified group legal services plans; to the Committee on Finance.

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. FORD, Mr. SHELBY, Mr. STAFFORD, Mr. INOUYE, and Mr. MOYNIHAN):

S. 2120. To amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. ROTH:

S. 2121. To impose trade and other economic sanctions against the Republic of Panama; to the Committee on Foreign Relations.

By Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. RIEGLE, Mr. CHILES, and Mr. DASCHLE):

S. 2122. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid program, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. SIMON, Mr. DASCHLE, and Mr. CONRAD):

S. 2123. A bill to provide hunger relief, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOSCHWITZ:

S. 2124. A bill to expand the availability of child care, and for other purposes; to the Committee on Finance.

By Mr. WILSON (for himself, Mr. HELMS, Mr. DECONCINI, Mr. D'AMATO, Mr. DOMENICI, Mr. WALLOP, Mr. SYMMS, Mr. MCCLURE, and Mr. HECHT):

S.J. Res. 268. A joint resolution disapproving the certification by the President under section 481(h) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KARNES (for himself, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. HELMS, and Mr. MCCONNELL):

S. 2116. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm and firefighting vehicles; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL MOTOR VEHICLE SAFETY ACT AMENDMENTS

Mr. KARNES. Mr. President, I rise today to introduce, for myself and my distinguished colleague from New York, Senator D'AMATO, a bill to exempt the operators of certain farm and firefighting vehicles from requirements under the Commercial Motor Vehicle Safety Act of 1986.

My bill would amend this 1986 act to exempt farm vehicles which are not driven more than 15,000 miles in a year, along with firefighting vehicles, from commercial licensing requirements.

The purpose of this bill is to ensure that these vehicles, which do not travel great distances in any given year, are not subject to the same rules and restrictions as over-the-road trucks which often travel more than 100,000 miles in a year.

The Department of Transportation has proposed certain testing and licensing standards for all commercial motor vehicle operators. These standards are designed to increase safety on our roadways, but, while they may well be appropriate for over-the-road trucks, I believe they are misguided because they are too broad when one considers incidental use farm and firefighting vehicles.

Farmers in Nebraska, for example, use trucks which would be subject to these new licensing requirements an average of 4 to 6 weeks per year. Some use these heavier vehicles as little as 14 days in a given year. Few farmers travel over 5,000 miles per year in their agricultural vehicles—and much of this is on county roads, not on high speed roadways. These farm vehicles are critical to the farms, but, more importantly, they are essential to getting to markets the harvest of this Nation's food producers. Clearly, licensing requirements for commercial operators that travel significantly greater mileage on our Nation's highways should not apply to these infrequent users.

Farmers who have driven their trucks for years should not have to be retested in order to continue operating these same vehicles. Failure to obtain the appropriate license would force a farmer to rely on outside help, such as farm supply co-ops or independent licensed third-party contractors to transport his crops to market. In any case, we are talking about additional costs to farmers who are already struggling to make ends meet.

My bill would protect farmers from these needless additional inconveniences, costs, and paperwork.

Mr. President, without this exemption, economic hardships would be felt among farmers in another way as well. A farmer's livelihood depends upon his ability to use all available resources at harvest time. Farmers must often use people who have full-time jobs for help during the harvest season. These part-time people, who do not otherwise work on farms, would be reluctant to go through the process of obtaining and maintaining a license since it would not be something that is necessary in their daily lives. Family members and friends who also normally pitch in and help during harvest time would be prevented from doing this with these new licensing requirements.

As both a farmer and a U.S. Senator, I understand the views on both sides of this issue. I believe that highway safety should indeed be a national priority, but not insofar that it infringes upon the livelihood of a vehicle operator that does not pose a real threat to our Nation's highway users. With this bill, farmers will no longer have to worry that they will be subject to standards that should not really apply to them.

Mr. D'AMATO. Mr. President, I rise today along with my colleague Senator KARNES to introduce a bill to free fire fighters and farmers from the unnecessary burden and expense of securing Federal commercial motor vehicles drivers' licenses.

This legislation is identical to H.R. 4011, introduced by Congressman SLATTERY on February 24, 1988. It will assure that fire fighters and farmers are exempted from licensing requirements under the Commercial Motor Vehicle Safety Act of 1986 (the Act). The Department of Transportation is currently drafting regulations to implement this new law.

Senator KARNES and I specify in our legislation that commercial motor vehicles covered by the act do not include those registered in a State for farm use which are not driven more than 15,000 miles per year, and those which are only used for fire fighting purposes. The Department has the power to exempt these types of motor vehicles from the requirements of the act. While I encourage them to do so, it is important for Congress to make its intentions clear by passing this legislation.

The clear purpose of the act was to improve safe operation of commercial motor vehicles, and help reduce truck and bus accident and injuries by disqualifying unsafe drivers. I certainly support those goals. However, I also believe that those critical safety objectives will not be enhanced by an overly broad application of the law to vehicles that are already adequately regulated by the States.

Fire fighters, particularly those who volunteer spare hours for this life-saving work, should not be burdened with a new administrative hurdle.

Given the high cost of fire fighting vehicles, it is extremely unlikely that fire departments will entrust their operation to irresponsible drivers. Moreover, it is critical that fire fighters' emergency response times not be lengthened by waiting for the arrival of particular volunteers who have had the time and money to obtain the new licenses. Similarly, the farmers of this Nation should not have to undertake this burden with respect to farm vehicles that are very seldom used on the public highways.

Mr. President, I urge my colleagues to cosponsor this bill and to support its early passage.

By Mr. MELCHER (for himself, Mr. METZENBAUM, Mr. HEINZ, Mr. CHILES, Mr. WEICKER, Mr. BURDICK, Mr. BRADLEY, Mr. KENNEDY, Mr. DURENBERGER, Mr. STAFFORD, Mr. MOYNIHAN, Mr. REID, Mr. INOUYE, Mr. RIEGLE, Mr. COHEN, Mr. SHELBY, Mr. MATSUNAGA, Ms. MIKULSKI, Mr. SANFORD, and Mr. GRASSLEY):

S. 2117. A bill to extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this Act; ordered held at the desk until the close of business on March 3, 1988, by unanimous consent.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT

Mr. MELCHER. Mr. President, few things are more basic than the right of individuals to be treated fairly, and on the basis of their abilities. But regrettably, life doesn't always work that way. Every day, people are denied their basic rights simply because of others' preconceived notions about them. That's called discrimination.

Congress long has acknowledged that people need protection from the injustice of discrimination. However, it has come to my attention—and the attention of many of my colleagues—that the Federal agency charged with protecting those rights has failed to do so for at least one large portion of our society—older Americans.

Last year, as Chairman of the Special Committee on Aging, I held a hearing into the Equal Employment Opportunity Commission's enforcement and administration of the Age Discrimination in Employment Act. I held that hearing, in part, because of charges that people's rights were being denied due to inaction and bad management at the EEOC. Many charges awaiting action at the Commission had exceeded the Act's statute of limitations, thus foreclosing many people's right to legal redress.

Since that time, I repeatedly have asked the Commission to provide the Aging Committee with accurate information about the number of charges that have exceeded the statute. But, they repeatedly have failed to do so. And, imagine my shock when, late in December, I read press accounts of how the Commission now was admitting that nearly 900 charges had been allowed to exceed the ADEA's 2-year statute. This lack of action, the lack of cooperation by the EEOC, and the agency's own admission of management errors is what prompted me to subpoena Chairman Thomas to provide to the Aging Committee the information we've been asking for.

While I believe that the EEOC's actions have shown a total disregard for the rights of those seeking the Commission's help, there is a larger issue here. Because of EEOC's failure, an undetermined number of working men and women have lost their right to have their day in court. For this reason, I—along with many of my colleagues—am introducing a bill that will restore the legal rights of those people who have been allowed by EEOC to fall through the cracks. While we have no way of knowing the merit of the claims this bill will affect, each individual should have an opportunity to try to prove his or her case. And this is exactly what this bill do—no more and no less. Without the bill we are introducing today, the employers of many people with legitimate age-discrimination claims will get off scot-free because the Commission was asleep on the job.

The Age Discrimination Claims Assistance Act of 1988, which, incidently, is being supported by the EEOC as well as the American Association of Retired Persons, waives the ADEA's statutes of limitation for 18 months for those who have already filed a charge with the Commission, thus providing them with all of the rights that they would have had were their cases handled responsibly. Those who wish now will be able to file suit against their employers. And they will be entitled to the same rights to conciliation and Commission intervention that they were originally entitled to. This bill restores their chance to have their day in court.

There is a great deal of legal precedent supporting the right of Congress to alter statutes of limitation to protect people's legal rights. The Supreme Court is firm on that. Statutes of limitation were never intended to protect lawbreakers from negligence, and my bill is consistent with that point.

Not only does the bill rejuvenate the rights of hundreds of victims of age discrimination, but it also sends a message that Congress will not tolerate such failure in the future.

Mr. President, the prompt passage of the Age Discrimination Claims Assistance Act is crucial to the protection of the rights of hundreds of older Americans. These people have suffered as a result of blatant negligence, and it is our job to right the wrong. I urge my colleagues to join me in garanteeing that those who have been cheated out of their legal rights will have them reinstated, and have their day in court.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2117

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 "Age Discrimination Claims Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Equal Employment Opportunity Commission (hereafter in this Act referred to as the "Commission") has failed to process an undetermined number of charges filed under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634) before the running of the statute of limitations applicable to bringing civil actions in the Federal courts under such Act, and

(2) many persons who filed such charges with the Commission have lost the right to bring private civil actions with respect to the unlawful practices alleged in such charges.

SEC. 3. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), a civil action may be brought under section 7 of such Act by the Commission or an aggrieved person, during the 540-day period beginning on the date of enactment of this Act if—

(1) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after December 31, 1983,

(2) the Commission did not, within the application period set forth in section 7(e) either—

(A) eliminate such alleged unlawful practice by informal methods of conciliation, conference, and persuasion, or

(B) notify such person, in writing, of the disposition of such charge and of the right of such person to bring a civil action on such claim,

(3) the statute of limitations applicable under such section 7(e) to such claim ran before the date of enactment of this Act, and

(4) a civil action on such claim was not brought by the Commission or such person before the running of the statute of limitations.

SEC. 4. NOTICE OF STATUTE OF LIMITATIONS.

(a) NOTICE REGARDING CLAIMS FOR WHICH STATUTE OF LIMITATIONS IS EXTENDED.—Not later than 60 days after the date of enactment of this Act, the Commission shall provide the notice specified in subsection (b) to each person who has filed a charge to which section 3 applies.

(b) CONTENTS OF NOTICE.—The notice required to be provided under subsection (a) to a person shall be in writing and shall include the following information:

(1) The rights and benefits to which such person is entitled under the Age Discrimination in Employment Act of 1967.

(2) The date (which is 540 days after the date of the enactment of this Act) on which the statute of limitations applicable to such person's claim will run.

(3) That such person may bring a civil action on such claim before the date specified in paragraph (2).

SEC. 5. REPORTS.

(a) CONTENTS OF REPORTS.—For each 180-day period in the 540-day period beginning on the date of enactment of this Act, the Commission shall submit a written report that includes all of the following information:

(1) The number of persons who have claims to which section 3 applies and the dates charges based on such claims were filed with the Commission.

(2) The number of persons to whom notice was provided in accordance with section 4(a) and the date the notice was provided.

(3) With respect to alleged unlawful practices on which claims affected by section 3 are based, the number of such alleged unlawful practices that the Commission has attempted to eliminate by informal methods of conciliation, conference, and persuasion in the 180-day period for which the report is submitted.

(4) The number of alleged unlawful practices referred to in paragraph (3) that were so eliminated in such period.

(5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under section 4.

(b) SUBMISSION OF REPORTS.—Each report required by subsection (a) shall be submitted by the Commission to—

(1) the Committee on Education and Labor, and the Select Committee on Aging, of the House of Representatives, and

(2) the Committee on Labor and Human Resources, and the Special Committee on Aging, of the Senate,

not later than 30 days after the expiration of the 180-day period for which such report is required.

● Mr. METZENBAUM. I am pleased to join with Senator MELCHER and other Senators from both parties in introducing the Age Discrimination Claims Assistance Act of 1988.

We are here today because the EEOC fell asleep on the job. Some 900 older Americans went to the EEOC seeking vindication of their legal rights. The Commission not only failed to protect these men and women—it failed to process their claims so they could protect themselves.

The EEOC has confessed error. We assume it will not let such a thing happen again. But in the meantime, some 900 individuals have lost their rights.

This bill has one simple aim. It restores the right to seek legal redress for hundreds of hardworking older men and women. The bill provides additional time to pursue claims for anyone who filed a timely charge with the EEOC on or after January 1, 1984, but whose charge was not processed by the Commission in time to meet the applicable statute of limitations. Any claimant who falls into this category will have 18 months from the date of enactment to pursue his or her rights under the Age Discrimination in Employment Act, including the right to conciliation and the right to pursue a civil action.

Every American should have a fair chance at his or her day in court. This bill provides that fair chance. The Chairman of the EEOC has indicated that he welcomes this bill, and that the Commission is grateful to members of Congress for correcting the mistake made by the EEOC. With this support, I look forward to rapid enactment of the legislation.●

● Mr. HEINZ. Mr. President, I rise today to cosponsor the legislation offered by the Senator from Montana to extend the statute of limitations for older workers whose age discrimination complaints have not been acted on by the Equal Employment Opportunity Commission.

Like many in this body I was shocked to learn that the EEOC failed to complete its required duties on some age discrimination cases and make the appropriate filings within the statutory time period. Evidence uncovered as a result of investigations by the Special Committee on Aging and its counterpart, the House Select Committee on Aging revealed hundreds of cases where individuals lost their rights because of EEOC failure to meet deadlines. It is grossly unfair when citizens of this country are denied their legal rights with no avenue of recourse.

Mr. President, I recognize the need for statute of limitation provisions. They encourage prompt filing of grievances and protect parties from the threat of litigation arising many years after an alleged discriminatory practice. I believe the situation we have here, however, warrants limited extension of the statute of limitations for the plaintiffs involved. This bill does not upset the balance or rights in the cases involved—the EEOC will still have to make a determination on the legitimacy of the claim.

I urge my colleagues to join in this legislation—it not only redresses the improper extinguishment of rights, but it provides mechanisms for ensuring that this situation does not arise in the future.●

By Mr. GRAMM:

S. 2118. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for off-highway uses; referred to the Committee on Finance.

TAX-FREE SALES OF DIESEL FUEL FOR OFF-HIGHWAY USES

Mr. GRAMM. Mr. President, today I am introducing legislation which, in essence, is a companion measure to S. 2003, a bill I introduced on the first day of the current session of Congress. Both bills are designed to correct a problem created by a provision in the 1987 Reconciliation Act enacted last December.

One of the many provisions contained in the Reconciliation Act, which passed in this body during the early morning hours of December 22, requires that off-highway consumers of diesel fuel—who are exempt from the 15-cents-per-gallon excise tax—begin paying the excise tax on April 1. Technically, the consumers remain exempt from the tax and are able to file with the IRS for a refund of the taxes paid on diesel not consumed on the highway; but the bottom line is that this is effectively a new tax on many diesel consumers. At the current average price of diesel, paying the excise tax at the time of purchase means a 24-percent increase in the cost of diesel to these off-highway consumers of the fuel. The consumers must pay the tax up front, keep detailed records of the amount of diesel not consumed on the highway, file with the IRS for a refund, and then wait for the IRS to send them a check. In the meantime, the Treasury has had the interest-free use of this money—immediately increasing business costs, depriving the consumers of the right to use those funds and denying them the interest that could have been earned on those funds.

Mr. President, there are many industries which consume diesel fuel off our Nation's highways. Most of these industries have a significant presence in the great State of Texas, as well as other States. In particular, I am concerned about the effect of this burdensome new tax requirement on the oil and gas industry—an industry which is vital to our national security, yet finds itself in a struggle today. For example, drilling, well-servicing and workover rigs all consume a large amount of diesel fuel.

With the drastic decline in domestic oil exploration and production, only 34 percent of the 3,000 rigs now available—down from the 5,500 rigs available in 1983—are currently being utilized, and just 54 percent of the 6,227 well-servicing rigs are working. Now, with that industry fighting for its life, the last thing it needs is to be forced to pay a 15-cents-per-gallon tax that it does not owe. An average servicing rig consumes 24,960 gallons of diesel fuel annually, the average onshore rig uses 280,770 gallons per year, and an offshore rig will consume over 612,000 gallons of diesel fuel in a year. Paying 15 cents-per-gallon more for diesel amounts to an annual financial burden of more than $3,700 for each service rig, over $42,000 for each onshore rig, and almost $92,000 for each offshore rig. This translates into a total of $75 million of petroleum industry funds—$25 million in Texas alone—that must be paid to the Federal Government—money which will be refunded at a later date. Why should we ask the oil industry to give up $75 million a year—at a time when the industry desperately needs its resources—so that the Treasury can have interest-free use of its money?

The rig industry is only one of many which will be unduly burdened by being forced to pay up front a tax which is not owed. Other industries include the commercial marine industry, the fishing industry and the general building contractors. The legislation I am introducing today will remove the requirement that these off-highway consumers of diesel pay the diesel fuel

excise tax at the time of purchase and reinstate past treatment of this tax.

Because the new tax requirement will not take effect until April 1, it is my hope that this bill, as well as S. 2003, will be passed by Congress very soon so that the rig operators, shrimpers, water carriers, and other off-highway diesel fuel consumers—as well as the ranchers and farmers covered under S. 2003—will never have to go through the grueling process of paying a tax they do not owe and then filing, and waiting, for a refund from IRS. I urge my colleagues to join me in supporting removal of this new tax burden placed on these industries.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4093 of the Internal Revenue Code of 1986 (as added by section 10502 of the Revenue Code of 1987) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) EXEMPTION FOR OFF-HIGHWAY USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on the sale of any taxable fuel for use by the purchaser in an off-highway use, or for resale by the purchaser to a second purchaser for use by such second purchaser in an off-highway use.

"(2) OFF-HIGHWAY USE.—For purposes of paragraph (1), the term 'off-highway use' means any use not as a fuel in a diesel-powered highway vehicle or a diesel-powered train.".

(b) The amendment made by subsection (a) shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

By Mr. HEINZ (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, and Mr. BOREN):

S. 2119. A bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from income of amounts received under qualified group legal services plan; to the Committee on Finance.

TAX EXCLUSION OF GROUP LEGAL SERVICES BENEFITS

● Mr. HEINZ. Mr. President, today I am introducing legislation to make permanent the tax exclusion of group legal services benefits. In 1985, I introduced the legislation to extend this provision which was included in the Tax Reform Act of 1986.

Under current law, section 120 of the Internal Revenue Code expired on December 31, 1987. This section of the Code excluded from gross income of employees the amount of employer contributions and the value of benefits associated with employer-provided prepaid group legal services plans. This provision was originally enacted in 1976 for 5 years, and has been extended on three previous occasions. The legislation I am introducing today would make the section permanent.

The exclusion for education assistance and group legal services were originally enacted in 1978 for a temporary period in order to provide Congress with an opportunity to evaluate the use and effectiveness of the exclusions. During the tax reform debates in 1986, the Finance Committee included a provision in their bill that made the provision permanent. It was believed that the effectiveness of the group legal services provision had been clearly demonstrated. However, at conference the provision was extended only through 1987. Prior to 1986, section 120 of the Tax Code has been allowed to expire twice. In 1986, the Finance Committee was concerned that the practice in prior years of temporarily extending the exclusion had led to disruption of employers' employee benefit programs. This exclusion has now been permitted to expire a third time. Previously when it has expired we have had to retroactively reinstate the provision. We will now have to reinstate the provision retroactively one more time. The practice of retroactively extending bills is clearly untenable.

Mr. President, there is no particular reason for Congress to continue the practice of letting the tax exclusion of prepaid legal services expire. It is one of the least costly employee benefits for the Treasury and a benefit that is already fairly limited in scope. There is no cause to believe that these plans either do encourage litigation or foster conflict or could. The plans themselves typically are inexpensive for employers. The benefits provided vary by plan, but the plans most often emphasize relatively simple and routine legal services: General legal advice, assistance with real estate matters, wills, family problems, consumer and debt problems, personal bankruptcies, and representation for misdemeanors and traffic matters.

Group legal service plans provided by employers do serve a valuable social purpose. The services they provide are those which working people might otherwise not consume because of the cost. Employer provision through a prepaid plan can save employees lost time, expense and uncertainty in seeking their own legal counsel, and provide them with information which may actually reduce the need for litigation later to settle disputes.

I urge my colleagues to join me in making this provision a permanent part of the Tax Code.

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

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

S. 2119

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

SECTION 1. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Section 120 of the Internal Revenue Code of 1986 (relating to amounts received under qualified group legal services plans) is amended by striking out subsection (e).

(b) EFFECTIVE DATE.—The amendment made by this Act shall apply to taxable years ending after December 31, 1987.●

● Mr. MOYNIHAN. Mr. President, I rise today to join my distinguished colleague from Pennsylvania, Senator HEINZ, in sponsoring a bill to extend permanently section 120 of the Internal Revenue Code, which provides for tax-free treatment of employer-provided group legal services. This tax treatment helps to make affordable legal services available to millions of employees nationwide. Because the provision expires at the end of 1987, the availability of legal services to these employees has been jeopardized. The bill we introduce today would make permanent this important provision.

Originally enacted on a trial basis in 1976, section 120 provides for an exclusion from an employee's taxable income for amounts contributed by an employer to qualified group legal services plans. Reimbursements to employees under such plans also may be excluded from income. The provision has been extended three times since 1976, twice retroactively after it had been allowed to expire. This is a disruptive process for a program of proven value. It is time that a permanent provision be adopted.

Over the past decade, employer-provided group legal services has grown from a relatively unknown program to one that serves millions of Americans. Since 1976, the number of employees, spouses, and dependents covered under such plans has increased from less than 25,000 to 6.2 million, according to the National Resources Center for Consumers of Legal Services.

While coverage has increased dramatically, the cost to the Treasury has not been great. The Office of Management and Budget estimates that the revenue lost to the Treasury in 1987 as a result of the provision was less than $75 million. The plans are inexpensive to employers as well—most plans cost employers less than $200 per year per employee.

One of the reasons for the program's low cost is the limited scope of the provision. Qualified group legal plans must satisfy stringent statutory nondiscrimination requirements ensuring that the benefits are aimed at lower- and mid-level employees, and do not become a perk for executives.

Group legal services enhance simple equity in our society by giving working persons who might need a lawyer the opportunity to have affordable access to one. Employees make the most use of group legal services in the area of preventive legal care—seeking advice to avoid or resolve legal problems without expensive and time-consuming litigation, or legal assistance for routine matters such as wills, divorces,

real estate transactions and consumer matters.

The tax-free treatment of employer-provided group legal benefits should be maintained in order to encourage the provisions of high quality, low-cost legal services to working Americans. I urge my colleagues to support this bill, to ensure that such legal services will continue to be available.●

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. FORD, Mr. SHELBY, Mr. STAFFORD, Mr. INOUYE, and Mr. MOYNIHAN):

S. 2120. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

ELIMINATION OF OFFSET BETWEEN VETERANS' DISABILITY COMPENSATION AND MILITARY RETIREMENT PAY

Mr. MATSUNAGA. Mr. President, I am today introducing with the cosponsorship of Senators BURDICK, FORD, MOYNIHAN, SHELBY, STAFFORD, and INOUYE a bill to eliminate the offset, currently required by law, between military retirement pay and VA disability compensation. Similar legislation has been introduced in the House by Congressman MIKE BILIRAKIS with 203 cosponsors.

As my distinguished colleagues are aware, those who serve in the Armed Forces for 20 or more years qualify under present law for retired military pay. They also are aware that veterans who are disabled by injury or disease incurred or aggravated during active service in the line of duty, either during wartime or peacetime service, are eligible for monthly payments based upon the level of their disability. But few may know that—because the Federal Government wrongly identifies retirement pay and disability pay as compensation for the same service—military career retirees, in order to qualify for veterans' disability compensation, must deduct an amount equal to such compensation from their retirement pay. Even fewer may be aware that militiary career retirees are the only group of Federal annuitants who cannot receive concurrent disability compensation without having to pay an offset.

A simple example will illustrate the injustice that is done to disabled military career retirees. Imagine two soldiers who are injured in the line of duty. One soldier leaves after several years of service while the other makes the military a career and retires after 20 years. The disabled soldier who left the service early collects VA disability payments as well as retirement pay from either private sector or Federal employment. But the career military soldier who is disabled is required by statute to offset the disability payment from military retirement pay; he receives no separate payment for his service-connected disabilities. In other words, unlike the short timer, the disabled career soldier is required to fund his own disability benefits.

This is grossly unfair. Disabled veterans who happen to be career soldiers should be permitted to receive both full retirement pay and VA disability compensation because the two programs have two different purposes. Whereas retirement pay is paid to attract quality personnel and retain their services as a career over a long period of time, disability pay is disbursed to compensate a veteran for the pain, suffering, and loss of future earnings caused by service-related injuries or disease. Unfortunately, Federal law currently does not distinguish between the two, although it does so for other types of Federal and non-Federal service. My bill would remedy this discriminatory situation.

Mr. President, as I mentioned at the outset, the companion House bill enjoys the bipartisan support of 203 Members of Congress. In addition, 17 major veterans' and service organizations have voiced active support for the bill: the American Legion, Disabled American Veterans, Veterans of Foreign Wars, Uniformed Services Disabled Retirees, Military Order of the Purple Heart, Non-Commissioned Officers Association, Reserve Officers Association, Fleet Reserve Association, Retired Enlisted Association, Catholic War Veterans, Air Force Sergeants Association, National Military Family Association, National Association for uniformed Services, Amvets, Retired Officers Association, American Retirees Association, and Jewish War Veterans.

I hope that my colleagues will join this distinguished group in supporting this legislation to provide equitable treatment for the thousands of disabled career military, retirees who are now suffering the shorter end of the unfair double standard.

By Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. RIEGLE, Mr. CHILES, and Mr. DASCHLE):

S. 2122. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program, and for other purposes; referred to the Committee on Finance.

MEDICAID INFANT MORTALITY AMENDMENTS OF 1988

● Mr. BRADLEY. Mr. President, I rise to introduce the Medicaid Infant Mortality Amendments of 1988. Joining me in introducing this legislation are Senators CHAFEE, MITCHELL, ROCKEFELLER, MATSUNAGA, DURENBERGER, RIEGLE, CHILES, and DASCHLE. This legislation amends title XIX of the Social Security Act to require States to provide health care coverage for pregnant women and very young children up to 100 percent of the Federal poverty level and to increase provider participation in the Medicaid Program.

Mr. President, one of the ways that we judge progress in a society is the health of its people—particularly through such indicators as life expectancy and infant mortality. Although we can be proud of the progress we have made in extending life, we can take no pride in our progress in protecting the lives of infants and children. It is appalling that the infant mortality rate of a nation as technologically advanced and wealthy as ours ranks so far behind most other industrialized nations.

Unless we, as a nation, take further action, the United States will have little chance of meeting the Surgeon General's goal of reducing the infant mortality rate from its current level of 10.6 deaths per 1,000 live births to 9 deaths per 1,000 live births by 1990. In recent years, we have instead seen a serious decline in the progress we had been making in reducing the rate of infant mortality. Neonatal mortality actually increased by 3 percent between 1984 and 1985 for black infants. It will be virtually impossible to reach the Surgeon General's goal unless we concentrate on eliminating the discrepancy in infant mortality rates among different segments of our population. The infant mortality rate for whites is already 9.3 per 1,000 live births, but for blacks it is a disgraceful 19.4 per 1,000 live births.

The Institute of Medicine has determined that the most critical step we can take to reduce infant mortality is to expand access to early prenatal care and services for infants in the first year of life. Quality prenatal care can reduce the incidence of low birth weight, a major contributor to infant mortality. It is also extremely cost-effective; for every $1 spent on prenatal care, $3 is saved over the first year of the infant's life. The Office of Technology Assessment recently reported that every low birthweight birth avoided by prenatal care saves the U.S. health care system between $14,000 and $30,000 in initial hospitalization and long-term costs. OTA further concluded that the health care savings from preventing low birthweight would outweigh the costs of extending Medicaid eligibility to all poor pregnant women.

Mr. President, good prenatal care is certainly an important step. But after the baby is born, developmental checkups are also essential. Because poor infants and children are more likely to start life sick and live in poor surroundings, their health problems are particularly serious. If these health problems can be detected early in life, their most serious effects can be prevented. This is good for children and it is cost-effective. While it costs only $350 a year for a young child to have full preventive health care services, 1 day in the hospital for an untreated illness costs at least $600.

Despite the obvious benefits of expanding access to health care for pregnant women, infants, and children, serious gaps in access persist. More than 11 million children are uninsured and nearly 15 million women of childbearing age have no private or Government health insurance covering maternity. Each year, 555,000 of these women give birth. Overall, 3 in every 10 women—including 1 in every 2 black women—do not receive adequate prenatal care.

Since 1984, we have been slowly moving forward to correct this unfortunate situation by expanding and strengthening public health programs for pregnant women and children. Many of us in the Senate worked hard to give States the option to expand coverage to pregnant women and children with family incomes above AFDC levels but below the Federal poverty line. At this time, 25 States and the District of Columbia are taking advantage of this option. As a result of the Bradley-Waxman initiatives contained in the Omnibus Reconciliation Act of 1987, States are further permitted to extend Medicaid coverage to infants and pregnant women with family incomes below 185 percent of the Federal poverty level and to all poor children younger than 8. I hope that States will expand their programs along these lines. Last year's Bradley-Waxman initiatives also mandated States to provide coverage through age 6 of the children added to Medicaid by the 1984 act.

These reforms, significant as they are, have unfortunately not been adopted by all States nor have they been adequate to keep pace with higher child poverty levels. There remain over 160,000 children born to poor women each year in States which do not provide access to prenatal care. In addition, more than half of all children below the poverty line remain uncovered by Medicaid.

Mr. President, Medicaid eligibility is not the only problem. Even when Medicaid coverage is available to women and children, they may not get medically appropriate services. Many health care providers are simply unwilling to serve Medicaid patients because they find Medicaid payments to be insufficient and require burdensome paperwork. Furthermore, Medicaid patients tend to fall on and off coverage so that providers are never sure whether or not they will receive any reimbursement at all.

Other Federal programs aimed at meeting the needs of pregnant women and children have also fallen short. We all know how effective the WIC Program is. Yet it serves only half of all financially eligible, nutritionally at-risk women, infants, and children. Its failure to serve the entire maternal and child health populations eligible for, and in need of nutritional supplements, in inexcusable. This problem is also addressed in this new piece of legislation.

Mr. President, my bill would do four important things for pregnant women, infants, and children: It would require that States offer Medicaid coverage to all pregnant women and infants up to 100 percent of the poverty level and it would phase in such coverage for children up through age 3; it would increase participation in the Medicaid Program among those who are Medicaid-eligible; it would provide incentives to increase provider participation in the Medicaid Program; and it would allow for Medicaid to purchase WIC services for pregnant women, infants, and children.

The esteemed chairman of the House Subcommittee on Health and the Environment, Congressman WAXMAN, is today introducing a companion bill in the House of Representatives. Joining him are Congressmen LELAND, HYDE, SCHEUER, WALGREN, WYDEN, SIKORSKI, BATES, BRUCE, Mrs. COLLINS, BOUCHER, MILLER, and DOWNEY. Congressman WAXMAN's leadership in the area of children's health issues is well known, and I look forward to working with him in our continuing effort to reach pregnant women and children with needed health care.

Mr. President, we frequently talk about the problems facing our poor. Inadequate prenatal care is among the most serious because it contributes to incidence of low birthweight infants. These low birthweight infants, if they survive, experience a range of health problems. If these health problems go unresolved, they contribute to school difficulties and failure. Children who do poorly in school are more likely to become dropouts and joint the ranks of the unemployed. And, in turn, these unemployed, undereducated and welfare dependent individuals are more likely to become teen parents who, in turn, are unable to secure prenatal care. Thus the cycle continues unabated.

Mr. President, if there ever was a place to intervene, this is it. We can have an impact on our citizens, giving them a chance to be the best they can be from the very beginning. We can no longer afford, in dollar costs or human costs, not to extend prenatal care and health services to pregnant women, infants, and young children. I strongly urge my colleagues to support this bill.

I ask that a copy of the summary of the bill appear in the RECORD.

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

MEDICAID INFANT MORTALITY AMENDMENTS OF 1988—BILL SUMMARY

The Surgeon General has established an infant mortality goal of 9 per 1,000 live births by 1990. Unless serious efforts are undertaken, the United States will fall short of this goal, and continue to have a higher infant mortality rate than most other industrialized nations. In recent years, attempts have been made to limit this tragic waste of innocent lives through modifications to the Medicaid program that expand access to health care for pregnant women, infants, and young children. Important as these reforms have been, the data on infant mortality point to the fact that significant gaps in access to health care remain. This bill attempts to close those gaps with the following provisions:

1. MANDATORY COVERAGE FOR POOR PREGNANT WOMEN AND CHILDREN

Medicaid coverage for poor pregnant women.—States are currently required to offer Medicaid coverage for prenatal care to all pregnant women who are below state AFDC income levels. States are allowed to extend coverage to pregnant women who are below 185 percent of the poverty line. To date, 25 states and the District of Columbia have elected to extend Medicaid coverage to pregnant women and infants with family incomes above AFDC levels but below the federal poverty level. There remain over 160,000 children born to poor women each year in states which do not provide access to prenatal care.

This legislation would require that all states provide Medicaid coverage to all pregnant women up to 100 percent of the Federal poverty line. As under current law, coverage is limited to pregnancy-related services.

Phase in children through age 3.—States are currently required to offer Medicaid coverage to all young children who are below state AFDC income levels. States have the option to extend coverage to all children under age 5 who are below 100 percent of the Federal poverty line. To date, 20 states and the District of Columbia have implemented the option to phase in Medicaid coverage to children over age 1 but younger than five with family incomes above AFDC levels but below the federal poverty level. There remain roughly 600,000 poor children through age three who are uncovered by Medicaid.

This legislation would require that all states extend Medicaid coverage to children born after 12-31-87 with family incomes below the poverty line, until they reach the age of four. Medicaid coverage for infants and young children would be identical to that currently offered other such assistance recipients.

In addition, the bill provides for a small change in the calculation of family income for children. Just as states determine Medicaid eligibility for pregnant women by calculating family income with either the SSI resource test or no resource test, states would now determine Medicaid eligibility for children through age 3 by calculating family income with either the SSI resource test or no resource test.

Expansion of continuation coverage.—Currently, states have the option to provide Medicaid coverage for pregnant women through the end of the 60 day period beginning on the last day of pregnancy. However, only 22 states provide this continuous coverage. In most states, pregnant women can lose their Medicaid eligibility in the middle of pregnancy. In these cases, the physician may be unable to receive compensation for the delivery of the baby. As a result, physicians are often unwilling to treat Medicaid recipients out of concern that the loss of Medicaid eligibility will lead to a loss in reimbursement for their services.

In an effort to encourage physician participation and expand access to prenatal care, this legislation would mandate states to provide continuous Medicaid coverage to women until the end of the month in which the 60 day post-partum period expires.

2. PROMOTING MEDICAID COVERAGE

Presumptive eligibility.—The Medicaid eligibility determination process is often a barrier to the timely and appropriate receipt of prenatal care. In response to this problem,

states were recently given the option to provide "presumptive eligibility" for pregnant women which allows for short-term eligibility to begin at the earliest point of contact between the patient and the provider. To date, 12 states have implemented this option.

This legislation would require states to provide presumptive eligibility for ambulatory prenatal care for pregnant women. The presumptive eligibility period would be extended to 45 days or whenever the state makes a final eligibility determination, whichever is longer. During the presumptive eligibility period, a pregnant woman could receive prenatal care from private practitioners who are not qualified to do eligibility determinations.

Outreach services.—Many Medicaid-eligible pregnant women are unaware that they are eligible for Medicaid and may therefore forego appropriate prenatal care because they believe that such care is unaffordable.

States would be given the option to cover outreach services for pregnant women and children.

3. ASSURING PROVISION OF NECESSARY SERVICES

Payment for obstetrical services.—A minority of physicians and other health care providers deliver the bulk of services to low income patients. For example, one of every two physicians either does not participate in Medicare at all or it accounts for less than 10 percent of their practice. Low provider fees and programmatic complexity are the primary explanations for these low provider participation rates. The rising cost of malpractice insurance is also mentioned as a major cause of declining participation.

This legislation would codify current regulations requiring that State payments to providers for prenatal care be sufficient to enlist enough providers so that services under Medicaid are available to recipients at least to the extent that those services are available to the general population. States would have to report on Medicaid reimbursement levels and the extent of provider participation to the Secretary on an annual basis. The Secretary would then report annual compliance determinations to the Congress and sanction those states found out of compliance.

The legislation would also allow states the option of setting higher payment levels for prenatal and delivery services delivered by ob-gyns and other qualified providers (eg. family practitioners, certified nurse midwives) with practices located in rural areas.

Payment for exceptionally lengthy hospital stays.—Currently, many state Medicaid programs place limits on coverage for young children with extended or highly medically intensive hospital stays. Some place limits on the number of days for which they provide reimbursement for inpatient care, with virtually no exceptions for cases of medical necessity. Others place limits on the prospective payment Medicaid makes, with no additional coverage for high cost "outlier" cases. These benefit limitations lead to inadequate coverage for low income children with special health care needs.

This legislation would require each state, as appropriate to its Medicaid reimbursement system to establish either a mandatory override on day limits for medically necessary care or a mandatory outlier on prospective payment for the inpatient hospital care of infants in disproportionate share hospitals. Each state would have discretion in both the design of overrides/outliers and the application of a budget neutrality requirement.

4. INCREASING ACCESS TO WIC BENEFITS

Medicaid purchase of WIC services.—Currently, all Medicaid-eligible pregnant women and children are also eligible for benefits under the Special Supplemental Food Program for Women, Infants, and Children (WIC). This program provides food assistance and nutritional screening to low-income pregnant and post-partum women and their infants as well as to low-income children up to age 5. The WIC program is aimed at women and children who are considered "at risk" for nutritionally-related medical problems. Recent evidence proves that WIC's services aid in the prevention of premature births, fetal deaths, and other problems among pregnant women and infants. Despite WIC's obvious success, WIC services are provided to only half of those who are eligible.

This legislation would make the WIC program more accessible to Medicaid-eligible pregnant women and children up to age 5 by requiring states to coordinate their Medicaid plans with the WIC program and requiring states to make information about WIC available to all pregnant women and children applying for Medicaid. In addition, state Medicaid programs would be allowed to purchase the WIC food package for Medicaid-eligible pregnant women and children. Medicaid recipients would be certified for the WIC program in the same manner as all other WIC applicants.●

● Mr. MITCHELL. Mr. President, I am pleased to join with my colleague from New Jersey, Senator BRADLEY, in introducing the Medicaid infant mortality amendments. This important legislation will require that all States provide Medicaid coverage to pregnant women and young children through age 3 up to 100 percent of poverty.

This bill expands upon the significant improvement in Medicaid coverage for pregnant women and children which were included in last year's budget reconciliation bill. That legislation gave States the option of providing Medicaid coverage to pregnant women and young children up to 185 percent of poverty. Thus far, 24 States and the District of Columbia have elected to expand Medicaid coverage under this provision.

The issue of infant mortality is a critical one in our society.

The Children's Defense Fund document entitled, "The Health of America's Children," reports that during the 1950-55 period, the United States ranked sixth best on infant mortality among 20 industrialized countries. By the 1980-85 period, the Nation had fallen to a tie for last place among the same countries.

Very little improvements in the rates of infant mortality is evident in recent years. In 1984, the percentage of women who received either no prenatal care or none until the seventh month or later did not decline at all from the 1983 figure of 5.6 percent. 1984 was the fifth consecutive year during which the percentage of babies born to mothers who received late or no care worsened or failed to improve.

The Institute of Medicine has determined that the most critical step we can take to address infant morality is to expand access to early prenatal care and services for infants in the first year of life. The IOM determined that quality prenatal care could reduce the incidence of low birthweight babies by 15 percent among white infants and 12 percent among black infants.

They also found that this approach is extremely cost effective; for every $1 spent, $3 would be saved in the first year of the infant's life, and saves up to $11 in total medical expenses over the lifetime of the child.

The legislation we are introducing today will continue to build upon the improvements in services for low-income pregnant women and their babies enacted last year. In addition to expanding Medicaid coverage for these women, the bill also includes provisions which will provide incentives for physicians to treat Medicaid-eligible pregnant women.

The bill also includes provisions which will mandate States to provide continuous Medicaid coverage to women 60 days post-partum and make the WIC Nutrition Program more accessible to Medicaid-eligible pregnant women and children.

I look forward to working with Senator BRADLEY and others to see that this important legislation is enacted in the very near future. This modest expansion of Medicaid dollars represents a prudent investment which will have a significant and long lasting effect upon the health and the future of the Nation's poorest children.

I urge my colleagues to support this important bill.●

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. SIMON, Mr. DASCHLE, and Mr. CONRAD):

S. 2123. A bill to provide hunger relief, and for other purposes; referred to the Committee on Agriculture, Nutrition, and Forestry.

EMERGENCY HUNGER RELIEF ACT

Mr. KENNEDY. Mr. President, I am pleased to join with Senators LEAHY, SIMON, DASCHLE, and CONRAD in introducing the Emergency Hunger Relief Act of 1988. A war on hunger was waged successfully in the 1960's and 1970's—but it has been lost in the 1980's, a casualty of both a harsh recession and harsh budget cuts. Since 1981, Federal spending on nutrition programs, adjusted for inflation, has increased by less than 1 percent. During the same period, the number of Americans in poverty increased by 3 percent—or over half a million people. Between 1986 and 1987 alone, demand for emergency food services increased in 24 major cities by an average of 18 percent.

By the mid-1970's, hunger had essentially been eradicated in America. But in 1985, the Harvard Physicians' Task Force estimated that as many as 20 million Americans suffer from hunger for some portion of each month. The measure we are introducing today is designed to be a new declaration of

war on hunger, and this time we intend to see that the war stays won.

The bill we are introducing today, the Emergency Hunger Relief Act of 1988 strengthens, four basic Federal programs—food stamps, school breakfasts, child care food, and summer food service. It will significantly improve the nutritional content of the meals for food stamp recipients, and it will strengthen our essential child nutrition programs.

The current Food Stamp Program began in 1961 as a pilot project in one of President Kennedy's first executive orders. Since that time, food stamps have become a lifeline for the hungry—nearly 19 million Americans were served in 1987. In spite of the large number of people served, the program is still far from successful, because its benefits are far from adequate.

For the vast majority of recipients, food stamps run out well before the end of the month. Millions of other needy citizens would be are eligible for food stamps, but they do not know that they are eligible, or how to apply. Increasing numbers of poor Americans are forced by the high cost of housing to choose between decent shelter and food stamps. Others, who have been forced to move in with relatives because they have lost their home or apartment, find their food stamp benefits reduced or terminated.

The bill we are proposing deals with these problems in the following ways:

It increases the basic food stamp benefit amount.

It restores food stamp information activities and targets those services to the most vulnerable Americans: low income workers with children, the homeless, the disabled, the elderly and those in rural areas.

It phases out the excess shelter cost deduction cap so that recipients can spend a more realistic portion of their income on housing before their food stamps are reduced.

It changes the household definition so that recipients who move in with relatives will not lose their benefits.

In addition to these essential reforms in food stamps, the bill makes a number of improvements in other nutrition programs:

It reauthorizes the Temporary Emergency Food Assistance Program and ensures that surplus commodities will continue to be made available to the homeless and other low income Americans.

It increases the reimbursement for school breakfasts by 3 cents a meal, so that schools can serve more nutritious breakfasts to poor children.

It allows centers participating in the child care food program to serve children an additional meal.

It permits nonprofit organizations to administer the Summer Food Service Program, so that greater assistance will be available to poor children when school is out.

The changes we are proposing will take place over the next 5 years. We estimate that the bill will cost $300 million in fiscal year 1989, rising to $900 million in 1993.

We are well aware that scarce Federal dollars limit our ability to fight hunger as effectively as we would like. But we believe that the war on hunger deserves the highest priority in domestic spending, and we intend to work with our colleagues to see that this priority is met.

We could obviously do more. But we cannot afford to do less. America needs effective national leadership against hunger—and this measure will provide it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2123

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Emergency Hunger Relief Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) millions of Americans face hunger several or more days each month due to the fact that—

(A) one in every five American children is poor (using the United States Census definition for the most recent year for which date are available), and almost one of every two black children and two of every five hispanic children are poor;

(B) the demand for emergency food assistance is increasing, and the majority of those requesting emergency food assistance in major cities are families with children;

(C) participation in the food stamp program has declined in this decade, despite an increase in the number of poor Americans, and barriers to participation in the food stamp program are contributing to the growth of domestic hunger;

(D) food stamp benefits are based on the lowest cost food plan devised by the United States Department of Agriculture and the benefit level makes it difficult for most poor families to achieve a minimally adequate diet;

(E) the Department of Agriculture estimates that low-income children receive a substantial portion of their daily food from meals served in schools under the National School Lunch Act, yet during the summer months, only one eighth of the low-income children who participate in school meal programs get nutrition assistance under the summer food program;

(F) only one fourth of the low-income children who participate in the school lunch program participate in the school breakfast program; and

(G) over half of our children under age 6 now have mothers that work outside of the home, and those children need high-quality child care services and nutrition to be prepared to do well in school and eventually lead productive adult lives;

(2) as a matter of national public policy, the health and nutritional status of low-income Americans (particularly vulnerable groups such as women of child-bearing age, children, and the elderly) should be protected;

(3) low-income people in need should have information about and access to Federal food and nutrition programs; and

(4) freedom from hunger and undernutrition is a basic human need, and food and nutrition programs are essential to enhance the health of the Nation.

TITLE I—FAMILY SELF SUFFICIENCY IMPROVEMENT

SUBTITLE A—FOOD STAMP PROGRAM

SEC. 101. LOW COST FOOD PLAN.

(a) FOOD PLAN DEFINITION.—Section 3(o) of such Act (7 U.S.C. 2012(o)) is amended—

(1) by striking out "Thrifty" and inserting in lieu thereof "Low cost";

(2) in the first sentence, by inserting after "calculations" the following: "published and distributed in April, 1983"; and

(3) by striking out "thrifty" each place it appears and inserting in lieu thereof "low cost".

(b) VALUE OF ALLOTMENT.—Section 8(a) of such Act (7 U.S.C. 2017(a)) is amended by striking out "the thrifty food plan" and inserting in lieu thereof "79 percent of the low cost food plan during the period beginning January 1, 1989, and ending September 30, 1989, and 80 percent of the low cost food plan during fiscal year 1990 and thereafter".

(c) CONFORMING AMENDMENT.—Section 21(b)(2)(C)(ii) of such Act (7 U.S.C. 2030(b)(2)(C)(ii)) (as added by section 1509 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203)) is amended by striking out "the thrifty food plan" and inserting in lieu thereof "79 percent of the low cost food plan during the period beginning January 1, 1989, and ending September

30, 1989, and 80 percent of the low cost food plan during fiscal year 1990 and thereafter".

SEC. 102. RELATIVES LIVING TOGETHER.

The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "or (2)"; and

(2) by striking out ", or (3)" and all that follows through "disabled member".

SEC. 103. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) by striking out "during the period"; and

(2) by striking out "and ending on September 30, 1989".

SEC. 104. INCOME STANDARDS OF ELIGIBILITY.

Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by inserting after the paragraph designation the following: "in the case of a household that includes an elderly or disabled member,".

SEC. 105. EXCESS SHELTER EXPENSE DEDUCTION.

The proviso to the fourth sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended after "respectively," the following: "plus an additional $10 for each such jurisdiction for each adjustment period,".

SEC. 106. REPORTING REQUIREMENTS AND CALCULATION OF HOUSEHOLD INCOME.

(a) CALCULATION OF HOUSEHOLD INCOME.—Section 5(f) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) Households not required to submit monthly reports of their income and circumstances under section 6(c)(1) shall have their income calculated on a prospeective basis, as provided in paragraph (3)(A).

"(B) Households required to submit monthly reports of their income and circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month"; and

(2) in paragraph (4), by striking out the second sentence.

(b) OPTIONAL MONTHLY REPORTING.—Section 6(c) of such Act (7 U.S.C. 2015(c)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A) A State agency may require certain categories of households to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting of households—

"(i) in which all members are migrant or seasonal farm workers;

"(ii) in which all members are homeless individuals; or

"(iii) that have no earned income and in which all adult members are elderly or disabled members.

"(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations."; and

(2) by striking out paragraph (5).

(c) MONTHLY NOTICE.—Section 6(c)(2) of such Act is amended—

(1) by striking out "and (D)" and inserting "(D)"; and

(2) by inserting before the period the following: ", and (E) be provided each month with an appropriate, simple form for making its required reports together with clear instructions explaining how to complete the form and its rights and responsibilities under the monthly reporting system".

SEC. 107. LIMITATION ON RESOURCES.

The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by inserting after "$4,500" the following: "(adjusted on October 1, 1988, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12 months ending the preceding June 30)".

SEC. 108. VALUE OF ALLOTMENT.

Clause (2) of the last sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking out "following any period" and inserting in lieu thereof "that applies following any period of more than 30 days".

SEC. 109. BENEFITS FOR HOUSEHOLDS SUBJECT TO PRORATING.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) (as amended by section 109 of this Act) is further amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (2) (as so designated), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

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

"(3) A household applying after the 15th day of the month or similar period shall be entitled to receive, in lieu of its initial allotment and its regular allotment for the following month or period, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).".

SEC. 110. FOOD STAMP INFORMATION ACTIVITIES.

(a) AUTHORITY.—Subparagraph (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: "(A) inform low-income households containing members who are homeless individuals, elderly or disabled members, low-income workers with children, or residents of rural areas (and, at the option of the State, other low-income persons) about the availability, eligibility requirements, application preocedures, and benefits of the food stamp program, including notification to recipients of aid to families with dependent children, supplemental security income, and unemployment compensation, distribution of application forms and associated information about filling out such forms (including information about the documentation required pursuant to paragraph (3)), and".

(b) ADMINISTRATIVE COSTS.—Section 16(a)(4) of such Act (7 U.S.C. 2025(a)(4)) is amended by striking out "permitted" and inserting in lieu thereof ", including those undertaken".

SEC. 111. EXTENSION OF HOMELESS AMENDMENTS.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by inserting ", except those amendments made by subsection (b)," after "this section".

Subtitle B—Related Programs

SEC. 121. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (as amended by section 813 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77)) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 is amended by striking out "20" and inserting in lieu thereof "50".

(c) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(b)(2) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "fiscal year ending September 30, 1988" and inserting "fiscal year 1990".

(d) PROGRAM TERMINATION.—

(1) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(a) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "1988" and inserting "1990".

(2) CONFORMING AMENDMENT.—Section 202A(a)(1) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 812 of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "To the extent" and all that follows through "fiscal year 1988" and inserting in lieu thereof "For the period ending on the date specified in section 212".

SEC. 122. COMMUNITY FOOD AND NUTRITION PROGRAM.

(a) PROGRAMS.—Section 681A(a) of the Community Services Block Grant Act (42 U.S.C. 9910a(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

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

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

"(4) to develop innovative approaches at the State and local level to improve the nutritional content of meals consumed by low-income people that are home bound due to debilitating diseases or conditions.".

(b) AUTHORIZATION.—Subsection (c) of section 681A of such Act is amended to read as follows:

"(c) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1988 through 1993.".

SEC. 123. STUDY OF SPECIAL DIETS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) conduct a study, by contract with the National Academy of Sciences—

(A) to identify which kinds of medical conditions commonly suffered by members of households participating in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) require such members to follow special diets;

(B) to determine the incidence of each medical condition identified under subparagraph (A) among members of households that are eligible to participate in the food stamp program;

(C) to determine the estimated costs that would be incurred by households (of various sizes) participating in the food stamp program, to follow special diets required by

medical conditions suffered by the members of such households; and

(D) with respect to such households and each of the medical conditions identified in subparagraph (A), to determine the adjustments to the low cost of food plan that would be necessary to provide to such households allotments that take into account additional costs that would be incurred to follow special diets required by such medical conditions; and

(2) submit to te Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing in detail the results of such study.

TITLE II—CHILD NUTRITION PROMOTION

SEC. 201. EXCLUSION OF FOSTER CARE AND ADOPTION ASSISTANCE FROM INCOME UNDER THE FOOD STAMP PROGRAM; REMOVAL OF OBSOLETE REFERENCE.

Paragraph (12) of section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended to read as follows: "(12) any payments made under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) or under any State or local foster care program, and".

SEC. 202. IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM.

The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by inserting after "3 cents" the following: ", and (effective beginning July 1, 1989) an additional 3 cents,".

SEC. 203. RESTORATION OF PRIVATE NONPROFIT ORGANIZATIONS UNDER THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ELIGIBLE SERVICE INSTITUTIONS.—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended—

(1) in subparagraph (B), by inserting ", private nonprofit organizations," after "county governments";

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by striking out "and" at the end of subparagraph (D); and

(4) by inserting after subparagraph (D) the following new subparagraph: "(E) 'private nonprofit organizations' includes only such organizations (including summer camps) that (i) operate at not more than 15 sites, or operate at not more than 20 sites pursuant to a waiver granted under subsection (i)(2), and (ii) use self-preparation facilities to prepare meals or obtain meals from a public facility (such as a school district, public hospital, or State university); and".

(b) ELIGIBLE PRIVATE NONPROFIT ORGANIZATIONS.—Section 13 of the such Act is amended by inserting after subsection (h) the following new subsection:

"(i)(1) Eligible private nonprofit organizations entitled to participate in programs under this section as service providers shall be limited to those that—

"(A) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or such unit of local government will operate a program under this section in such year;

"(B) exercise full control and authority over the operation of the food service programs under this section at all sites under their sponsorship;

"(C) provide ongoing year-round activities for children;

"(D) demonstrate adequate management and fiscal capacity to operate programs under this section; and

"(E) meet applicable State and local health, safety, and sanitation standards.

"(2) The Secretary may waive the limitation of 15 sites established under subsection (a)(1)(E)(i) and permit a private nonprofit organization under this section to operate at not more than 20 sites if such organization demonstrates to the satisfaction of the Secretary that an unment need for such additional sites exists and that such organization has the capability to serve such additional sites.".

SEC. 204. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C 1766(f)(2)(B)) is amended by inserting before the period the following: ", or in the case of an institution or home open more than 8 hours per day, two meals and two supplements or three meals and one supplement".

SEC. 205. TECHNICAL CORRECTION RELATING TO INCOME GUIDELINES FOR FREE LUNCHES.

Section 9(b)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(b)(1)(A)) is amended—

(1) in the second sentence, by striking out "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The"; and

(2) by striking out the third sentence.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall become effective on October 1, 1988.

(b) LOW COST FOOD PLAN; EXCESS SHELTER EXPENSE DEDUCTION.—The amendments made by sections 101 and 105 shall become effective on January 1, 1989.

(c) SCHOOL BREAKFAST PROGRAM; CHILD CARE FOOD PROGRAM.—The amendments made by sections 202 and 204 shall become effective on July 1, 1989.

● Mr. SIMON. Mr. President, I would like to comment in the record on the bill known as the Emergency Hunger Relief Act of 1988. This bill seeks to restore many of the financial benefits taken from the Food Stamp Program through the Gramm-Rudman-Hollings Act. The adjustments placed in this bill are significant for two reasons. First they symbolize our efforts to recognize and restore meaning to the assistance acts which we pass. Second, the adjustments offer improvements in our Food Stamp Program that aid families and households, children, and extend existing relief programs.

Specifically, this bill offers a 2-year extension to the Temporary Emergency Food Assistance Program [TEFAP] and reauthorizes the Community Food and Nutrition Program until 1993. In addition the bill uses the low-cost food plan as the basis for the computation of benefits. This increases the basic amount per person, per meal by $0.02.

There are but a few examples of the adjustments made through this bill. Yet, these are ways in which a difference can be made to those who need the program most. This bill, developed by the distinguished chairman of the Committee on Labor and Human Resources, Senator KENNEDY, has the support of the Illinois Catholic Charities as well as many other local and national groups. I am pleased to be one of its original cosponsors.●

Mr. HARKIN. Mr. President, I want to recognize some of my good friends and colleagues who today introduced the Emergency Hunger Relief Act of 1988. I commend them for their commitment and efforts in fighting domestic hunger. Their concern and perseverance is evidenced not only by the legislation introduced today but by their years of dedicated service to the cause of human welfare.

As a concerned citizen, I realize that hunger is more than a social blight. It is an epidemic that is robbing our country of its dignity as well as its economic potential. As chairman of the Senate Nutrition Subcommittee, I have had the opportunity to study this problem and become familiar with the resources we are using to fight hunger. As I have studied this problem, I have become intimately familiar with it and I have seen and met some of the people who participate in these programs. They have made a lasting impression on me. An elderly lady, for example, standing for hours in 4-degree weather, waiting for a food pantry to open its doors. A young child in a school lunch line. Lines of people waiting, with outstretched hands, to receive food for themselves and their families. These are real people with real needs.

Unfortunately in these brief remarks, I can only describe in word and numbers the nature and extent of hunger in America. It is hard to talk about hunger without talking about the underlying factors which lead to hunger. They are poverty and the inability of many wage earners to earn enough money to properly feed themselves and their families. They are dislocated workers or unskilled labor just entering the job market.

Today there are over 32 million people living at or below the poverty level. The poverty level for a family of four is $11,600.

Nearly 13 million of these poor people are children. In fact 1 in 5 children born in this country today is born into poverty.

Four and one-half million are elderly—over age 60.

About 85 percent of our Nation's poor are women, children, handicapped, or elderly.

Twenty percent of our Nation's poor are gainfully employed—but not enough to rise above poverty status.

In addition to the childrenization of poverty, a statistic in which we lead the industrialized world, and notwithstanding the tremendous social gains by women in the last couple of decades, we are witnessing the feminization of poverty. Seventy-eight percent of food stamp households are headed by women and over 80 percent of food stamp benefits go to households with children.

Many women are not trained to meet the demands of today's labor force. If they go back to college on a full-time basis to try to improve job skills, they lose their food stamp eligibility. If they have children, the cost of child care may eliminate potential

food stamp benefits. Hence some food stamp restrictions work against the very objectives of the food stamp program, namely to help people help themselves.

Let me address the adequacy of existing food assistance programs. They are basically good programs—they do a tremendous amount of good but they are woefully inadequate. I mentioned our 32 million people now living in poverty.

Food stamps reach only 19 million of these people and it provides an average of only $0.51 per person per meal.

WIC, the most efficient and economical of the food assistance programs, reaches only 40 percent of eligible persons. Who goes unserved? Children, ages 1-5, are the lowest priority. We reach less than a third of eligible children.

I could go on: I could talk about the under-utilized school breakfast program. I could talk about the many recipient agencies—state human services offices, food banks and pantries—that have contacted me about the loss of many TEFAP commodities. I could address the cap on bonus commodities for the school lunch program and the real economic loss this program will suffer as a result. In my own State of Iowa, school officials have told me that a $0.03 increase in the price of school lunches will mean a 3-percent decline in participation, which could in turn necessitate a further increase in the cost of the school lunch. Suffice it to say that our supplies do not match our needs and those who suffer are generally not able-bodied men who simply refuse to work.

My message then is brief. When it comes to food assistance programs, let us not be penny-wise and pound-foolish. It is a waste of our Nation's resources to starve so many who ought and want to be productive citizens. We need to train these people not kick them off the Food Stamp Program when they seek to develop job skills or productive employment. Nor should we withhold our resources from those unable to provide for themselves such as the handicapped, the elderly and children. With regard to children, we will far outspend any perceived savings in the WIC Program by increased medical bills within a year or so after an infant is born.

As chairman of the Subcommittee on Nutrition, I can say that this issue will receive a high priority. I will be studying this bill as well as other anti-hunger measures in the upcoming weeks. I look forward to working with my colleagues on this legislation and commend them for their efforts.●

By Mr. BOSCHWITZ:

S. 2124. A bill to expand the availability of child care, and for other purposes; to the Committee on Finance.

CHILD CARE AND NUTRITION ENHANCEMENT ACT

● Mr. BOSCHWITZ. Mr. President, today I am introducing the Child Care and Nutrition Enhancement Act of 1988. This bill is a broad-based approach to the problems of child care, one that provides Federal assistance to states without imposing a heavy burden of Federal regulation.

This is not a new issue for me. On the Nutrition Subcommittee, I have worked for years to support and improve the Child Care Food Program, the largest single child care program in the Federal budget today. This bill works to make further improvements in that program, and I will use my position on the Agriculture Committee to push those changes.

This bill has some broad characteristics. First, it provides resources to the States to improve both the quantity and quality of child care services. States can use their matching grants to supplement current subsidies and bolster programs like resource and referral centers. In addition, competitive grants provide an incentive for States to develop innovative new approaches to child care.

Second, it keeps Federal regulations at an absolute minimum. I do not want to lay burdensome new regulations on child care providers, regulations that would raise the cost of child care and create a huge new Federal bureaucracy. In addition, a new flood of Federal regulations would be especially burdensome for the small child care providers, those who run family day-care homes in neighborhoods across America. We must not spawn a new Federal bureaucracy which would make it impossible for those providers to exist.

Child care needs to be responsive to local needs, not Federal regulations. States should be free to develop programs that fit their unique situations. Communities should be able to design standards that respond to their particular needs. All providers, both, family day-care homes and larger day-care centers, should receive meaningful assistance and support.

Third, this bill is responsible fiscally. Through reform in the dependent care tax credit, we make substantial savings in the tax code. These savings help fund the new programs and tax credits established by the bill. Through reform in an existing credit, the bill can fund new incentives for child care providers and provide greater assistance to low- and middle-income families—without an unmanageable increase in Federal spending.

Title I of the bill authorizes block grants of $350 million per year for the next 3 years. These grants will be allocated to the states to support and expand programs like sliding fee subsidies, resource and referral centers, training and accreditation programs, and information services. States must provide assurances that these funds will supplement, and not supplant, existing non-Federal sources.

Title I also authorizes a total of $50 million over the next three years in competitive grants. These grants will be an incentive to states to develop new programs that would have a national significance and, when copied, would further the objectives of this act.

Title II makes important improvements in the Child Care Food Program. By increasing the breakfast reimbursement by 3 cents, it allows providers to increase the nutritional quality of their meals. In addition, as child care hours often extend over an entire day, my bill will not reimburse providers for an additional meal or snack.

Title III establishes a tax credit for providers who want to provide child care in their homes. Because licensing requirements often involve modest structural changes in a home, this title establishes a tax credit for those needed improvements. Providers will receive a credit of 20 percent, up to a maximum of $1,000, to make improvements that are needed to become licensed.

Title IV establishes an investment tax credit for businesses who establish an on-site child care facility. In addition, when a number of businesses cooperate to establish an off-site child care facility, they will be able to take advantage of this same credit. Many businesses have already discovered the feasibility and importance of providing on-site child care. This credit will help businesses to expand that service for their employees.

Title V reforms the dependent care tax credit, making it more useful to those with lower incomes and phasing it out for those with higher incomes. For those with limited tax liability, the credit is now made refundable. For those with one child, the credit is phased out between $35,000 and $45,000. For those with two or more children, the credit is phased out between $45,000 and $55,000. These changes in this credit will result in substantial savings, so that this bill is almost self-liquidating.

Title VI requires the Department of Health and Human Services to examine the current problems in child care. Besides examining the demographic and societal trends that are increasing the need for child care, it will focus special attention on ways that we can provide assistance to those parents who want to care for their children in their own homes.

Child care is a pressing problem that calls for a response from Congress, but it must be a response that does not generate stacks of new federal regulations or take Child Care out of the homes of the local neighborhoods. I look forward to working with my colleagues on this issue in the weeks and months ahead.●

By Mr. WILSON (for himself, Mr. HELMS, Mr. DECONCINI, Mr. D'AMATO, Mr. DOMENICI, Mr. WALLOP, Mr. SYMMS, Mr. MCCLURE, and Mr. HECHT):

S. J. Res. 268. Joint resolution disapproving the certification by the President under section 481(h) of the For-

eign Assistance Act; to the Committee on Foreign Relations.

DISAPPROVAL OF PRESIDENTIAL CERTIFICATION OF MEXICO

Mr. WILSON. Mr. President, I send a joint resolution to the desk. Let me, before giving it to the clerk, announce that I am joined in cosponsorship of this Senate joint resolution by Senators HELMS, DECONCINI, D'AMATO, DOMENICI, WALLOP, SYMMS, MCCLURE, and HECHT.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. WILSON. I thank the Chair.

Mr. President, I rise in support of the joint resolution and wish to make a statement on behalf of myself and the cosponsors. I am very pleased to enjoy the support and the cosponsorship of the Senators whose names I have read. They are a commendable group of public servants who have shown real leadership on this floor in the fight against drug abuse and all of the evils that flow from it.

Mr. President, I rise in submitting this resolution to perform what is a very unpleasant but, necessary duty. This resolution disapproves the Presidential certification that the Republic of Mexico, is in full cooperation with law-enforcement efforts to eradicate illicit narcotics as required by the Antidrug Abuse Act of 1986.

Mr. President, let me at the outset make a personal observation, one I made about this time last year on the floor of the Senate. I suspect that even more than any other Senator on this floor, I have enjoyed a special relationship with the Republic of Mexico and with a number of its citizens. I had the good fortune for the 11 years that I was mayor of San Diego and for 5 years before that in the State legislature to work very closely with Mexican officials particularly as a member of the Commission of the Californias, where, we made some progress on this seemingly intractable problem of drug abuse. We recognized then that it was an international problem, and we now have even more evidence of the worldwide magnitude of this disease

As mayor of San Diego, I had frequent exchanges with a succession of mayors of Tiajuana, the city with whom San Diego shares the busiest international crossing in the world, and with a succession of Governors of the State of Baja, CA. Those relationships were personal; they were warm. The exchanges which we had were not purely symbolic; they were substantive in many cases. San Diego cooperated with local officials on the Mexican side of the border to achieve our common goals in municipal planning and regional environmental planning. We frequently gave assistance in the area of fire protection. We extended sewer and water capacity, and the Commission of the Californias was instrumental in finding the source of a poison that had threatened Mexican citizens as the result of a pesticide that contaminated a drain supply in Baja, CA.

More to the point, Mr. President, I must say that I have been privileged to serve with my distinguished friend and colleague, the senior Senator from Texas, as the cochairman of a CSIS congressional study group on Mexico. The Center for Strategic and International Studies at Georgetown University, correctly recognizing that the United States has with Mexico more intimate contacts than with any other nation, has chartered this study group for Members of Congress to have the benefit of information and expert opinion from both sides of the border on very difficult economic challenges confronting our two nations

The list goes on and on, Mr. President. But all of the bright opportunities that exist are threatened by a cloud upon the horizon of our future relationship. That cloud, to put it simply and bluntly, is the fact that Mexico is the point of origin for or transshipment of much too much of the poison that reaches the streets of the United States, making life unnecessarily dangerous and difficult both for thousands of American communities.

It is not a purely internal concern of Mexico, Mr. President, when corruption in Government and in law enforcement there jeopardizes the lives of United States law enforcement officers and the youngsters who die of drug overdose.

Now, that is the reason, Mr. President, I have been pressed to go forward with this unpleasant duty. The Department of State, in recommending to the President that he sign their recommended certification of Mexico as being in full cooperation with drug eradication efforts, has been a disservice.

Let me first state the requirements of law. As amended by section 2005 of the Antidrug Abuse Act of 1986, the Foreign Assistance Act requires the President to provide Congress with an annual report on whether 19 drug-producing nations have cooperated fully with the United States or taken adequate steps on their own to prevent the cultivation, manufacture, sale, and traffic of illegal drugs. The President's report must also include an evaluation of the legal and law enforcement steps these countries have taken to control the laundering of drug-related profits. And if the President finds that any of the nations cited in the law have not adequately cooperated with the United States or if Congress passes a joint resolution disapproving a Presidential certification, then the country in question loses 50 percent of its U.S. foreign assistance.

Decertification by either the President or the Congress also requires the American directors of the International Development Bank to vote against any loans to the offending government. If Congress passes a joint resolution of disapproval, the President may submit a recertification invoking American security, vital national security interests in order to provide that foreign assistance notwithstanding the disapproval, or the lack of certification of that nation as being in full cooperation. This recertification must be approved by both Houses of the Congress.

Mr. President, last year several Members of Congress opposed decertification because they did not want to set a precedent of linking U.S. foreign aid exclusively with the Nation's Drug Enforcement Program. That obviously was inconsistent with the fact that at a moment when public outrage had reached a fever pitch, when it was manifest as the leading issue causing discontent with all levels of government by American citizens, in the summer of 1986, the Congress passed a bill which actually produced some very useful mechanisms for those on the firing line in waging the war on drugs. But even so, for those Members reluctant to hinge our foreign assistance upon the performance of drug-producing nations, the President, if he believes that vital national interests require it, may submit a recertification to provide the total foreign assistance package.

Therefore, the certification law, if properly enforced, does not arbitrarily penalize or bash a country for its faulty record on controlling the growth in traffic of narcotics. To the contrary, it gives Congress and the administration an opportunity to very carefully scrutinize and to improve the performance of foreign governments to arrest the supply of illegal drugs at its source. And there are two parts to this problem, Mr. President. Let there be no doubt about that.

Let us stipulate at the outset that we have not done enough in this country to curb demand. I count that as a painful failure in the extreme. Twenty years ago, when I first ran for the State legislature, I proposed a program to educate American youth so that they formed an informed choice and avoid perilous experiments that threaten their lives as well as the cohesion of their families. We have not done a sufficient job on curbing demand and we must do so.

But, Mr. President, when the President of Mexico says that Mexico has not created the American appetite for dangerous drugs, he is quite right, but that is no adequate response. Mexico may not have created that appetite but it has fed it, and the problem of curbing demand, while it deserves far greater attention than we have given, is not something that can be totally divorced from the supply side.

It is true that we will not sufficiently curb demand without greater efforts, but we will not adequately focus on that question if we allow the unfettered kind of traffic that has brought more and more drugs to the streets of

America's communities, and more and more drugs to our schoolyards. It is not an adequate response.

Focusing on the State Department's 1988 report, let me simply say that as opposed to last year, the State Department's 1988 certification of Mexico takes a more diplomatic and more politically sophisticated approach. It stresses a number of genuine improvements in the Mexican drug program.

Let me also stipulate, Mr. President, that there are a number of courageous and honest law enforcement agents in the Republic of Mexico. All too many, sir, have lost their lives in making this fight against dangerous drugs. But that in no way unhappily offsets the pervasive corruption that has permitted Mexico to become a portal through which has flowed at least a third of the marijuana, the cocaine and the heroin that has contaminated the communities of this Nation.

So the State Department, while it stresses a number of genuine improvements in the Mexican drug programs, makes no response to the overall inadequacy of that Mexican governmental performance. It remains clear that Mexicans have not met the standards of the full cooperation required under the terms of the Antidrug Abuse Act.

Let me emphasize here, Mr. President, we are not talking about an effects test. We are not measuring the adequacy of the effort by the results that it has achieved. What we are measuring is the adequacy of the effort made, and that effort has been inadequate. It has by no means reached the point that we could dignify it as full cooperation required under the law.

In its very own report, the State Department provides abundant evidence for a recommendation contrary to that which they gave. Let me quote just a few of the points from the State Department report which undermined the validity of its recommendation.

The Mexican Government has turned down a U.S. request for unrestricted access to Mexican airspace to permit the pursuit of suspected drug-carrying craft.

This is the so-called hot pursuit provision which we have been granted by the Bahamians. Indeed, one of the successes of our program has been that Bahamian and American officers have pursued suspected smugglers into the Bahamas, and they have made countless arrests. The Bahamian government could just as easily assert sovereignty as a bar to our hot pursuit. But they have not done so, recognizing the need for international cooperation to deal with the international drug menace.

No. 2, and I quote from the State Department's report:

The Mexican Government's cooperation with the U.S. Government investigation of the Camarena case has not been at the level of which Mexico is capable.

Mr. President, this assessment is a euphemism that should get a prize. It is, I think, so gross an understatement of the inadequacy of the response in the case of the kidnaping and torture-murder of U.S. Drug Enforcement Administration Agent Enrique Camarena, that it insults the intelligence of the Members of this body.

No. 3:

U.S. officials report that the levels of U.S.-bound cocaine transiting Mexico have significantly increased, and that Mexico represents a major transit point for cocaine from South America.

No. 4:

Documented violations of Mexican law enforcement officials are becoming more prevalent.

No. 5:

Corruption exists in the Mexican government bureaucracy and many corrupt officials are not prosecuted.

No. 6:

There is no indication that the level of narcotics-related corruption has diminished, either in absolute terms or in its impact on programs.

No. 7:

No data is available on the extent of money laundering in Mexico. Mexican banks, all but two of which are nationalized, do not provide information to the U.S. on their activities.

No. 8:

Mexico needs to further strengthen its criminal justice system and enforce existing laws in order to carry cases from arrest through conviction to imprisonment.

Mr. President, there is additional evidence from the Customs Service.

United States Customs still does not have reconnaissance privileges within Mexican airspace they have asked for. In addition, promises by the President of Mexico to dismiss corrupt officials within the Mexican Customs Service have not materialized.

United States Customs reports that "there is no evidence that the Government of Mexico is taking those steps necessary to destroy the infrastructure of the narcotics trafficking trade."

This assessment would clearly place the Mexicans in violation of the Anti-Drug Abuse Act of 1986, which mandates "full cooperation" in the areas of limiting both the international traffic of narcotics and the laundering of drug-related profits.

United States Customs has described cooperation in the exchange of intelligence information on traffickers and growers as "greatly lacking." The information is particularly inadequate on gun and ammunitions smuggling, shipping and cargo firms, and foreign dealers who operate in Mexican territory.

A January 1988 report of the GAO concluded that the Mexican Drug Eradication Program suffers from inefficient management and maintenance, a shortage of personnel, and lack of agreement with United States experts on program goals and standards.

GAO also affirmed that the Mexican Attorney-General's air fleet, largely purchased and maintained at United States expense, did not meet United States expectations in 1987-88. Flight hours decreased far below what the United States had recommended and expected.

Finally, GAO faulted the Mexicans for collecting an unreliable and inadequate amount of information on the narcotics crop cultivation base as a prelude to developing eradication strategies and consulting with United States law enforcement agents.

What the Mexican Army does by way of eradication, we do not know, because they do not permit access by our agents to their staging grounds.

In a February 23, 1988, letter to Assistant Secretary of State Ann Wrobleski, Customs Commissioner von Raab wrote:

Mexican corruption has effectively precluded our working with Mexican authorities on narcotics interdiction, and inordinately increased the level of resources we are forced to commit to the Southwest border. Further, the amount of drugs entering the United States through Mexico continues to steadily climb.

Mr. von Raab also maintained that "powerful Mexican officials are providing safe havens to drug traffickers and making it possible for narcotics to be smuggled into and out of Mexico with impunity."

The conclusion of all this evidence is that Mexico has made an insufficient effort. They have made some progress, and we must applaud them for it, but it is inadequate in fulfilling most of the criteria for cooperation set forth in the Anti-Drug Abuse Act. And we cannot simply wink, Mr. President, at the requirements of our own law.

We are talking about the future of this country. We are talking about ways to measure the harmful impact of drugs in the workplace and then cost in cost productivity and wasted lives. But there are two statistics which I find overriding all others in importance.

It does not have to do with the increase in drug-related violent crimes, or the growth in the number of court judges, probation officers, and prisons. It has to do with the number of young American drug enforcement agents who have left behind widows and families to whom we provide a grossly inadequate survivor benefit, and it has to do with the number of young Americans who die by drug overdose.

Diplomatic niceties be damned, Mr. President. We are talking about something infinitely more important. The full cooperation which U.S. law demands, the U.S Senate is obliged to demand, because of the seriousness of the threat to our people.

Mr. President, I thank my friend from Indiana for his graciousness. I thank my friend from Massachusetts. I understand his impatience; but I think that, given the importance of what we are about in terms of the Senate joint resolution, it was worth interrupting even important business of the kind he wishes to move forward.

When the Foreign Relations Committee has acted on this measure, it will come before us. A privileged motion to proceed is then in order. Within 45 days of the President's submission of his certification, Congress can act to disapprove that certification. At that time, my cosponsors and I and many others, I am sure—probably including the Senator from Massachusetts—will have much to say.

We have today merely scratched the surface. But when the time to debate and vote comes upon us, we cannot turn a blind eye or a deaf ear to the mandates of our own law.

ADDITIONAL COSPONSORS

S. 389

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 389, a bill for the relief of Denise Glenn.

S. 709

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 709, a bill to impose additional sanctions against Chile unless certain conditions are met.

S. 1052

At the request of Mr. SPECTER, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1052, a bill to establish a National Center for the United States Constitution within the Independence National Historical Park in Philadelphia, PA.

S. 1378

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1513

At the request of Mr. HEINZ, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 1513, a bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes.

S. 1647

At the request of Mr. CHILES, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1647, a bill to reform the laws relating to former Presidents.

S. 1761

At the request of Mr. DURENBERGER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1761, a bill to amend the Internal Revenue Code of 1986 to provide that a decedent's spouse may enter into a cash lease of farm and other real property with family members and still qualify for the special estate tax valuation of the property.

S. 2033

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2035

At the request of Mr. HEFLIN, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Nebraska [Mr. KARNES] were added as cosponsors of S. 2035, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

S. 2042

At the request of Mr. DURENBERGER, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2062

At the request of Mr. NICKLES, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. LEVIN], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 2062, a bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax.

S. 2067

At the request of Mr. CONRAD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2067, a bill to amend the Internal Revenue Code of 1986 to permit farmers to purchase tax-free certain fuels for farm use, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate the month of May 1988 as "National Foster Care Month."

SENATE JOINT RESOLUTION 234

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 234, a joint resolution designating the week of April 17, 1988, as "Crime Victims Week."

SENATE JOINT RESOLUTION 237

At the request of Mr. DOLE, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 237, a joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month."

SENATE JOINT RESOLUTION 244

At the request of Mr. EXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 244, a joint resolution to designate the month of April, 1988, as "National Know Your Cholesterol Month."

SENATE JOINT RESOLUTION 267

At the request of Mr. KENNEDY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 267, a joint resolution in support of democracy in Panama.

SENATE RESOLUTION 388

At the request of Mr. BYRD, his name was added as a cosponsor of Senate Resolution 388, a resolution expressing the opposition of the Senate to the proposed $400 million World Bank loan to restructure Mexico's steel industry.

At the request of Mr. METZENBAUM, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 388, supra.

AMENDMENTS SUBMITTED

POLYGRAPH PROTECTION ACT

QUAYLE AMENDMENT NOS. 1475 THROUGH 1486

(Ordered to lie on the table.)

Mr. QUAYLE submitted 12 amendments intended to be proposed by him to the bill (S. 1904) to strictly limit the use of lie detector examinations by employers involved in or affecting interstate commerce; as follows:

AMENDMENT No. 1475

On page 36, line 7 delete the matter after "ment" through "Act" on line 8.

AMENDMENT No. 1476

On page 19, lines 18 and 19, strike out "mechanical, electrical or chemical" and insert in lieu thereof "mechanical or electrical".

AMENDMENT No. 1477

On page 20, line 20: delete "any" and insert in lieu thereof "such employer's".

AMENDMENT No. 1478

On page 35, line 1: delete "Secretary" and insert in lieu thereof "Attorney-General".

AMENDMENT No. 1479

On page 33, line 20: delete "Secretary" and insert in lieu thereof "Attorney-General".

AMENDMENT No. 1480

Beginning on page 23, strike out line 22 and all that follows through page 24, line 13.

AMENDMENT No. 1481

Beginning on page 21, strike out line 22 and all that follows through page 22, line 3.

AMENDMENT No. 1482

On page 19, line 12, before the period, insert the following: ", except that such term shall not include a small business that employs 50 or less full-time equivalent employees".

AMENDMENT No. 1483

On page 19, line 12, before the period, insert the following: ", except that such term shall not include an agricultural producer".

AMENDMENT No. 1484

On page 27, line 5, strike out "and".

On page 27, between lines 5 and 6, insert the following:

(4) if the employer learns from the investigation that a felony has been committed, the employer informs the appropriate law enforcement authority of the felony; and

On page 27, line 6, strike out "(4)" and insert in lieu thereof "(5)".

AMENDMENT No. 1486

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR TESTS CONDUCTED IN ACCORDANCE WITH DOD DIRECTIVE.—Nothing in this Act shall prohibit an employer from administering a polygraph test to an employee or prospective employee if the test is administered in accordance with Department of Defense Directive 5210.48 published on December 24, 1984.

AMENDMENT No. 1485

On page 35, strike out lines 1 through 7.

FOWLER AMENDMENT NO. 1487

(Ordered to lie on the table.)

Mr. FOWLER submitted an amendment intended to be proposed by him to the bill S. 1904, supra; as follows:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR DRUG SECURITY, DRUG THEFT, OR DRUG DIVERSION INVESTIGATIONS.—This Act shall not prohibit the use of a lie detector test by any employer authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the Controlled Substances Act (21 U.S.C. 812) to the extent that—

(1) such use is consistent with—

(A) applicable State and local law; and

(B) any negotiated collective bargaining agreement that explicitly or implicitly limits or prohibits the use of lie detector tests by such employer;

(2) the test is administered only to an employee who has, or a prospective employee who would have, direct access to the manufacture, storage, distribution, or sale of any such controlled substance;

(3) the results of an analysis of lie detector charts are not used as the sole basis on which any employee or prospective employee is discharged, dismissed, disciplined in any manner, or denied employment or promotion; and

(4) if the test is administered to a current employee—

(A) the test is administered only in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employer; and

(B) the employee had access to the person or property that is the subject of the investigation.

HELMS AMENDMENT NO. 1488

Mr. HELMS proposed an amendment to the bill S. 1904, supra; as follows:

Add at the end of the bill the following new section:

SEC. . (a) FINDINGS.—

(1) The Senate finds that the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol, (hereinafter the "ABM Treaty" or the "Treaty") in its Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty."

(2) The Senate further finds that such Treaty entered into force on October 3, 1972, and that the third five-year anniversary date specified by Article XIV, Paragraph 2, for the conduct of the review contemplated therein was October 3, 1987.

(3) The Senate further finds that, as a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means and can only mean the specified anniversary of such date and not any time during such year as may follow such date.

(4) The Senate finds further that had the Parties to the ABM Treaty intended otherwise then Article XIV, Paragraph 2, of the Treaty would have read "During the fifth year after entry into force of this Treaty," but it does not so read.

(5) The Senate finally finds that the Parties to the Treaty have not met as required by Article XIV, Paragraph 2, because the United States of American refused or neglected to meet on the date required, to wit: October 3, 1987, and that the United States, five months later, still fails or neglects to meet or even to establish a date for meeting.

(b) Taking account of the findings of this Section, it is the sense of the Senate that the United States is violating the ABM Treaty.

COCHRAN AMENDMENT NOS. 1489 THROUGH 1491

(Ordered to lie on the table.)

Mr. COCHRAN submitted three amendments intended to be proposed by him to the bill S. 1904, supra; as follows:

AMENDMENT No. 1489

Beginning on page 33, strike out line 10 and all that follows through page 35, line 7.

AMENDMENT No. 1490

On page 35, strike out lines 1 through 7.

On page 20, line 16, strike out "section 7" and insert in lieu thereof "sections 7 and 8".

On page 24, line 19, between "Sec. 7." and "Exemptions.", insert "Governmental and Federal".

On page 26, line 16 through page 28, line 14, delete subsection "(d)" and insert in lieu thereof the following new section:

SEC. 8. STATE CERTIFICATION OF PLANS EXEMPTION.—

(a) Subject to Section 9, this Act shall not prohibit any State, or political subdivision thereof, which, at any time, desires to assume responsibility for development and enforcement therein of standards relating to the use of polygraphs by employers and polygraph examiners, from filing a written statement with the Secretary of Labor certifying that it has adopted an administrative plan to insure compliance with the standards of this Act. Such certification shall:

(1) identify the agency or agencies designated as responsible for administering the plan;

(2) describe the standards contained in the administrative plan governing polygraph examiners and the use of polygraph examinations, which standards (and the enforcement of which standards) shall be at a minimum in full compliance with the standards set out in Section 9 of this Act; and

(3) explain the manner in which the standards contained in the administrative plan are being administered and enforced by the designated agency to insure compliance with this Act.

(b) The Secretary shall make a continuing evaluation of each administrative plan which has been certified as in compliance with this Act. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that the plan is not being administered in a manner that insures substantial compliance with the standards set out in this Act, he shall notify the State or political subdivision of his withdrawal of certification of such plan and, upon receipt of such notice, such plan shall cease to be in effect.

(c) Review of a decision of the Secretary to disapprove an administrative plan under this section may be obtained in the United States Court of Appeals for the circuit in which the State or political subdivision or individual examiner is located by filing a petition for review with such court within 30 days after receipt of the withdrawal of certification.

On page 28, line 15, delete "Sec. 8. Restrictions on Use of Exemptions." and insert in lieu thereof the following:

SEC. 9. MINIMUM FEDERAL STANDARDS FOR POLYGRAPH TESTING.—Each State, or political subdivision thereof, seeking to establish a polygraph testing program under Section 8 of this Act, shall certify to the Secretary of Labor that its program meets the following minimum federal standards—

On page 28, line 18, strike out "7(d)" and insert in lieu thereof "8".

On page 29, delete lines 1-10 and insert in lieu thereof "(b) RIGHTS OF EXAMINEE."

On page 30, line 16, strike out "described in section 8(b)".

On page 33, lines 10-12, delete "Such exemptions shall not apply unless the individual who conducts the polygraph test—" and insert in lieu thereof "An individual who conducts a polygraph test must—".

On page 33, line 13, strike out "is" and insert in lieu thereof "be".

On page 33, line 14, strike out "has complied" and insert in lieu thereof "comply".

On page 33, line 17, strike out "has successfully completed" and insert in lieu thereof "successfully complete".

On page 33, line 21, strike out "has completed" and insert in lieu thereof "complete".

On page 34, line 1, strike out "maintains" and insert in lieu thereof "maintain".

On page 34, line 3, strike out "uses" and insert in lieu thereof "use".

On page 34, line 7, strike out "bases" and insert in lieu thereof "base".

On page 34, line 11, strike out "renders" and insert in lieu thereof "render".

On page 34, line 22, strike out "maintains" and insert in lieu thereof "maintain".

On page 35, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 35, line 8, strike out "SEC. 9." and insert in lieu thereof "SEC.. 10".

On page 36, line 4, strike out "SEC.. 10." and insert in lieu thereof "SEC.. 11".

On page 36, line 9, strike out "SEC.. 11." and insert in lieu thereof "SEC.. 12".

BOSCHWITZ AMENDMENT NO. 1492

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to the bill S. 1904, supra; as follows:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR VOLUNTARY TESTS.—This Act shall not prohibit an employer or agent of the employer from administering a lie detector test to an employee or prospective employee if—

(1) the employee or prospective employee requests the test; and

(2) the employer or agent administering the test informs the employee or prospective employee that taking the test is voluntary.

COCHRAN AMENDMENT NO. 1493

Mr. COCHRAN submitted an amendment intended to be proposed to the bill, S. 1904, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Polygraph Protection Act of 1987."

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR TEST.—The term "lie detector test" includes—

(A) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual; and

(B) the testing phases described in paragraphs (1), (2), and (3) of section 9(b).

(4) POLYGRAPH.—The term "polygraph" means an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.

(5) RELEVANT QUESTION.—The term "relevant question" means any lie detector test question that pertains directly to the matter under invstigation with respect to which the examinee is being tested.

(6) SECRETARY.—THE TERM "SECRETARY" means the Secretary of Labor.

(7) TECHNICAL QUESTION.—The term "technical question" means any control, symptomatic, or neutral question that, although not relevant, is designed to be used as a measure against which relevant responses may be measured.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE

Except as provided in sections 7 and 8, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, dismiss, discipline in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test; or

(B) any employee or prospective employee on the basis of the results of any lie detector test or;

(4) to discharge, discipline, or in any manner discriminate against an employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act;

(B) such employee or prospective employee has testified or is about to testify in any such proceeding; or

(C) of the exercise by such employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice, in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2)—

(A) any employer who violates section 4 may be assessed a civil money penalty not to exceed $100 for each day of the violation; and

(B) any employer who violates any other provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) INJUNCTIVE ACTIONS BY THE SECRETARY.—The Secretary may bring an action to restrain violations of this Act. The district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act.

(c) PRIVATE CIVIL ACTIONS.—

(1) LIABILITY.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including but not limited to employment, reinstatement, promotion, and the payment of lost wages and benefits.

(2) COURT.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by any one or more employees for or in behalf of himself or themselves and other employees similarly situated.

(3) COSTS.—The court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(d) WAIVER OF RIGHTS PROHIBITED.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement of a pending action or complaint, agreed to and signed by all the parties.

SEC. 7. GOVERNMENTAL AND FEDERAL EXEMPTIONS.

(a) NO APPLICATION TO GOVERNMENTAL EMPLOYERS.—The provisions of this Act shall not apply with respect to the United States Government, a State or local government, or any political subdivision of a State or local government.

(b) NATIONAL DEFENSE AND SECURITY EXEMPTION.—

(1) NATIONAL DEFENSE.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor such Department in connection with such activities.

(2) SECURITY.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligenc or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency, (ii) any expect or consultant under contract to the National Security Agency or the Central Intelligence Agency, (iii) any employee of a contractor of the National Security Agency or the Central Intelligence Agency, or (iv) any individual applying for a position in the National Security Agency or the Central Intelligence Agency; or

(B) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for the National Security Agency or the Central Intelligence Agency.

(c) EXEMPTION FOR FBI CONTRACTORS.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

SEC. 8. STATE CERTIFICATION OF PLANS EXEMPTION.

(a) Subject to Section 9, this Act shall not prohibit any State, or political subdivision thereof, which, at any time, desires to assume responsibility for development and enforcement therein of standards relating

to the use of polygraphs by employers and polygraph examiners, shall file a written statement with the Secretary of Labor certifying that is has adopted an administrative plan to insure compliance with the standards of this Act. Such certification shall:

(1) identify the agency or agencies designated as responsible for administering the plan;

(2) describe the standards contained in the administrative plan governing polygraph examiners and the use of polygraph examinations, which standards (and the enforcement of which standards) shall be at a minimum in full compliance with the standards set out in section 9 of this Act; and

(3) explain the manner in which the standards contained in the administrative plan are being administered and enforced by the designated agency to insure compliance with this Act.

(b) The Secretary shall make a continuing evaluation of each administrative plan which has been certified as in compliance with this Act. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that the plan is not being administered in a manner that insures substantial compliance with the standards set out in this Act, he shall notify the State or political subdivision of his withdrawal of certification of such plan and, upon receipt of such notice, such plan shall cease to be in effect.

(c) Review of a decision of the Secretary to disapprove an administrative plan under this section may be obtained in the United States Court of Appeals for the circuit in which the State or political subdivision or individual examiner is located by filing a petition for review with such court within 30 days after receipt of the withdrawal of certification.

SEC. 9. MINIMUM FEDERAL STANDARDS FOR POLYGRAPH TESTING.

Each State, or political subdivision thereof, seeking to establish a polygraph testing program under Section 8 of this Act, shall certify to the Secretary of Labor that its program meets the following minimum federal standards—

(a) OBLIGATION TO COMPLY WITH CERTAIN LAWS AND AGREEMENTS.—The exemption provided under section 8 shall not diminish an employer's obligation to comply with—

(1) applicable State and local law; and

(2) any negotiated collective bargaining agreement, that limits or prohibits the use of lie detector test on employees.

(b) RIGHTS OF EXAMINEE.—

(1) PRETEST PHASE.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is not subjected to harassing interrogation technique;

(C) is informed of the nature and characteristics of the tests and of the instruments involved;

(D) is informed—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed;

(ii) whether any other device, including any device for recording or monitoring the conversation will be used; or

(iii) that the employer and the examinee, may with mutual knowledge, make a recording of the entire proceeding;

(E) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment;

(ii) that any statement made during the trest may constitute additional supporting evidence for the purposes of an adverse employment action described in section 8(b);

(iii) of the limitations imposed under this section;

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(v) of the legal rights and remedies of the employer; and

(F) is provided an opportunity to review all questions (technical or relevant) to be asked during the test and is informed of the right to terminate the test at any time; and

(G) signs a notice informing such examinee of—

(1) the limitations imposed under this section;

(ii) the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(iii) the legal rights and remedies of the employer.

(2) ACTUAL TESTING PHASE.—During the actual testing phase—

(A) the examinee is not asked any questions by the examiner concerning—

(i) religious beliefs or affiliations;

(ii) beliefs or opinions regarding racial matters;

(iii) political beliefs or affiliations;

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, or opinions regarding unions and labor organizations;

(B) the examinee is permitted to terminate the test at any time;

(C) the examiner does not ask such examinee any questions (technical or relevant) during the test that was not presented in writing for review to such examinee before the test;

(D) the examiner does not ask technical questions of the examinee in a manner that is designed to degrade, or needlessly intrude on, the examinee;

(E) the examiner does not conduct a test on an examinee when there is written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the test; and

(F) the examiner does not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and does not conduct any such test for less than a 90-minute duration.

(3) POST-TEST PHASE.—Before any adverse employment action, the employer must—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test; and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(C) QUALIFICATION OF EXAMINER.—An individual who conducts a polygraph test must—

(1) be at least 21 years of age;

(2) comply with all required laws and regulations established by licensing and regulatory authorities in the State in which the test is to be conducted;

(3)(A) successfully complete a formal training course regarding the use of polygraph tests that has been approved by the State in which the test is to be conducted or by the Secretary; and

(B) complete a polygraph test internship of not less than 6 months duration under the direct supervision of an examiner who has met the requirements of this section;

(4) maintain a minimum of a $50,000 bond or an equivalent amount of professional liability coverage;

(5) use an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards;

(6) base an opinion of deception indicated on evaluation of changes in physiological activity or reactivity in the cardiovascular, respiratory, and electrodermal patterns on the lie detector charts;

(7) render any opinion or conclusion regarding the test—

(A) in writing and solely on the basis of an analysis of the polygraph charts;

(B) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test; and

(C) that does not include any recommendation concerning the employment of the examinee; and

(8) maintain all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

(D) PROMULGATION OF STANDARDS.—The Secretary shall establish standards governing individuals who, as of the date of the enactment of this Act, are qualified to conduct polygraph tests in accordance with applicable State law. Such standards shall not be satisfied merely because an individual has conducted a specific number of polygraph tests previously.

SEC. 10. DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—A person, other than the examinee, may not disclose information obtained during a polygraph examiner may disclose information acquired from a polygraph test, except as provided in this section.

(b) PERMITTED DISCLOSURES.—A polygraph examiner, polygraph trainee, or employee of a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any person or governmental agency that requested the test as authorized under subsection (a), (b), or (c) of section 7 or any other person, as required by due process of law, who obtained a warrant to obtain such information in a court of competent jurisdiction.

(c) DISCLOSURE BY EMPLOYER.—An employer (other than an employer covered under subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to a person described in subsection (b).

SEC. 11. EFFECT ON OTHER LAW AND AGREEMENTS.

This Act shall not preempt any provision of any State or local law, or any negotiated collective bargaining agreement, that is more restrictive with respect to the administration of lie detector tests than this Act.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

NICKLES AMENDMENT NOS. 1494 THROUGH 1504

(Ordered to lie on the table)

Mr. NICKLES submitted 11 amendments intended to be proposed by him to the bill S. 1904, supra; as follows:

AMENDMENT No. 1494

At the appropriate place insert the following:

Exemption for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on propsective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintence of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the amendment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) Compliance.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such propective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) Limitation.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1495

At the appropriate place insert the following:

Exemption for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1496

At the appropriate place insert the following:

EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1497

At the appropriate place insert the following:

Exemption for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1498

In the amendment, strike out the number "60" the first time it appears and insert in lieu thereof the number "61".

AMENDMENT No. 1499

In the amendment, strike out the number "60" the first time it appears and insert in lieu thereof the number "61".

AMENDMENT No. 1500

In the amendment, strike out the number "60" the first time it appears and insert in lieu thereof the number "61".

AMENDMENT No. 1501

In the amendment, strike out the number "60" the first time it appears and insert in lieu thereof the number "61".

AMENDMENT No. 1502

In the amendment strike all after the word "exemption" and insert the following: for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plain-

clothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under the rules and regulations issued by the Secretary within 61 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1503

In the amendment strike all after the word "Exemption" and insert the following: for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm sytems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 61 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storge of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE. The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

AMENDMENT No. 1504

In the amendment strike all after the word "exemption" and insert the following: for Security Services.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 61 days after the date of the enactment of this Act, inluding—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(4) LIMITATION.—The exemption under this section shall be subject to the restrictions provided in Section 8.

GRAMM AMENDMENT NOS. 1505 THROUGH 1605

(Ordered to lie on the table.)

Mr. GRAMM submitted 101 amendments intended to be proposed by him to the bill (S. 1904) supra, as follows:

AMENDMENT No. 1505

On page 36, line 13, strike "120" and insert in lieu thereof "150".

AMENDMENT No. 1506

On page 36, line 11, strike "6" and insert in lieu thereof "12".

AMENDMENT No. 1507

On page 34, line 24, strike "3" and insert in lieu thereof "1".

AMENDMENT No. 1508

On page 33, line 22, strike "6" and insert in lieu thereof "5".

AMENDMENT No. 1509

On page 33, line 13, strike "21" and insert in lieu thereof "22".

AMENDMENT No. 1510

On page 32, line 22, strike "90" and insert in lieu thereof "60".

AMENDMENT No. 1511

On page 23, line 3, strike "10,000" and insert in lieu thereof "5,000".

AMENDMENT No. 1512

On page 22, line 25, strike "100" and insert in lieu thereof "50".

AMENDMENT No. 1513

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Transportation or any employee of any contractor of such Department."

AMENDMENT No. 1514

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of State or any employee of any contractor of such Department."

AMEMDMENT No. 1515

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Labor or any employee of any contractor of such Department."

AMEMDMENT No. 1516

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Justice or any employee of any contractor of such Department."

AMEMDMENT No. 1517

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of the Intrior or any employee of any contractor of such Department."

AMEMDMENT No. 1518

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Housing and Urban Development or any

employee of any contractor of such Department."

AMEMDMENT No. 1519

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Health and Human Services or any employee of any contractor of such Department."

AMEMDMENT No. 1520

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Education or any employee of any contractor of such Department."

AMEMDMENT No. 1521

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Agriculture or any employee of any contractor of such Department."

AMEMDMENT No. 1522

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Commerce or any employee of any contractor of such Department."

AMENDMENT No. 1523

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Education or any employee of any contractor of such Department."

AMENDMENT No. 1524

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Health and Human Services or any employee of any contractor of such Department."

AMENDMENT No. 1525

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Housing and Urban Development or any employee of any contractor of such Department."

AMENDMENT No. 1526

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Interior or any employee of any contractor of such Department."

AMENDMENT No. 1527

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Justice or any employee of any contractor of such Department."

AMENDMENT No. 1528

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Labor or any employee of any contractor of such Department."

AMENDMENT No. 1529

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of State or any employee of any contractor of such Department."

AMENDMENT No. 1530

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Transportation or any employee of any contractor of such Department."

AMENDMENT No. 1531

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Treasury or any employee of any contractor of such Department."

AMENDMENT No. 1532

At the appropriate place, add: "Nothwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Arms Control and Disarmament Agency or to any employee of any contractor of such Agency."

AMENDMENT No. 1533

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Securities and Exchange Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1534

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Nuclear Regulatory Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1535

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the National Aeronautics and Space Administration or any employee of any contractor of such Administration."

AMENDMENT No. 1536

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Reserve System or any employee of any contractor of such System."

AMENDMENT No. 1537

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Emergency Management Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1538

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Export-Import Bank of the United States of any employee of any contractor of such Bank."

AMENDMENT No. 1539

At the appropriate place add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Board for International Broadcasting or any employee of any contractor of such Board."

AMENDMENT No. 1540

At the appropriate place add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Information Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1541

At the appropriate place add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or con-

sultant under contract to the United States International Trade Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1542

At the appropriate place add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Commerce or any employee of any contractor of such Department."

AMENDMENT No. 1543

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Agriculture or any employee of any contractor of such Department."

AMENDMENT No. 1544

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Agriculture or any employee of any contractor of such Department."

AMENDMENT No. 1545

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Commerce or any employee of any contractor of such Department."

AMENDMENT No. 1546

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Education or any employee of any contractor of such Department."

AMENDMENT No. 1547

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Health and Human Services or any employee of any contractor of such Department."

AMENDMENT No. 1548

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Housing and Urban Development or any employee of any contractor of such Department."

AMENDMENT No. 1549

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Interior or any employee of any contractor of such Department."

AMENDMENT No. 1550

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Justice or any employee of any contractor of such Department."

AMENDMENT No. 1551

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Labor or any employee of any contractor of such Department."

AMENDMENT No. 1552

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of State or any employee of any contractor of such Department."

AMENDMENT No. 1553

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Transportation or any employee of any contractor of such Department."

AMENDMENT No. 1554

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Treasury or any employee of any contractor of such Department."

AMENDMENT No. 1555

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Arms Control and Disarmament Agency or to any employee of any contractor of such Agency."

AMENDMENT No. 1556

At the appropriate place, add: "Notwithstanding any other provision of this act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Securities and Exchange Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1557

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Nuclear Regulatory Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1558

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the National Aeronautics and Space Administration or any employee of any contractor of such Administration."

AMENDMENT No. 1559

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Reserve System or any employee of any contractor of such System."

AMENDMENT No. 1560

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Emergency Management Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1561

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Export-Import Bank of the United States or any employee of any contractor of such Bank."

AMENDMENT No. 1562

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Board for International Broadcasting or any employee of any contractor of such Board."

AMENDMENT No. 1563

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Information Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1564

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to

prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States International Trade Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1565

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Agriculture or any employee of any contractor of such Department."

AMENDMENT No. 1566

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Commerce or any employee of any contractor of such Department."

AMENDMENT No. 1567

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Education or any employee of any contractor of such Department."

AMENDMENT No. 1568

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Health and Human Services or any employee of any contractor of such Department."

AMENDMENT No. 1569

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Housing and Urban Development or any employee of any contractor of such Department."

AMENDMENT No. 1570

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Interior or any employee of any contractor of such Department."

AMENDMENT No. 1571

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Justice or any employee of any contractor of such Department."

AMENDMENT No. 1572

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Labor or any employee of any contractor of such Department."

AMENDMENT No. 1573

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of State or any employee of any contractor of such Department."

AMENDMENT No. 1574

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Transportation or any employee of any contractor of such Department."

AMENDMENT No. 1575

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Treasury or any employee of any contractor of such Department."

AMENDMENT No. 1576

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Arms Control and Disarmament Agency or to any employee of any contractor of such Agency."

AMENDMENT No. 1577

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Securities and Exchange Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1578

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Nuclear Regulatory Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1579

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the National Aeronautics and Space Administration or any employee of any contractor of such Administration."

AMENDMENT No. 1580

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Reserve System or any employee of any contractor of such System."

AMENDMENT No. 1581

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Emergency Management Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1582

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Export-Import Bank of the United States or any employee of any contractor of such Bank."

AMENDMENT No. 1583

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Board for International Broadcasting or any employee of any contractor of such Board."

AMENDMENT No. 1584

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Information Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1585

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States International Trade Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1586

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Department of Treasury or any employee of any contractor of such Department."

AMENDMENT No. 1587

At the appropriate place, add: "Notwithstanding any other provision of this Act,

nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Arms Control and Disarmament Agency or to any employee of any contractor of such Agency."

AMENDMENT No. 1588

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Securities and Exchange Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1589

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Nuclear Regulatory Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1590

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the National Aeronautics and Space Administration or any employee of any contractor of such Administration."

AMENDMENT No. 1591

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Reserve System or any employee of any contractor of such System."

AMENDMENT No. 1592

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Federal Emergency Management Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1593

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Export-Import Bank of the United States or any employee of any contractor of such Bank."

AMENDMENT No. 1594

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the Board for International Broadcasting or any employee of any contractor of such Department."

AMENDMENT No. 1595

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States Information Agency or any employee of any contractor of such Agency."

AMENDMENT No. 1596

At the appropriate place, add: "Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to any expert or consultant under contract to the United States International Trade Commission or any employee of any contractor of such Commission."

AMENDMENT No. 1597

Strike all on page 25, line 1 through page 26, line 15 and insert in lieu thereof: "Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligence or counterintelligence function, of any lie detector test to any expert or consultant under contract to any Federal government department, agency or program. This subsection shall not preempt any state or local law."

AMENDMENT No. 1598

On Page 28, between lines 14 and 15, insert the following new subsection:

(e) AIR SAFETY EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any air carrier. This subsection shall not preempt any state or local law.

AMENDMENT No. 1599

Strike all on page 25, line 1 through page 26, line 15 and insert in lieu thereof: "Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligence or counterintelligence function of any lie detector test to any expert or consultant under contract to any federal government department, agency or program.

AMENDMENT No. 1600

On page 36 line 7, strike all after "ment" through "Act" on line 8.

AMENDMENT No. 1601

On page 28, between lines 14 and 15, insert the following new subsection:

(e) AIR SAFETY EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any air carrier.

AMENDMENT No. 1602

On page 28, between lines 14 and 15 insert the following new subsection:

(e) COMMON CARRIER EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any common carrier, including air, water ways and rail.

AMENDMENT No. 1603

On page 28, between lines 14 and 15, insert the following new subsection:

(e) NUCLEAR POWER PLANT EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any nuclear power plant.

AMENDMENT No. 1604

On page 28 between lines 14 and 15, insert the following new subsection:

(e) PUBLIC SAFETY AND PUBLIC TRUST EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee in a position with responsibility for the health or safety, including:

(1) Welfare of children;

(2) care for the aged;

(3) protecting safety and security.

AMENDMENT No. 1605

At the end insert the following new section: Exemption For Controlled Substance Tests For Employees of Common Carriers:

(a) IN GENERAL. An employer subject to section 7, may administer a test to an employee or prospective employee of any common carrier, including air, rail, and water ways, to determine the extent to which the employee or prospective employee has used a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the controlled substances Act (21 U.S.C. 812).

QUAYLE AMENDMENT NO. 1606

Mr. QUAYLE proposed an amendment, which was subsequently modified, to the bill S. 1904, supra; as follows:

EXEMPTION FOR PREEMPLOYMENT TEST FOR USE OF CONTROLLED SUBSTANCES

(a) IN GENERAL.—An employer, subject to Section 7, may administer a scientifically valid test other than a lie detector test to a prospective employee to determine the extent to which the prospective employee has used a controlled substance listed in schedule I, II, III, or IV pursuant to section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) EXCEPTIONS.—

(1) ACCURACY AND CONFIDENTIALITY.—Paragraph (1) shall not supersede any provision of this Act or State law that prescribes standards for ensuring the accuracy of the testing process or the confidentiality of the test results.

(2) COLLECTIVE BARGAINING AGREEMENTS.—If prospective employees would be subject to a negotiated collective bargaining agreement, paragraph (1) shall apply only if testing is conducted in accordance with such agreement.

THURMOND AMENDMENT NO. 1607

Mr. THRUMOND proposed an amendment to the bill S. 1904, supra; as follows:

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary

within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(iii) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

On page 28, lines 17 and 18, strike out "limited exemption provided under section 7(d)" and insert in lieu thereof "exemptions provided under subsections (d) and (e) of section 7".

NICKLES AMENDMENT NO. 1608

Mr. NICKLES proposed an amendment to amendment No. 1607 proposed by Mr. THURMOND to the bill S. 1904, supra; as follows:

In the amendment, strike all after "(e)" the first time it appears and insert in lieu thereof the following:

EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (3), this Act shall not prohibit the use of a lie detector test on prospective employees of a private employer whose primary business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 60 days after the date of the enactment of this Act, including—

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power;

(ii) public water supply facilities;

(III) shipments or storage of radioactive or other toxic waste materials; and

(iv) public transportation; or

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) COMPLIANCE.—The exemption provided under paragraph (1) shall not diminish an employer's obligation to comply with—

(A) applicable State and local law; and

(B) any negotiated, collective bargaining agreement,

that limits or prohibits the use of lie detector tests on such prospective employees.

(3) APPLICATION.—The exemption provided under this subsection shall not apply if—

(A) the results of an analysis of lie detector charts are used as the basis on which a prospective employee is denied employment without additional supporting evidence; or

(B) the test is administered to a prospective employee who is not or would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

On page 28, lines 17 and 18, strike out "limited exemption provided under section 7(d)" and insert in lieu thereof "exemptions provided under subsections (d) and (e) of section 7".

On page 33, lines 10 and 11, strike out "Such exemptions" and insert in lieu thereof "The exemptions provided under subsections (d) and (e) of section 7".

BOSCHWITZ AMENDMENT NOS. 1609 and 1610

Mr. BOSCHWITZ proposed two amendments to the bill S. 1904, supra; as follows:

AMENDMENT No. 1609

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR VOLUNTARY TESTS.—This Act shall not prohibit an employer or agent of the employer from administering a lie detector test on an employee or prospective employee if—

(1) the employee or prospective employee requests the test; and

(2) the employer or agent administering the test informs the employee or prospective employee that taking the test is voluntary.

AMENDMENT No. 1610

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR VOLUNTARY TESTS.—This Act shall not prohibit an employer or agent of the employer from administering a lie detector test to an employee if—

the employee requests the test.

GRAMM AMENDMENT NOS. 1611 THROUGH 1614

(Ordered to lie on the table.)

Mr. GRAMM submitted four amendments intended to be proposed by him to the bill S. 1904, supra; as follows:

AMENDMENT No. 1611

At the appropriate place, add: "Nothing in this Act shall be construed to preclude the use of a lie detector test to any expert or consultant or any employee of such expert or consultant under contract with any federal government department, agency or program where a security clearance is required."

AMENDMENT No. 1612

On page 36 line 7, strike all after "ment" through "Act" on line 8.

AMENDMENT No. 1613

At the appropriate place, add:

"(e) COMMON CARRIER EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any common carrier as defined by section 10102 (4) of title 49 United States Code, including any air transportation as defined in section 101 of the Federal Aviation Act of 1958 and any other common carrier engaged in the hauling of passengers or freight."

AMENDMENT No. 1614

At the appropriate place, add:

"(e) NUCLEAR POWER PLANT EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or propsective employee of any nuclear power plant. This subsection shall not preempt or supersede any state or local law that prohibits or restricts the use of lie detector tests."

GRAMM AMENDMENT NO. 1615

Mr. GRAMM proposed an amendment to the bill S. 1904, supra; as follows:

At the appropriate place, add:

"(e) COMMON CARRIER EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any common carrier as defined by section 10102 (4) of title 49 United States Code, including any air transportation as defined in section 101 of the Federal Aviation Act of 1958 and any other common carrier engaged in the hauling of passengers or freight."

COCHRAN AMENDMENT NOS. 1616 AND 1617

Mr. COCHRAN proposed two amendments to the bill S. 1904, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Polygraph Protection Act of 1987."

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR TEST.—The term "lie detector test" includes—

(A) any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical, electrical, or chemical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual; and

(B) the testing phases described in paragraphs (1), (2), and (3) of section 9(b).

(4) POLYGRAPH.—The term "polygraph" means an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards.

(5) RELEVANT QUESTION.—The term "relevant question" means any lie detector test question that pertains directly to the matter under invstigation with respect to which the examinee is being tested.

(6) SECRETARY.—THE TERM "SECRETARY" means the Secretary of Labor.

(7) TECHNICAL QUESTION.—The term "technical question" means any control, symptomatic, or neutral question that, although not relevant, is designed to be used as a measure against which relevant responses may be measured.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE

Except as provided in sections 7 and 8, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or

prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

(3) to discharge, dismiss, discipline in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test; or

(B) any employee or prospective employee on the basis of the results of any lie detector test or;

(4) to discharge, discipline, or in any manner discriminate against an employee or prospective employee because—

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act;

(B) such employee or prospective employee has testified or is about to testify in any such proceeding; or

(C) of the exercise by such employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice, in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act;

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2)—

(A) any employer who violates section 4 may be assessed a civil money penalty not to exceed $100 for each day of the violation; and

(B) any employer who violates any other provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) INJUNCTIVE ACTIONS BY THE SECRETARY.—The Secretary may bring an action to restrain violations of this Act. The district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act.

(c) PRIVATE CIVIL ACTIONS.—

(1) LIABILITY.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including but not limited to employment, reinstatement, promotion, and the payment of lost wages and benefits.

(2) COURT.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by any one or more employees for or in behalf of himself or themselves and other employees similarly situated.

(3) COSTS.—The court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

(d) WAIVER OF RIGHTS PROHIBITED.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement of a pending action or complaint, agreed to and signed by all the parties.

SEC. 7. GOVERNMENTAL AND FEDERAL EXEMPTIONS.

(a) NO APPLICATION TO GOVERNMENTAL EMPLOYERS.—The provisions of this Act shall not apply with respect to the United States Government, a State or local government, or any political subdivision of a State or local government.

(b) NATIONAL DEFENSE AND SECURITY EXEMPTION.—

(1) NATIONAL DEFENSE.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor such Department in connection with such activities.

(2) SECURITY.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any intelligenc or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, or assigned or detailed to, the National Security Agency or the Central Intelligence Agency, (ii) any expect or consultant under contract to the National Security Agency or the Central Intelligence Agency, (iii) any employee of a contractor of the National Security Agency or the Central Intelligence Agency, or (iv) any individual applying for a position in the National Security Agency or the Central Intelligence Agency; or

(B) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for the National Security Agency or the Central Intelligence Agency.

(c) EXEMPTION FOR FBI CONTRACTORS.—Nothing in this Act shall be construed to prohibit the administration, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

SEC. 8. STATE CERTIFICATION OF PLANS EXEMPTION.

(a) Subject to Section 9, this Act shall not prohibit any State, or political subdivision thereof, which, at any time, desires to assume responsibility for development and enforcement therein of standards relating to the use of polygraphs by employers and polygraph examiners, shall file a written statement with the Secretary of Labor certifying that is has adopted an administrative plan to insure compliance with the standards of this Act. Such certification shall:

(1) identify the agency or agencies designated as responsible for administering the plan;

(2) describe the standards contained in the administrative plan governing polygraph examiners and the use of polygraph examinations, which standards (and the enforcement of which standards) shall be at a minimum in full compliance with the standards set out in section 9 of this Act; and

(3) explain the manner in which the standards contained in the administrative plan are being administered and enforced by the designated agency to insure compliance with this Act.

(b) The Secretary shall make a continuing evaluation of each administrative plan which has been certified as in compliance with this Act. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that the plan is not being administered in a manner that insures substantial compliance with the standards set out in this Act, he shall notify the State or political subdivision of his withdrawal of certification of such plan and, upon receipt of such notice, such plan shall cease to be in effect.

(c) Review of a decision of the Secretary to disapprove an administrative plan under this section may be obtained in the United States Court of Appeals for the circuit in which the State or political subdivision or individual examiner is located by filing a petition for review with such court within 30 days after receipt of the withdrawal of certification.

SEC. 9. MINIMUM FEDERAL STANDARDS FOR POLYGRAPH TESTING.

Each State, or political subdivision thereof, seeking to establish a polygraph testing program under Section 8 of this Act, shall certify to the Secretary of Labor that its program meets the following minimum federal standards—

(a) OBLIGATION TO COMPLY WITH CERTAIN LAWS AND AGREEMENTS.—The exemption provided under section 8 shall not diminish an employer's obligation to comply with—

(1) applicable State and local law; and

(2) any negotiated collective bargaining agreement, that limits or prohibits the use of lie detector test on employees.

(b) RIGHTS OF EXAMINEE.—

(1) PRETEST PHASE.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is not subjected to harassing interrogation technique;

(C) is informed of the nature and characteristics of the tests and of the instruments involved;

(D) is informed—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed;

(ii) whether any other device, including any device for recording or monitoring the conversation will be used; or

(iii) that the employer and the examinee, may with mutual knowledge, make a recording of the entire proceeding;

(E) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment;

(ii) that any statement made during the trest may constitute additional supporting evidence for the purposes of an adverse employment action described in section 8(b);

(iii) of the limitations imposed under this section;

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(v) of the legal rights and remedies of the employer; and

(F) is provided an opportunity to review all questions (technical or relevant) to be asked during the test and is informed of the right to terminate the test at any time; and

(G) signs a notice informing such examinee of—

(1) the limitations imposed under this section;

(ii) the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act; and

(iii) the legal rights and remedies of the employer.

(2) ACTUAL TESTING PHASE.—During the actual testing phase—

(A) the examinee is not asked any questions by the examiner concerning—

(i) religious beliefs or affiliations;

(ii) beliefs or opinions regarding racial matters;

(iii) political beliefs or affiliations;

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, or opinions regarding unions and labor organizations;

(B) the examinee is permitted to terminate the test at any time;

(C) the examiner does not ask such examinee any questions (technical or relevant) during the test that was not presented in writing for review to such examinee before the test;

(D) the examiner does not ask technical questions of the examinee in a manner that is designed to degrade, or needlessly intrude on, the examinee;

(E) the examiner does not conduct a test on an examinee when there is written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the test; and

(F) the examiner does not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and does not conduct any such test for less than a 90-minute duration.

(3) POST-TEST PHASE.—Before any adverse employment action, the employer must—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test; and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(C) QUALIFICATION OF EXAMINER.—An individual who conducts a polygraph test must—

(1) be at least 21 years of age;

(2) comply with all required laws and regulations established by licensing and regulatory authorities in the State in which the test is to be conducted;

(3)(A) successfully complete a formal training course regarding the use of polygraph tests that has been approved by the State in which the test is to be conducted or by the Secretary; and

(B) complete a polygraph test internship of not less than 6 months duration under the direct supervision of an examiner who has met the requirements of this section;

(4) maintain a minimum of a $50,000 bond or an equivalent amount of professional liability coverage;

(5) use an instrument that records continuously, visually, permanently, and simultaneously changes in the cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards;

(6) base an opinion of deception indicated on evaluation of changes in physiological activity or reactivity in the cardiovascular, respiratory, and electrodermal patterns on the lie detector charts;

(7) render any opinion or conclusion regarding the test—

(A) in writing and solely on the basis of an analysis of the polygraph charts;

(B) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test; and

(C) that does not include any recommendation concerning the employment of the examinee; and

(8) maintain all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

(D) PROMULGATION OF STANDARDS.—The Secretary shall establish standards governing individuals who, as of the date of the enactment of this Act, are qualified to conduct polygraph tests in accordance with applicable State law. Such standards shall not be satisfied merely because an individual has conducted a specific number of polygraph tests previously.

SEC. 10. DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—A person, other than the examinee, may not disclose information obtained during a polygraph examiner may disclose information acquired from a polygraph test, except as provided in this section.

(b) PERMITTED DISCLOSURES.—A polygraph examiner, polygraph trainee, or employee of a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any person or governmental agency that requested the test as authorized under subsection (a), (b), or (c) of section 7 or any other person, as required by due process of law, who obtained a warrant to obtain such information in a court of competent jurisdiction.

(c) DISCLOSURE BY EMPLOYER.—An employer (other than an employer covered under subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to a person described in subsection (b).

SEC. 11. EFFECT ON OTHER LAW AND AGREEMENTS.

This Act shall not preempt any provision of any State or local law, or any negotiated collective bargaining agreement, that is more restrictive with respect to the administration of lie detector tests than this Act.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

AMENDMENT NO. 1617

Beginning on page 33, strike out line 10 and all that follows through page 35, line 7.

GRAMM AMENDMENT NOS. 1618-1620

Mr. GRAMM proposed three amendments to the bill S. 1904, supra; as follows:

AMENDMENT NO. 1618

At the appropriate place, add; "Nothing in this Act shall be construed to preclude the use of a lie detector test to any expert or consultant or any employee of such expert or consultant under contract with any Federal government department, agency or program where a security clearance is required by the federal government for such expert or consultant and such expert or consultant, as a result of the contract, has access to classified and sensitive government information."

AMENDMENT NO. 1619

At the appropriate place, add:

On page 28, between lines 14 and 15, insert the following new subsection:

"(e) NUCLEAR POWER PLANT EXEMPTION.—This Act shall not prohibit the use of a lie detector test by an employer on any employee or prospective employee of any nuclear power plant. This subsection shall not preempt or supersede any state or local law that prohibits or restricts the use of lie detector tests."

AMENDMENT NO. 1620

On page 28, between lines 14 and 15, insert the following new subsection:

(e) EXEMPTION FOR TESTS CONDUCTED IN ACCORDANCE WITH DOD DIRECTIVE.—Nothing in this Act shall prohibit an employer from administering a polygraph test to an employee or prospective employee if the test is administered in accordance with Department of Defense Directive 5210.48 published on December 24, 1984.

METZENBAUM (AND OTHERS) AMENDMENT NO. 1621

Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. BYRD, Mr. DOLE, Mr. SHELBY, Mr. HOLLINGS, Mr. ROCKEFELLER, Mr. GLENN, Mr. DIXON, Mr. HEFLIN, Mr. DURENBERGER, and Mr. NICKLES) proposed an amendment to the bill S. 1904, supra; as follows:

At the end of the Committee Amendment add the following new section:

"SEC. . MEXICO STEEL LOAN.

The Senate finds:

(1) during the past decade the United States steel industry has witnessed significant economic disruption and employment losses due to increased foreign competition;

(2) the United States steel industry has lost more than 12 billion dollars, more than half its workforce, and closed scores of plants throughout the country;

(3) in order to regain its competitive posture, the United States industry has invested more than 8 billion dollars on modernization, obtained painful wage concessions from its remaining workforce, and slashed production capacity by one-third;

(4) there are more than 200 million excess tons of steel capacity worldwide, causing

severe financial strains on steel industries in many countries;

(5) the proposed loan by the International Bank for Reconstruction and Development (hereafter referred to as the "World Bank") would provide Mexico's steel companies with subsidized financing to further the glut of worldwide steel production;

(6) the proposed loan could do irreparable damage to the United States steel industry.

Therefore, it is the sense of the Senate that the proposed loan is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization; and the World Bank should reject the proposed loan.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on March 14, 1988, beginning at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on a bill currently pending before the subcommittee. The measure is:

H.R. 1860, a bill entitled the "Federal Land Exchange Facilitation Act of 1987."

For further information regarding the hearing, please contact Tom Williams of the subcommittee staff, at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 2, 1988, to conduct an executive session on pending business (agenda attached).

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 3, 1988. Oversight hearing to consider the President's proposed budgets for fiscal year 1989 for the Forest Service and the Federal Energy Regulatory Commission.

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

SUBCOMMITTEE ON PUBLIC LANDS NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommitte on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Thursday, March 3, 1988, to receive testimony concerning S. 1544, a bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; and H.R. 2652, a bill to revise boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, March 2, 1988, to conduct a hearing on the fiscal year 1989 budget of the Nuclear Regulatory Commission.

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

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE AND SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittees on Strategic Forces and Nuclear Deterrence and Conventional Forces and Alliance Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 2, 1988, in closed session to review special access programs of the Department of Defense, to include the Department's assessment of the INF Treaty's possible impact on the Department's special access programs.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, March 2, 1988, to continue marking up the committee print No. 2 entitled the "Financial Modernization Act of 1988."

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

COMMITTEE ON SMALL BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Wednesday, March 2, 1988, to hold a hearing on the impact of a new proposal by the U.S. Forest Service to govern administration of the Small Business Timber Sale Set-Aside Program.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 2, 1988, to receive a closed briefing from administration representatives pursuant to Section 25(a)(1) of the Arms Export Control Act, covering major arms sales which are considered eligible for approval during calendar year 1988—known as the Javits report.

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

ADDITIONAL STATEMENTS

FUNDING CHESAPEAKE BAY CLEANUP

● Mr. SARBANES. Mr. President, I am pleased to join in cosponsoring the resolution (S. Res. 389) which calls for full funding of the Clean Water Act's Construction Grants Program as authorized by Congress. The Reagan administration's budget for fiscal year 1989 that was recently sent to the Congress would reduce funding from the $2.4 billion authorized by Congress to $1.5 billion. This program, as well as the entire Clean Water Act, is critical to the cleanup of the Chesapeake Bay and our Nation's waterways.

At the end of 1986, President Reagan vetoed the Clean Water bill which passed at the end of the 99th Congress. His primary objection was funding for the Construction Grants Program. Early in the 100th Congress, I joined with other Members of the Congress in moving swiftly to pass the Clean Water Act, once again by an overwhelming margin—the House by a vote of 406 to 8, and the Senate by a vote of 93 to 6. As this body knows, the President once again vetoed the Clean Water Act; and the Congress quickly and decisively overrode his veto on February 4, 1987.

It is certainly clear that Congress strongly supports the Construction Grants Program. It is also clear that this administration is adamantly opposed to it. We are faced with the administration's budget which proposes significant reductions in the levels authorized by Congress.

The Clean Water Act, first passed in 1972, and the Waste Water Construction Grant Program have been important elements of the national effort to clean up our Nations' waterways and an absolutely vital part of the multistate effort to improve the water quality of the Chesapeake Bay. Over 1,300 sewage treatment plants discharge directly or indirectly into the Bay. Their effluent represents a substantial part of the total pollutant load to the Bay. Through comprehensive sewage treatment, significant reductions in nutrient and toxic pollution have been achieved since the passage of the Clean Water Act in 1972.

However, continued progress toward construction and upgrade of sewage facilities throughout the bay watershed must be made if our efforts to clean up the bay and to meet the goals established in the 1987 Chesapeake Bay Agreement are to succeed. The State of Maryland alone needs about $60 million a year to meet the goals of

the Clean Water Act and to reduce nutrients being discharged to the Chesapeake Bay. However, under the administration's budget proposal, Maryland's allocation of wastewater construction funding would drop from $58 million this year to approximately $36 million—a loss of $22 million.

In many cases, we are just now beginning to see the benefit of the investment that we have made. We must continue the investment so that the rivers, lakes, and bays in this country become and remain safe for drinking, fishing, and recreation. I urge my colleagues to support Senate Resolution 389.●

MONTGOMERY GI BILL

● Mr. COHEN. Mr. President, all of us are acutely aware of the grave challenge that global competition raises about our country's use of its human resources. One of the most enlightened steps the Congress has taken to maximize the national gain from young talent is the Montgomery GI bill.

This is particularly true of the benefits the new GI bill provides for National Guard and Reserve members. It turns part-time soldiers into full-time students who in many cases are filling the critical skill needs of both national security and global economic competition.

This point has been aptly made by Frank Mensel in a recent address to the National Guard's second National Education and Incentive Management Conference held in El Paso in February. Mr. Mensel is a senior executive of both the Association of Community College Trustees and the American Association of Community and Junior Colleges.

I hope my colleagues will weigh carefully his message, and I ask that it be included in the RECORD:

MONTGOMERY GI BILL—DOORWAY TO THE AMERICAN DREAM

(Remarks by Frank Mensel)

The Montgomery GI Bill has opened many doors that address national needs. Most important perhaps are the doors of educational opportunity it has opened that help the American economy meet the challenge of global competition. The Montgomery GI Bill is at the same time the newest and surest door to the American Dream.

In the history of higher education in this century, two programs stand out as the great landmarks of national policy. One was the original GI Bill, coupled with the Korean and Vietnam derivations of it. The second has been the Pell Grant program, which has now enabled more American youth to pursue their college than have the several GI bills combined.

It is my prediction, however, that the Montgomery GI Bill soon will stand in its own right alongside the other two as the century's greatest landmarks of higher education policy. According to one of the oldest cliches of politics and legislation, "timing is everything." The Mongomery GI Bill is the right program, at the right time. It is right for national security, and it is right for education.

It already has had a profound impact in upgrading enlisted talent, especially in the Army. We look back only a few years to a time when our country's defenses rested on a third-rate Army. An Army in which barely half the enlistees were high school graduates. An army that was getting much of its weapon systems training from comic books conceived to satisfy a sixth-grade level of literacy. In those days, the Army was losing a division a year from attrition—some 13,000 to 15,000 soldiers flunking out simply because they couldn't "cut it." You don't have to be a statistician to grasp the "cost effectiveness" of that kind of attrition. A lot of college benefits for GI's can be paid for by the stemming of that loss.

What a difference the Montgomery GI Bill has made: Today nine out of ten Army enlistees are enrolling in the Montgomery program. They are almost all high school graduates, and they are outscoring the other services on the standard military entrance exam.

Talk about competitiveness! What the Montgomery GI Bill has given us now is a *yuppie* Army. It's no wonder that Mr. Gorbachev wants more treaties.

When the yuppie movement started, the joke was that a yuppie was simply a yippie who married the boss' offspring. The best example of today's yuppies are the young Americans who take six-year enlistments in their local National Guard or Reserve and become part-time soldiers and full-time students.

If the Montgomery GI Bill is good for the military, it is even better for the individual. Which is just what America is all about. It puts the best college educations within reach of lots of deserving youth who otherwise could never afford it—with or without Pell Grants. It gives them the satisfaction of serving their country without leaving home, as part of a local Guard or Reserve unit.

It is my own view also that, in the best yuppie tradition, the Montgomery GI Bill also produces more capitalists, or at least gives them an earlier start. The students who have the Montgomery benefits are much more likely to complete college without a heavy student loan burden. And without such debt, they will be in a better position to marry younger, start a family sooner, buy a home sooner—than their peers who didn't elect to serve their country in this way. The Army ads make the point beautifully: "A great place to start."

And neither last nor least, the Montgomery GI Bill is good for education. If Labor Department forecasts that the services may take as many as half the high school graduates for the rest of this century are true, the Montgomery GI Bill can significantly reduce the competition among industry, colleges and the military for the shortened supply of high school graduates. By the same token, it will help greatly in such a demographic cycle to stabilize the enrollments and operations of colleges and universities across the land.

Through the six-year enlistments with the Guard and Reserve, the Montgomery GI Bill will produce many "three-fers." A "three-fer" was affirmative action jargon for a job candidate who represented three protected groups—for example, an Hispanic veteran over 40 years old, or a minority woman with a handicap. In Montgomery GI Bill terms, a "three-fer" is a part-time soldier going to college on Montgomery GI Bill benefits, who is applying newly acquired skills in part-time work outside Guard or Reserve duty. Actually, I would see that student as a four-fer if he or she were moonlighting in a defense industry.

With the reduced supply of high school graduates, we are going to need lots of three-fers and four-fers in the next decade if the American economy and workforce are going to catch up with the global competition. Very simply, we are not going to overtake the competition unless U.S. employers have the best-trained skill base, the best technicians, in the world. And it will take strong partnerships between the military and the two-year colleges, drawing upon the Montgomery GI Bill, to produce them.

No other combination can bring quite the same horsepower to such partnerships, simply because our military draws more talent than any other employer, and because the community colleges have become the largest branch of higher education and the largest network of formal skill training, now serving more than half the Americans who start college. For most Guard and Reserve units, the nearest comprehensive training center will be a community college. With the broadest, most flexible technical curriculum, and the lowest cost per credit.

Competitiveness has become the bottom line for all of us. Increased productivity holds the key to both our future standard of living and our national security. The genius of the Montgomery GI Bill is that it harnesses the GI bill concept for a larger purpose. While it provides the veterans with the traditional educational and career opportunities they have rightly earned, it puts the same benefits to work in meeting the skill needs of both the military and the general economy. If the military and the community colleges make these training partnerships fly as they should, the U.S. by the year 2000 will again be out front—the economic flagship of the non-communist world. And we again will have the long-term insurance of the best skill base in the world. What better return could we ask of the Montgomery GI Bill investment.●

FIRST LIBRARY IN FEDERATED STATES OF MICRONESIA

● Mr. JOHNSTON. Mr. President, I would like to take this opportunity to tell the Senate about what I believe is an exciting and commendable project undertaken by The Corps Associates [TCA], a volunteer arm of the U.S. Army Corps of Engineers on Pohnpei, the capital of the Federated States of Micronesia.

United States involvement in Micronesia began in earnest during World War II in the critical battle for the Pacific. Following our liberation of Pohnpei and other islands, Micronesia was put under United States administration as a strategic trust by the United Nations and for 40 years was administered by the United States, first under the Navy and then by the Department of the Interior. Just last year, we entered into a new, more mature relationship with these emerging nations under the Compacts of Free Association. As we enter this new relationship and particularly as leaders in Micronesia, who worked closely with us after our liberation of the islands from the Japanese, enter retirement, I believe it is critically important that the American people reach out to the new generation through people-to-people projects such as the recent effort by

TCA to obtain books and magazines for the Pohnpei Public Library.

Pohnpeians have long desired the establishment of a public library on their island, but given the other more basic capital infrastructure needs, the library never received a sufficiently high priority for Federal funding. This fall, in a creative public-private partnership, the U.S. Army Civic Action Team agreed to supply the know-how and the Pohnpeians raised over $20,000 to purchase the basic materials to construct a building to house this facility. Not only is this the first public library on Pohnpei but it is also the first public library in the Federated States of Micronesia. Construction has since been completed and even though there are only a few resources available, I was startled to learn that already over 300 children are using this facility each day.

Clearly there is wide interest in this small community of about 32,000 people in developing a good resource to stimulate and encourage reading. This is particularly important since mandatory public education only extends through the eighth grade. Without the resources, those who complete the mandatory curriculum tend to lose their reading skills and their opportunity to learn about the world beyond their small island nation. TCA's project to obtain book donations for children and teenagers as well as magazines and "how-to" books for adults recognizes this need and will certainly be a large help to the library in achieving its goal of obtaining 12,000 children's books and 12,000 books for adults.

Through the leadership and generosity of a number of U.S. companies, foundations and individuals, TCA's efforts have gotten off to a good start. I'd like to take a minute to recognize each of these participants:

The National Geographic Society—85 books for children.

The World Book Co.—a set of World Book Encyclopedias.

The law firm of Van Ness, Feldman, Sutcliffe, Feldman, Curtis and Levenberg—over seven boxes of books for children and adults.

The Wilderness Society—a complimentary subscription to their acclaimed children's magazine, Ranger Rick.

The Close Up Foundation—a VHS set and a number of educational tapes for high school students, which will enable the Library to begin an educational video program for children.

Children's Better Health Institute—complimentary subscriptions to Humpty Dumpty, Stork, Turtle, Children's Playmate, Jack and Jill, Child Life, and Children's Digest.

Scott, Foresman and Company—set of pupils editions from their Focus reading program for kindergarten through eighth grade.

The Young Naturalist Foundation—complimentary subscriptions to Chickadee and OWL, magazines concerned with interesting young children in the environment.

Harcourt Brace Jovanovich—a general selection of books for adults and children.

We have an excellent opportunity not only to help a worthy community effort, but also to strengthen our ties with those who were members of the American family for many years. Over half the population of Pohnpei is under age 16 and this group is especially in need of up-to-date materials which are not available in their underfunded schools. I was pleased to learn that books for children and adventure stories for teenagers are the highest priority in TCA's effort.

I have worked with this area through my membership on the Energy and Natural Resources Committee since I first came to the Senate in 1972 and have watched our relationship grow from one of absolute dependence to one of partnership, a relationship I hope will be strengthened over the 15-year compact. Efforts to help children, Pohnpei's greatest future resource, will certainly be an important contribution to this effort. I know that the Members of the Senate join with me in congratulating the efforts of those—in particular, the president of TCA, Mrs. Kathryn Heiberg, and Mrs. Elizabeth Clarke of Pohnpei—who have established the first public library on Pohnpei and in wishing them much success in achieving their goals.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $900 million in budget authority, and by $2.9 billion in outlays. Current level is under the revenue ceiling by $10.6 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 26, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1988 and is current through December 22, 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution (H.Con.Res. 93). This report is submitted under Section 308 (b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32.

Since my last report the President has signed the Continuing Resolution for Fiscal Year 1988 (P.L.100-202), the Omnibus Budget Reconciliation Act of 1987 (P.L.100-203), the Airport and Airways Improvement Act of 1987 (P.L.100-223), the Agricultural Credit Act of 1987 (P.L. 100-233), the Technical corrections to FERS and CSRS (P.L.100-238), and the Housing and Community Development Act (P.L.100-242), changing budget authority, outlay, and revenue estimates. This report summarizes final action in the first session of the 100th Congress.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONG., 1ST SESS., AS OF DEC. 22, 1987

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 93 [2]	Current level +/− resolution
FISCAL YEAR 1988			
Budget authority	1,145.1	1,146.0	−0.9
Outlays	1,031.8	1,034.7	−2.9
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,456.8	[3] 2,565.1	−108.3
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The curent level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with sec. 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under sec. 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800,000,000,000.

PARLIAMENTARIAN STATUS REPORT, 100TH CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS DEC. 22, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			898,554
Permanent appropriations and trust funds	779,621	681,502	
Other appropriations		205,550	
Offsetting receipts	−169,458	−169,458	
Total enacted in previous sessions	610,163	717,594	898,554
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100-4)	−2	−2	
Emergency Supplemental for the homeless (Public Law 100-6)		−7	
Ginnie Mae fees (Public Law 100-14)		52	
Surface Transportation and Relocation Act (Public Law 100-17)	10,969		364
Federal Employees retirement system technical corrections (Public Law 100-20)	10	10	
Farm Disaster Assistance Act (Public Law 100-45)	−30	−30	
Supplemental appropriations, 1987 (Public Law 100-71)	68	915	
Small Business Administration program and authorization amendments (Public Law 100-72)	−41	−41	
Competitive Equality Banking Act of 1987 (Public Law 100-86)		−650	−7
Credit certain air traffic controller service for retirement benefits (Public Law 100-92)		3	
Medicare and Medicaid Patient and Program Protection Act (Public Law 100-93)		3	
Balanced Budget and Emergency Deficit Control Reaffirmation Act (Public Law 100-119)		−160	
Interim extension of certain veterans' housing programs (Public Law 100-136)	677	608	

PARLIAMENTARIAN STATUS REPORT, 100TH CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS DEC. 22, 1987—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Technical amendments to laws relating to Indians (Public Law 100-153)	1	1	
Older Americans Act Amendments of 1987 (Public Law 100-175)		5	
Veterans Home Loan Improvements Act of 1987 (Public Law 100-198)	−53	−53	
Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203)	−2,201	−8,497	8,844
Airport and Airway Improvement Amendment of 1987 (Public Law 100-223)	1,700	−1	1,551
Agriculture Credit Act of 1987 (Public Law 100-233)	70	70	
Technical corrections to FERS and CSRS (Public Law 100-238)		−2	
Housing and Community Development Act (Public Law 100-242)	−1	−1	
Total enacted this session	11,167	−7,778	10,752
III. Continuing resolution authority:			
Continuing resolution, fiscal year 1988 (Public Law 100-202)	568,544	373,084	−106
FMS prepayment		−5,919	
IRS compliance	481	385	1,850
Offseting receipts	−31,241	−31,241	
Total continuing resolution authority	537,784	336,309	1,744
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
National wildlife refuge fund	1	1	
Special milk	5	1	
Special benefits (general retirement)	(1)	(1)	
Special benefits (Federal employees)	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans readjustment benefits	16		
Veterans compensation	282	0	
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
Total entitlement authority	650	276	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of Dec. 22, 1987	1,145,115	1,031,751	922,250
1988 budget resolution (H. Cong. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	885	2,949	10,550
Amount remaining:			
Over budget resolution			
Under budget resolution	885	2,949	10,550

[1]Less than $500.

Note.—Numbers may not add due to rounding.●

INF TREATY REPORT BY AFL-CIO COMMITTEE ON DEFENSE

● Mr. KENNEDY. Mr. President, just as the Senate began ratification proceedings on the Intermediate Nuclear Forces [INF] Treaty, the AFL-CIO Committee on Defense conducted its own examination of this agreement. Under the leadership of its chairman, John T. Joyce, president of the International Union of Bricklayers and Allied Craftsmen, the committee has taken a careful look at the treaty and issued a thoughtful and instructive report. That committee's report and recommendation in turn led the executive council of the AFL-CIO to issue a statement on February 16, 1988, supporting ratification of the INF Treaty.

I recommend the report to anyone who is interested in the issues now facing the Senate—and the country—as we complete consideration of this agreement. This report provides a historical context for the treaty—important not only for considering INF but also for determining what direction the United States with its NATO allies should move next. The report also sets forth briefly and accurately the pertinent information about the treaty, and it highlights the most significant elements of this agreement. The committee concludes—correctly—that the greatest significance of the INF Treaty is the "establishment of two principles, both of which will be instrumental to the success of future, and arguably even more important arms control treaties: First, the principle of asymetrical reductions; and second, the principle of intrusive verification."

The committee points out that, after ratification of the INF Treaty, the focus changes to strategic and conventional force balances between NATO and Warsaw Pact forces.

With respect to the nuclear balance, the committee concludes that the INF Treaty will "leave some gaps in the implementation of the 'flexible response' doetrine" although the agreement "will not significantly undermine the strategy of deterrence."

With respect to the conventional balance, the committee points out that there "is a substantial disparity between the Warsaw Pact and NATO in terms of numbers" but that the effectiveness of military forces in combat cannot be measured "simply by referring to the ratios of tanks-to-tanks, aircraft-to-aircraft, and men to men." But the committee expresses real concern about the political uses to which the Warsaw Pact's superior numbers of conventional forces can be used. The committee observes that "The preferred answer to Warsaw Pact conventional superiority is not a buildup of Western forces * * * but a buildown of forces on both sides to equivalent levels * * * through asymetrical reductions."

I ask that the committee report—along with the February 16 statement by the AFL-CIO executive council supporting the INF Treaty—be included in the RECORD.

The report follows:

THE REPORT OF THE AFL-CIO COMMITTEE ON DEFENSE ON THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY TO THE AFL-CIO EXECUTIVE COUNCIL, BAL HARBOUR, FL, FEBRUARY 15, 1988

INTRODUCTION

The AFL-CIO Committee on Defense, after completing its 1987 study of the Strategic Defense Initiative, was asked by President Kirkland to undertake a study of the INF Treaty and related issues, and to report to the AFL-CIO Executive Council in February. Chaired by John R. Joyce, President of the International Union of Bricklayers and Allied Craftsmen, the Committee met with experts on this topic during the month of January 1988. A list of those who appeared before the Committee to discuss the INF Treaty is included in this report, and a list of the Committee members is appended.

The Committee's report to the Executive Council follows.

THE COMMITTEE REPORT

History of the INF question

The history of the deployment of intermediate-range nuclear forces in Europe has its origins in the early post-war period and the development of the strategy of massive retaliation. The tenets of this strategy were simple: any Soviet attack on the NATO alliance would invite a devastating, full-scale nuclear counter-attack on Soviet soil. Such a strategy was the product, in the early days of defense planning, of the crude nature of ballistic missile technology, the imbalance between Warsaw Pact and NATO conventional forces, and of the heightened political tensions associated with the Cold War. It was also cheaper to deploy nuclear weapons than to finance a military build-up to eliminate the Warsaw Pact conventional force advantage.

The shortcomings of this approach became all too apparent in the 1960s, when missile accuracy and throw-weight improved sufficiently to make the wholesale destruction of cities a morally repugnant response to conventional attack. The NATO alliance developed a replacement for massive retaliation that came to be known as "flexible response." Instead of triggering a general nuclear counter-attack, a Warsaw Pact assault on West Europe would now trigger a chain of responses, each more serious than the one that preceded it, and each designed to escalate the conflict at the appropriate moment to an appropriate level. If the lowest level of flexible response failed to halt the advance, the theory went, then a second, more threatening, response would be launched, and so on. This series of responses could escalate all the way through to general nuclear warfare. The difference between flexible response and massive retaliation lay in the fact that the former provided a spectrum of defense steps that could be employed selectively, while the latter relied on an almost automatic radical escalation.

But in time the credibility of flexible response was undermined by a combination of factors affecting the Alliance's ability to deliver nuclear warheads onto Soviet territory. First, the Alliance possessed only two such delivery systems: the aging and ineffective British Vulcan bomber, which was being phased out of service, and its newer American replacement, the F-111. Second, the Warsaw Pact forces had by that time developed formidable air defense systems. It was becoming clear that the F-111 could only with difficulty penetrate those defenses and strike targets deep in Soviet territory.

It was decided to close this gap by adding new delivery systems to the Alliance's weapons inventory: the ground-launched cruise missile (GLCM), and the Pershing missiles.

Meanwhile, in late 1977, the USSR introduced the first SS20s to the European theater. These were modern, mobile ballistic missiles, each carrying three independently-targetable nuclear warheads that were capable of striking any target in Western Europe from bases in the USSR. The deployment of the SS-20 gave new impetus to the deployment of GLCMs and Pershings.

Deployment of these weapons by the Alliance and by the Warsaw Pact proceeded apace for over ten years. However, the USSR was able to arm itself with far more SS-20s and other INF systems, such as the SS-4 and the SS-5, than NATO could match in the same period, owing both to the nature of Soviet society, and in the absence

of treaties controlling the manufacture and deployment of INF weapons. The Alliance's pace of deployment was also slackened by massive protests and political problems in some Western Europe democracies during the initial deployments of American GLCMs and Pershings.

By the time the INF Treaty was signed, last December 8, the Soviet Union possessed 1752 INF missiles, deployed and non-deployed, while the United States had only 859, deployed and non-deployed—a missile ratio of 2:1 favoring the USSR. The numbers of nuclear warheads on these weapons gave the Soviets an even greater advantage of nearly 4:1 over the United States.

Even as deployments of these weapons were proceeding, the United States and the Soviet Union were talking about doing away with them.

In November 1981, President Reagan proposed the so-called "zero-option," which applied to the "longer-range intermediate-range nuclear forces" (LRINF). These are weapons with ranges of between 600 and 3,400 miles. The United States offered to cancel deployment of the GLCMs and Pershings in Europe if the Soviets would agree, in turn, to dismantle their SS-20, SS-4, and SS-5 missiles. Two years later, in November 1983, the Soviet Union walked out of the INF talks. In March 1985, the Soviets returned to the negotiating table.

A Soviet counterproposal in October 1985 for freezing the deployment of American and Soviet INF weapons, which had proceeded in the absence of an agreement, brought a positive response from the United States with an additional proposal to negotiate the numbers of "shorter-range intermediate-range nuclear forces" (SRINF). These weapons have a range between 300 and 600 miles. Such weapons are the American Pershings I-A and the Soviets SS-12 and SS-23.

This American proposal became the second zero in the "double zero option" when, in June 1987, the United States proposed the elimination of all SRINF weapons on both sides. The next month, the U.S.S.R. indicated its willingness to accept the "double zero option." In September 1987, the U.S.S.R. and the U.S.A. agreed to conclude a treaty on INF. Remaining differences between the two sides were negotiated in the next three months, culminating in the signing of the INF Treaty in Washington, D.C., on December 8, 1987.

The INF Treaty

As the American and Soviet governments have told the world, the INF is a significant arms control pact because, in the words of the White House, both countries, "will eliminate—for the first time in history—an entire class of U.S. and Soviet nuclear weapons; intermediate-range nuclear force missiles. *This is the first agreement in history to actually reduce, not simply limit, the build-up of nuclear weapons.* Furthermore, *almost four deployed Soviet warheads will be eliminated for every one the U.S. eliminates. . . .* Such reductions will establish a foundation of mutual restraint and responsibility that will help us build a *safer world.*" [Emphasis in the original.]

To be sure, the elimination of all INF weapons is significant. But the Committee believes greater significance rests in the establishment of two principles, both of which will be instrumental to the success of future, and arguably even more important, arms control treaties: (1) the principle of asymmetrical reductions, and (2) the principle of intrusive verifications. Acceptance of these principles offers hope for progress on strategic and conventional arms agreements.

These principles are introduced in the first of the four documents that constitute the Treaty.

The *first document* comprises the treaty articles and binds the United States and the Soviet Union to the elimination of all LRINF missiles and launchers within three years of the Treaty's taking effect, and to the elimination of all SRINF missiles and launchers within 18 months of the Treaty's taking effect. Thereafter, these weapons are banned. The weapons' support structures and support equipment are dealt with similarly. (The Treaty does not require the parties to destroy the nuclear warheads on these missiles, nor does it mandate the destruction of the warheads' guidance systems.)

As mentioned earlier, the Soviets possess a 2:1 advantage in missiles and an almost 4:1 advantage in warheads. Thus, in order to reach the level zero, the Soviets must eliminate twice as many missiles and four times as many warheads as the United States. This is the first instance of disproportionate cuts in nuclear arms agreements.

(It should be noted that INF warheads make up only 3% of the nuclear arsenal of the Soviet Union and the United States. The treaty effects a very small class of weapons.)

Further, as soon as the treaty takes effect, neither party may produce or flight-test, and, in the case of SRINF missiles, launch, any INF weapon. Certain numbers of LRINF missiles may be launched if such launching is designed to dispose of the missiles.

Once these weapons and related systems have been eliminated three years down the road, all facilities for the deployment, storage, repair, and production of INF missiles are banned.

The United States and the Soviet Union also agree to submit to a regime of verification by representatives of the other side and to abide by an effective verification system explicitly for the terms of the Treaty. Though the Committee is given to understand that there are no fool-proof verification systems, and that the procedures associated with the INF Treaty verification can be circumvented, the establishment of even an imperfect onsite inspection system is a breakthrough in nuclear arms control agreements.

The *second document* of the Treaty is the "Memorandum of Understanding (MOU) on Data." Based on information exchanged between the two sides on November 1, 1987, the MOU describes each individual LRINF and SRINF system covered by the agreement, its numbers and characteristics, as well as the map co-ordinates of each missile deployment area and each missile operating base. Related facilities are defined in extraordinary detail.

The *third document* of the INF Treaty is the inspection protocol, which describes the verification system associated with the Treaty. It lays out the conduct of and procedures for onsite inspections. These include short-notice inspections and what is known as "continuous portal monitoring," a system of resident inspectors, consisting of representatives from the other country, who continually verify adherence to the terms of the Treaty at a missile factory in each country. In the United States, the site where Soviet inspectors will monitor U.S. compliance is the Hercules Plant Number 1, which produces Pershings, in Magna, Utah. In the Soviet Union, American verifiers will be situated at the Votkinsk Machine Building Plant, where the SS-20 is built, in the Udmurt Autonomous Soviet Socialist Republic of the Russian Soviet Federated Socialist Republic.

In addition, this protocol provides for elimination and "close-out" inspections, and requires each side to facilitate the other side's collection of verification intelligence through national technical means.

The *final document* is the elimination protocol, which essentially describes the permissible manner and methods for the disposal of the missiles, launchers, and support equipment associated with the INF pact.

The INF Treaty has unlimited duration. Either party may withdraw from the agreement when it considers its interests are no longer served by compliance. A six-month notice of intention to withdraw is required. The parties may also amend the treaty.

Previous AFL-CIO Policy

The INF Treaty is consistent with previous AFL-CIO policy on intermediate-range nuclear forces, verification, and arms control.

The first interim report of the Defense Committee, published in February 1983, made note of the INF negotiations then going on between the United States and the Soviet Union and welcomed the direction they were taking. To quote that report:

"As for the negotiations now underway on intermediate-range ballistic missiles in Europe, the Committee believes that the Administration's call for the "zero option"—the elimination of all such weapons—is a goal that merits support."

That further negotiations led to the elimination of not only LRINF but also SRINF—that is, to the "double zero option"—is a logical and welcome extension of the AFL-CIO's policy.

The 1985 AFL-CIO Convention also laid down a policy on arms control and verification which finds satisfaction in the INF Treaty. The Convention endorsed "the objective of a balanced *reduction* of nuclear arms within a system of verification guaranteeing collective security." [Emphasis added.] The Treaty has, for the first time, actually reduced the numbers of weapons to a balanced level. But the INF Treaty goes further by making that level zero and by requiring asymmetrical reductions to achieve that level.

Finally, the INF agreement reflects the view set forth in the AFL-CIO Executive Council's statement on the Strategic Defense Initiative (August 19, 1987), that "negotiated arms limitation agreements are essential to the maintenance of world peace." This treaty is a step in the right direction, but, in the Committee's view, only a step.

The hearings on the INF Treaty

To assist in its consideration of the question of intermediate-range nuclear forces and of the treaty governing their elimination, the Committee held four hearings during two days in January 1988, interviewing five prominent experts. The views they presented to the Committee included those of the Administration, an opponent of the Treaty, a foreign policy advisor to the Senate Armed Service Committee, and representatives of the Commission on Integrated Long-Term Strategy.

The experts who appeared included an official responsible for negotiating the INF Treaty, another responsible for U.S. national security policy formulation, and two former NATO commanders.

In order of appearance, the Committee met with:

Ambassador Max M. Kampelman, Head, United States Delegation to the Negotiations on Nuclear and Space Arms.

General Bernard W. Rogers (USA, Ret.), former Supreme Allied Commander of Europe.

Gregory Craig, National Security Advisor, Office of Senator Edward M. Kennedy.

Dr. Fred Ikle, Under-Secretary of Defense for Policy, and Co-Chairman, the Commission on Integrated Long-Term Strategy.

General Andrew J. Goodpaster (USA, Ret.), Chairman, the Atlantic Council of the United States, and Member, the Commission on Integrated Long-Term Strategy, and former Supreme Allied Commander of Europe.

The Committee is grateful for their valuable contributions to its work and understanding of the complex political, military, and strategic implications of the INF Treaty. The Committee also drew on numerous articles and analyses that appeared in the media during the course of the negotiations and signing of the INF pact.

Throughout these hearings, the Committee sought, first, to determine whether the INF Treaty merits AFL-CIO support and serves the interests of American national security; and, second, to identify related issues of American and allied defense policy that now require the full attention of the political and military authorities of the democracies. That is, what will happen to the defense equation, assuming the INF Treaty is ratified and the INF weapons are eliminated?

(The basis of this assumption lay in the Committee's view that, once the Soviet Union and the United States agreed to the elimination of the INF weapons, there was little reason to believe that the NATO countries where these weapons have been located, often against vocal domestic opposition, would insist that they remain.)

As the Committee states in its "Conclusions," the treaty is clearly in the national interest of the United States.

At the same time, we recognize that the elimination of intermediate-range nuclear forces from Europe and Asia has led to certain serious implications for the security of the NATO countries and other American allies, implications that must be addressed as the superpowers proceed with negotiations on conventional and strategic arms limitations.

Perhaps the most important contribution the INF Treaty makes to American national security lies in the new standards it sets in the arms control process. Each speaker interviewed by the Committee, regardless of his opinion of the treaty, identified the two principles cited earlier as significant departures from previous arms control agreements and holds the view that they will be instrumental in the START and conventional force talks. That is:

Any future arms control agreement will have to rely on asymmetrical reductions in order to restore conventional and strategic balances between the two superpowers; and

Intrusive verification procedures will also be necessary to improve the chances of success of future arms control agreements. The United States has learned through hard experience, both with the Soviets and, before them, with Nazi Germany and Imperial Japan, that an arms control agreement that cannot be verified is no arms control agreement at all.

Senate approval of the INF Treaty would preserve these two principles as important precedents for other negotiations. Rejection of the Treaty will give the Soviets the opportunity to recant these principles, which would be a major setback for future pacts.

A second contribution of the treaty on intermediate-range nuclear forces to the national interests of the United States is that, in some important ways, it strengthens the military security of the Alliance.

Soviet superiority in the INF class of weapons is well-established; indeed, it was virtually acknowledged by Mr. Gorbachev when he publicly acceded to the need for "disproportionate" reductions. The Treaty would abolish that Soviet edge, and thus maintain NATO's strategy of flexible response, by preserving NATO's capability of delivering nuclear charges to Soviet territory, employing either allied American air power or with the independent nuclear forces of France and Great Britain. The elimination of Soviet INF weapons complicates the Warsaw Pact's ability to strike at NATO ports and airfields, which are important targets because of their wartime role as staging points for incoming American men and materiel.

The elimination of the Soviet INF further enhances Western military security by denying the Warsaw Pact strategic offensive options which they have possessed for three decades, thus further complicating Soviet attack planning—contributing to increased international stability.

The INF Treaty also serves U.S. national interests by doing away with an entire class of nuclear weapons without undermining the credibility of NATO's nuclear deterrent. The elimination of these missiles, though they constitute roughly 3% of the nuclear arsenals of the Soviet Union and the United States, contributes to a more balanced nuclear equation and to increased strategic stability between the superpowers. The elimination of these missiles also lessens the possibility of a conventional confrontation escalating into a full-fledged nuclear war.

The Committee recognizes that the INF Treaty does not cure all the woes of the Western alliance, nor is it an ideal arms control agreement. The Committee heard impressive testimony reflecting serious doubts about the effects the elimination of these forces could have on the strategy of deterrence. But taking this testimony into account and weighing it against the positive effects of the Treaty, the Committee has concluded that the Alliance will continue to have the capacity to deter a Warsaw Pact attack through the use of remaining tactical nuclear weapons, delivery systems, and conventional forces, all backed by the American strategic nuclear guarantee.

Finally, the political success of the entire INF story—from the initial deployments to the signing of the Treaty—represents a significant gain for the United States and the NATO alliance. The unity displayed by the allies during the long period leading to the conclusion of this agreement has strengthened the alliance politically and demonstrated to the Soviets the depth of NATO resolve. As trade unionists, we are well aware of the truth of the maxim, "In unity is strength."

The committee's concerns: What lies ahead?

While the INF Treaty merits the support of the AFL-CIO and the approval of the U.S. Senate, its effects cannot be viewed in isolation from the other elements of the Alliance's military security—i.e., the strategic and conventional force balance between NATO and the Warsaw Pact, both of which are the subjects of negotiations now underway. Indeed, the ultimate security value of the INF agreement may well be determined by the outcome of those negotiations. That is, if the INF agreement leads to further progress in the reduction of nuclear arms, the need to redress the conventional force imbalance in Europe becomes more urgent. Unless agreement can be reached on conventional force reductions, achieved through disproportionate cuts, NATO will be forced to build up to Soviet levels, at considerable cost.

AFTER INF: THE NUCLEAR BALANCE

Before the signing of the INF Treaty, the American nuclear forces consisted of three elements—short-range, or battlefield, nuclear weapons; intermediate-range nuclear weapons, such as the Pershings, GLCMs, and those delivered by aircraft; and long-range weapons, such as intercontinential and submarine-launched ballistic missiles. The INF Treaty has done away with the most potent and, from the Soviet point of view, most threatening weapons of the second type, leaving aircraft-borne bombs as the main weapon of this class.

Since the deterrence of war should continue to be the main objective of American defense policy, the Committee was compelled to consider the impact of the INF Treaty on the Alliance's deterrent capability. We conclude that, while the elimination of intermediate-range nuclear forces in Europe will not significantly undermine the strategy of deterrence, it will leave some gaps in the implementation of the "flexible response" doctrine.

There are limitations on the deterrent capabilities of both long- and short-range nuclear weapons in the European theater. Short-range, or battlefield, nuclear weapons, cannot strike Soviet territory and therefore pose no threat to the Soviet Union. Their effects would be confined to Europe itself, a prospect that understandably frightens many Europeans. Long-range, or strategic, nuclear weapons are poor theater weapons because Soviet missile trackers cannot distinguish one fired in a theater role from one fired in an attack on the Soviet Union. This makes long-range weapons dangerous to rely on as theater weapons.

With the elimination of intermediate-range nuclear forces, the F-111 remains the only useful step on the flexible response ladder between the use of short-range and strategic nuclear weapons. And unlike the Pershings, the F-111 is not invulnerable to defensive countermeasures; nor are they as fast or as accurate. The Committee doubts the wisdom of relying on such aircraft as its primary theater nuclear deterrent.

The resulting gap in our theater deterrence capability becomes more critical in light of the opinion expressed by virtually all of the experts who appeared before the Committee to the effect that NATO's conventional forces could probably not survive a Warsaw Pact attack for more than ten days. We also learned that the NATO Commander is required to request permission to use nuclear weapons—that is, to start the escalatory chain of flexible responses—no later than 14 days after a Warsaw Pact invasion begins.

The Committee is concerned about the elimination of any intermediary steps between the initiation of conventional warfare and the resort to strategic nuclear exchanges. Various proposals have been made to redress this problem by restructuring our nuclear forces. In the months ahead, the Committee will review these proposals as it turns its attention to the negotiations on strategic arms reductions.

An area of concern for the Committee is the conventional balance between the NATO and Warsaw Pact forces. There is a substantial disparity between the Warsaw Pact and NATO in terms of numbers. The situation has not changed appreciably from 1983, when the Committee stated that "Soviet superiority in conventional forces is incontestable." Yet, one cannot measure these forces simply by referring to the ratios of tanks-to-tanks, aircraft-to-aircraft, and men-to-men. Technological superiority

is an important factor which is not measured in "bean counts" of men and materiel.

Nevertheless, conventional forces remain of concern to the Committee for several reasons.

As of now, the West enjoys a comfortable technological lead in many conventional weapons, but there is no guarantee that this will always be the case.

Recent Soviet successes in space technology compare brilliantly with the numerous failures and disappointments of the American space program. They also indicate that the Soviet Union can overtake the United States in certain types of technology which once were generally recognized as areas of American dominance. Were the Soviets ever to surpass the NATO allies in terms of conventional defense technology, NATO's numerical inferiority could become a serious security problem. It is imperative, therefore, that the West maintain its lead in the race to develop new technology.

While it may be true that the West's technological superiority makes the East's numerical superiority of less military importance, the massive numbers of Soviet and Warsaw Pact troops wield poltical strength, whose purpose it is to intimidate Western Europe and to separate it from the United States.

The political advantage the Soviets possess should not be underestimated. The Soviets are masters of exploiting political situations to their advantage. If given the opportunity, Mr. Gorbachev is no less likely to make full use of the political value of his country's military machine than his predecessors were.

The prefered answer to Warsaw Pact conventional superiority is not a build-up of Western forces, which may well be politically and economically impossible, but a build-down of forces on both sides to equivalent levels. This can be achieved only through asymmetrical reductions, as both sides have agreed.

Mindful of the fact that the NATO Commander is required to request permission to use nuclear weapons within two weeks of battle, the Committee is deeply concerned that NATO's inability to mobilize quickly and sustain a conventional defense could result in an early nuclear exchange.

Even if recent trends toward overcoming these insufficiencies continue, the lack of adequate American sea- and airlift capability could paralyze any mobilization effort.

The United States and its allies spend hundreds of billions of dollars annually on defense equipment and personnel, but virtually nothing on the air- and sealift needed to transport this equipment and personnel. Part of the solution lies in the revitalization of the maritime industry and the merchant marine, and in the creation of supersonic forms of military air transport.

Conclusions

In summary, the AFL-CIO Committee on Defense recommends that the AFL-CIO support Senate approval of the INF Treaty. We believe it is a good treaty, although not perfect, and that it serves the national security interests of the United States.

Those interests are not guaranteed by the Treaty alone; it must be supplemented by agreements leading to balanced and verifiable reductions in conventional and strategic forces. Such reductions will also require the United States and its allies to develop appropriate new defense policies and to restructure their remaining forces accordingly.

The Committee attaches considerable significance to the inclusion in the INF Treaty of the principles of asymmetrical reductions and intrusive verification. These principles can open the door to real progress toward future strategic and conventional arms control agreements.

The Committee respects the views of those who have expressed reservations about the INF Treaty and its impact on the defense of Europe, which is most directly affected by the weapons eliminated. We believe that many of their concerns can and must be addressed in future arms negotiations and adjustments in Allied defense planning. We do not, however, concur with the view that the Treaty represents a serious setback for the doctrine of deterrence.

Meanwhile, the Committee recommends that the AFL-CIO reaffirm its strong support for the American commitment to NATO and the defense of Europe. At stake is the protection not merely of geographical territories but of democratic values and institutions, including the free trade union movement itself.

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON INF TREATY, FEBRUARY 16, 1988, BAL HARBOUR, FL

The recently concluded treaty between the United States and the Soviet Union on the elimination of intermediate-range nuclear forces serves the security interests of the United States and its NATO allies and merits the consent of the Senate.

In several important respects, the Treaty conforms with arms control proposals advanced by the AFL-CIO over the past five years. Chief among these is that, unlike past agreements that set ceilings on increases in the number of weapons allowed each side, this treaty reduces the numbers of nuclear weapons and does so by eliminating an entire class of them.

The AFL-CIO concurs with the findings of its Committee on Defense that these reductions will not adversely affect NATO's deterrence capability.

Although the Treaty deals with only three percent of the nuclear arsenals on both sides, it establishes two precedent-setting principles that may open the way toward real progress in both strategic and conventional arms control.

The first is that asymmetrical or disproportionate reductions are required to achieve equivalent numbers of weapons on each side—the number in the case of intermediate-range nuclear forces being zero.

The second is that compliance with the Treaty requires intrusive verification, i.e., on-site inspection. The INF Treaty marks the first time the Soviets have agreed to these principles, which the AFL-CIO has called for in the past.

The AFL-CIO believes that the INF Treaty would never have been achieved were it not for the political unity and determination demonstrated by the NATO alliance, despite a massive Soviet propaganda campaign aimed at driving a wedge between the United States and Europe. Had the Alliance not proceeded with the deployment of cruise and Pershing missiles, in the face of Soviet deployments of the SS-20s, there would have been little inducement for the Soviets to return to the bargaining table.

In urging Senate approval of the INF Treaty, the AFL-CIO is under no illusion that this agreement, in isolation, will remove the impetus to the arms race or achieve dramatic reductions in military spending.

The elimination of INF weapons necessarily focuses attention on the conventional force imbalance between NATO and the Warsaw Pact, an imbalance Gorbachev has implicitly acknowledged by publicly agreeing to the principle of "disproportionate" cuts in conventional forces. There is now an urgent need to reach agreement on achieving balanced conventional force reductions, so that NATO will not be compelled to build up its conventional forces.

The AFL-CIO notes the view of many defense experts that, in a post-INF era, the maintenance of a credible deterrence against a Warsaw Pact attack on Western Europe will require a restructuring of U.S. strategic nuclear forces. As the strategic arms limitations talks proceed, the Executive Council calls upon the Defense Committee to study what, if any, such restructuring might be required within the framework of the AFL-CIO's repeated calls for radical, balanced, and verifiable reductions in strategic nuclear warheads.

The goal of the AFL-CIO continues to be the maintenance of a credible deterrence to war at ever lower levels of nuclear armaments. It is not necessary to believe that the erosion of that deterrence would provide an immediate Soviet invasion of Europe to appreciate that it would signficiantly enhance the Soviets' political leverage and powers of intimidation in the region, to the detriment of American security.

The INF Treaty is a step toward our goal—but only a step. Its ultimate value will be determined by whether comparable progress can be made in the reduction of conventional and strategic forces.●

BICENTENNIAL MINUTE

MARCH 2, 1805: AARON BURR'S FAREWELL TO THE SENATE

● Mr. DOLE. Mr. President, 183 years ago today, on March 2, 1805, the Senate witnessed a moment of extraordinary drama. In the final hours of the Eighth Congress, Vice President Aaron Burr delivered a farewell address that remains a classic in the Senate's history. Less than 8 months earlier, he had killed former Treasury Secretary Alexander Hamilton in a duel at Weehawken, NJ. Following that tragic event, Burr fled southward to escape indictment.

In his address the Vice President apologized for any offense that his actions as the Senate's Presiding Officer might have given to Senators. Burr asserted that during the past 4 years, he followed his belief that error was preferable to indecision and that his errors, "whatever they might have been, were those of rule and principle, and not of caprice."

Burr concluded his address with the following stirring remarks about the nature of the Senate. He said:

This House is a sanctuary; a citdel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, [that] resistance [will] be made to the storms of political frenzy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

Senator Samuel Mitchell recorded what happened immediately following Burr's address:

When Mr. Burr had concluded, he descended from the chair, and in a dignified manner walked to the door, which resounded as he, with some force, shut it after him. On this, the firmness and resolution of many of the senators gave way, and they

burst into tears. There was a solemn and silent weeping for perhaps 5 minutes.●

ED SPENCER'S THOUGHTS ON FOREIGN POLICY

● Mr. BOSCHWITZ. Mr. President, a short time ago I received in my mail a letter from Ed Spencer, chairman of the board of Honeywell. Ed, who is also a trustee of the Carnegie Endowment for International Peace and the Ford Foundation, wrote very knowledgeably about United States-Soviet relations, the need to reestablish a bipartisan foreign policy in this country, and the need to adequately fund the State Department and our foreign assistance programs.

As a member of the newly formed Senate Caucus on a Bipartisan Foreign Policy, I found Ed's remarks timely and compelling. I heartily recommend them to my colleagues' attention and ask that they be printed in the RECORD.

The remarks follow:

WHAT IF GORBACHEV SUCCEEDS?

(By Edson W. Spenser)

What if Gorbachev succeeds? Or perhaps it will be his successor's successor who succeeds, if the present General Secretary does not stay the course.

Regardless, we had better wake up to the fact that Gorbachev has unleashed new forces in the Soviet Union. We are looking at a Soviet Union greatly changed from the one we have learned to live with since the arms race began to accelerate two decades ago. The changes that Gorbachev has set in motion will ultimately prevail in some manner. In spite of centuries of oppression in Russia, human nature will not permit even a small taste of freedom to perish.

The recent U.S.-Soviet summit again focused public attention on arms control and easing military tensions between the two super-powers. But, we cannot afford to ignore the other items on Gorbachev's policy agenda, namely, improving economic conditions in the Soviet Union and enhancing the way in which the USSR is seen by the rest of the world. We must be alert to these non-military changes and what they mean not only for the USSR, but also for the United States.

Perestroika—restructuring which includes decentralization of economic planning and a taste of entrepreneurship—will lead to increased availability of consumer goods, a modest rise in the standard of living, and high hopes for continued improvement. The historic patience and patriotism of the Russian people, however, will enable the government to keep expectations under control. Glasnost—openness and a willingness to criticize the past—will lead to internal competitive pressures on public officials to improve their performance. Even so, the continued presence of the KGB and the military will see to it that openness does not lead to pluralist democratic tendencies, or to a weakening of the central control of the Communist Party. The word "democracy" as used by Gorbachev has quite a different meaning than we are accustomed to.

Summitry—arms reduction deals with the United States—will enable Moscow to shift resources from nuclear forces to the domestic economy. But with no weakening of the overwhelming threat of conventional Soviet military forces in Europe and Asia.

Perestroika and glasnost will have their international ramifications as well. The Soviet Union is already starting a campaign to become an important trading partner of the United States. A major public relations offensive is well underway to project a "godguy" image of Soviet leaders and their beefed-up embassy staffs around the world. It is not inconceivable that the Soviets will propose an arms-free Central Europe and will get a peace treaty with Japan, materially affecting our relationships with our traditional allies.

Suddenly the United States and the free world are faced with a very different adversary. The Soviet Union has in the past had a bankrupt domestic economy, incapable of supporting a meaningful international economic presence. It has had a brutal totalitarian government, suppressing dissent at home. Military might was the only way the Soviet government could command respect—or fear—around the world.

To be sure, for the foreseeable future at least, the Soviet Union will still be a one-party totalitarian state, with an oppressive police and a mighty military establishment. Soviet leaders will still look on our type of democratic ideas as threats to their security. But this new Soviet Union will be an international competitor of a different kind. It will project openness, reasonableness, and a willingness to trade. It will down-play the importance of Soviet military might and the spread of international communism.

The Soviet Union will step up its efforts to appear as a non-threatening partner as it builds a network of friendly states in the Third World as well as in Europe and the Pacific. These efforts could erode the support many of those countries traditionally have provided to the geopolitical objectives of the United States.

In the longer run, perhaps in the twenty-first century, perestroika and glasnost might lead to a very different Soviet Union—to the breakdown of the East European communist bloc, to the decline and fall of imperial Russia, and to the emergence of a European-style democracy.

The United States is not well prepared to deal with the changes coming out of Moscow. Bipartisan foreign policy has been almost absent since the Vietnam War. We find ourselves foundering in response to Soviet arms reduction initiatives. We find it difficult to maintain worldwide economic leadership in the face of financial difficulties at home. Budgets for foreign economic aid and overseas embassies have been cut. For the first time since the Second World War, our leaders are competing for international political loyalty with a young, vigorous, open and confident leadership in the Kremlin.

A new president will have a good opportunity to put our house in order so we can take advantage of changes initiated by the new leadership in the Kremlin. Here's what he must do.

First—trust must be restored between the Administration and Congress so that once the issues have been debated we can go forward in unison with a bipartisan foreign policy.

Second—the first small step to limit the number of nuclear weapons has been taken and should be followed up by a treaty to reduce strategic weapons as well. Then, with each side maintaining enough strategic arms deterence to avoid a war of annihilation, we can explore to see if sufficient trust can be built up over a decade or more to gradually wind down nuclear weapons still further. During that period our defense spending will have to be shifted to conventional weapons.

Third—for the United States to strengthen its international leadership, we must put our domestic house in order with some restructuring of our own. This requires reducing the federal budget deficit, and the means to do so involves three politically unpopular steps. The first is to increase taxes, for example with a debt reduction surtax, the income from which cannot be spent. The second is to limit entitlements by limited cost-of-living increases and by putting in a needs test for Social Security, Medicare and Medicaid. The third is a gradual reduction in defense expenditures under the assumption that the Soviet Union will present us with an opportunity to do so over the next decade.

We must also ask Congress to bury protectionism, and the new Administration to continue to use trade remedy legislation on the books to open foreign markets to U.S. products, just as our market is open to foreign products. We have to let the dollar find its own level in international exchange markets. We must step up to our financial obligations to the World Bank and in return, insist that the Bank take the lead in solving the third-world debt problems. We should also meet our financial obligations to the United Nations while trying to breathe new life into that body.

Fourth—we have to provide funding to the State Department and other departments and agencies so as to strengthen our presence through our embassies abroad. A revitalized international aid program with emphasis on economic rather than military assistance is an important part of projecting a vigorous, new American image in other countries where the new Soviet initiatives will be aimed at undermining traditional support for our policies.

If Gorbachev succeeds, we will be facing a different and very formidable competitor in the 1990's and beyond. We have to continue some restructuring of our own to reaffirm our own traditional economic strengths and reinforce in the international arena those fundamental values that perestroika and glasnost are unlikely to bring to the Soviet Union, namely, freedom and democracy.●

U.S. ROLE IN THE PERSIAN GULF

● Mr. BOSCHWITZ. Mr. President, I wish to commend to my colleagues' attention an important article, written by Karen Elliot House, that appeared recently in the Wall Street Journal. The article, entitled "In Gulf, U.S. Underestimates Own Strength," concerns the U.S. effort in the Persian Gulf. Noting the success of our efforts thus far in the Persian Gulf, the writer cautions against those who would squander our achievement by abandoning our present role.

Ms. House points out that the policy embarked upon last summer by President Reagan has brought many real achievements: it has done much to restore American credibility with the moderate Arab States in the gulf; we have also secured the support of several NATO allies, engaging their active participation in an area outside the normal NATO theater of operations. We, together with our European allies, have succeeded in upholding the universally recognized principle of freedom of navigation through international waterways. And we have done all this without in any way increasing the influence of the Soviet Union in the region. In fact, while our influence

and position in the Persian Gulf has expanded, that of the Soviet Union has considerably diminished. In their attempt to woo Iran, the Soviets have managed to incur the anger of most of the Arab world.

To those who liken the American role in the gulf to our involvement in Vietnam or Lebanon, Ms. House points out the strong dissimilarities. Our involvement in the gulf is a "naval operation, not a land war," the United States has the clear support of neighboring countries and of its allies, and the adversary in this case—Iran—is "easy to distinguish" and one that receives no sympathy from the American public.

Mr. President, I highly recommend this article for review by my colleagues and ask that a copy of the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Jan. 13, 1988]

IN GULF, U.S. UNDERESTIMATES OWN STRENGTHS

(By Karen Elliott House)

As America enters an election year and a year of stepped-up superpower negotiations, pressures almost surely will mount to make linkages that ought to be avoided and to avoid commitments that ought to be kept.

Nowhere is that more true than in the Persian Gulf, where American warships are defending the right to freedom of navigation, the economic interests of the Western alliance and America's reputation as a reliable ally. It is a commitment that the Reagan administration isn't as proud of as it should be, and that the pack of Democratic presidential candidates is much more critical of than either logic or smart politics should lead them to be. The commitment is put further at risk by morose and muddle-headed analysts who wring their hands and argue that by standing up to the Iranians, we are going to wind up handing Iran to the Russians.

What the critics are saying, in effect, is that America's very success at keeping the Persian Gulf oil lanes open in the face of Iranian threats serves to increase Iranian isolation and hostility and thus will send Iran scurring to Moscow for sympathy and support. This is undoubtedly what the Soviets wish would happen—and what the Iranians want us to believe could happen—but it isn't what either Moscow or Tehran believes will happen.

As all too often is the case, Americans are assigning exaggerated capabilities and opportunities to the Soviets and overlooking the strengths of America's position. For the first time in the modern history of this region, Arabs and Israelis are united in their support of an American initiative; and for the first time since the Korean War, almost all of America's European allies are providing direct military support for a U.S. military action outside of Europe. Imagine the hand wringing among professional pessimists if Moscow had the united support of gulf Arabs and its allies for some Soviet initiative in the region.

In truth, the Soviets seem neither confident nor content about their position in the gulf. Soviet officials accompanying Mikhail Gorbachev on his recent visit to Washington dropped hints all over town that their efforts to court Iran have brought only frustration—and worsening relations with the Arabs. Indeed, Iraq, a longtime Soviet ally, is so frustrated with Moscow's political and military support for Iran that Iraqi Foreign Minister Tariq Aziz publicly has lashed out at the Soviets. (Moscow provides some 80% of Iraq's arms and allows its East European allies and Syria to supply Iran.)

More important, Soviet actions seem to be supporting Soviet whispers. For example, the Soviets have just welcomed Jordan's King Hussein to Moscow, in spite—or more likely because—of the fact that he has just orchestrated an unusual show of Arab unity with Iraq in its eight-year-old war against Iran.

Above all, history and ideology stand in the way of any significant Soviet-Iranian friendship. Iran for centuries has viewed Russia as a threatening giant to the North. And Iran's current ideoogy of Islamic fundamentalism is as hostile to godless imperialism. The Soviets surely are well aware of all this. Much as they might dream of dominating Iran and winning warm-water ports on the Persian Gulf, their more realistic goal is much more limited: to prevent Iran from being lured back into America's orbit.

The point here isn't that it's inconceivable for the Soviets to improve relations with Iran nor that an American policy of allying itself with Arab interests against Iran is free of all risks. The point is that a year ago Iran was moving to dominate the entire region by bludgeoning the Iraqis on the battlefield, bullying Persian Gulf oil sheikdoms such as Kuwait and blackmailing Saudi Arabia into supporting Iran's strategy for higher oil prices. U.S. credibility in the region was at an all time low after the Reagan administration's duplicitous arms-for-hostages deal with Iran. The immediate risk wasn't Soviet dominance of Iran but Iranian domination of the region that accounts for nearly 60% of the world's proven oil reserves.

Given that bleak outlook a year ago, it's remarkable how well America and the rest of the West have managed their gulf policy. It would be tragically ironic if America now abandons a winning position with the gulf Arabs out of fear of future Soviet gains in Iran at precisely the moment Moscow is realizing its position with Tehran is unwinnable and is trying to tilt to the Arabs again.

There are a couple of ways Moscow may try to encourage that switch. In recent weeks, the Soviet Union, which blocked United Nations sanctions against Iran in an effort to curry favor with Tehran, is suddenly beginning to hint at a willingness to support sanctions—but with one big condition: that the U.S. naval armada must leave the Persian Gulf. The Soviets are setting up a situation in which the U.S. naval presence, rather than their own gamesmanship with Iran, will be perceived as the obstacle to international cooperation against Iran. If the Soviets could get an impotent U.N. force (which would, of course, include some Soviet ships) to replace the powerful U.S. presence in the gulf, not only would they have a freer hand in the region but American credibility would be destroyed with the very Arab oil producers the U.S. seeks to protect.

The further risk is that Moscow may somehow manage to link Soviet withdrawal from Afghanistan to American withdrawal from the Persian Gulf. Undersecretary of State Michael Armacost was in Southwest Asia this past week seeking ways to hasten Soviet withdrawal from Afghanistan, while Defense Secretary Frank Carlucci was in the gulf to "reevaluate" (reduce?) America's presence there. Equating the U.S. presence in the gulf with the Soviet presence in Afghanistan is exactly like equating the actions of a mugger with the actions of a policeman. They're both at the site of conflicts but for precisely opposite reasons. The Soviets invaded Afghanistan to deprive Afghans of their freedom. The U.S. is in the gulf to keep Iran from depriving Arabs of their freedom. Thus, linkage of these issues is immoral as well as illogical.

The biggest danger of all, however, to American interests in the gulf isn't the sophistication of Soviet foreign policy but, once again, the muddle-headed view among many in Washington that the Persian Gulf is somehow comparable to Vietnam and Lebanon. It isn't.

The U.S. is involved in a naval operation, not a land war. The U.S. is fighting both for a clear principle and clear national interests, not for fuzzy goals it can't define. America has the solid support of nations within the region and of its Western allies. And unlike Vietnam and Lebanon, where friends and foes were hard to distinguish, the Iranian adversary is easy to identify. Moreover, the ayatollah's Iran isn't the sort of underdog that attracts the sympathies of Americans. Fundamentally, the common sense of the American people buys the common sense of America's commitment.

Nonetheless, administration officials these days talk nervously of the need to scale down the U.S. presence in the gulf. The hand wringing of all the Democratic presidential candidates (except Sen. Albert Gore) and their incantations of "another Vietnam, another Lebanon" put further pressure on the Reagan administration to begin withdrawing from the gulf. Add to that the pressure that inevitably will build in coming months to go along with the Soviets on all kinds of issues to protect the president's plans for a midyear summit in Moscow, and there is a real risk the administration may make linkages that ought to be avoided or reduce commitments that ought to be preserved. If so, it won't be the first time that America has been its own most dangerous enemy.●

INF

● Mr. COHEN. Mr. President, as you know, the Senate Select Committee on Intelligence, of which I am vice chairman, is in the process of holding a series of hearings on the INF Treaty and our Nation's ability to monitor compliance with the provisions of that treaty if it is ratified.

Recently, Senator DOLE, the distinguished Senate minority leader, wrote Intelligence Committee Chairman DAVID BOREN and me to give us the benefit of his insights on this critical question. His letter addressed some of the essential elements relating to verification of the INF Treaty and any subsequent agreement on strategic nuclear arms which the United States might enter into with the Soviet Union.

In his letter, Senator DOLE stressed the need to ensure that we have adequate technical resources and manpower to provide confidence in our ability to effectively verify treaty provisions. He emphasized the importance of creating a dedicated capability to ensure that the monitoring mission for verification is carried out.

"Effective verification will not come cheap," Senator DOLE stated. "But ineffective verification would exact a cost higher than this Nation can ever afford to pay—the cost of a less secure America.

Chairman BOREN and I share the view that we need to assure that the United States has adequate technical means to effectively verify the INF Treaty and any other arms control agreements into which we may enter. If we conclude that our capabilities need to be improved, we will, as Senator DOLE suggests, make our colleagues in the Senate aware of that conclusion. I would note that Chairman BOREN spoke on this issue just last week.

The issues and concerns raised in Senator DOLE's letter are important ones. I ask that the full text of his letter be printed in the RECORD for the benefit of my colleagues.

The letter follows:

U.S. SENATE,
Washington, DC., February 4, 1988.

Hon. WILLIAM S. COHEN,
Vice Chairman, Select Committee on Intelligence, Washington DC.

DEAR SENATOR COHEN: Immediately upon completion of the negotiations leading to the signature of the INF Treaty by President Reagan and General Secretary Gorbachev, I undertook my own intensive study of it. In doing this, I took the opportunity to discuss the treaty with some of the nation's most prominent leaders and defense experts. Because verification has been one of my chief arms control concerns, I discussed at great length with Secretary of State George Shultz, Secretary of Defense Frank Carlucci, National Security Adviser General Colin Powell, and, of course, our chief negotiator, Max. Kampelman. I also made it a point to meet with DIA Director General Perroots and NSA Director General Odom.

In short, I did my homework, and I am now confident that the INF Treaty can be verified. This is because the treaty's "double-global-zero" levels ease the verification problem. When I met with President Reagan on December 17th to advice him of my decision to support the treaty, I indicated that effective verification still concerns me because we may well need to beef up our own intelligence capabilities to do the job under the regime established in the INF Treaty. These are areas in which the Senate can, and ought to, act. I hope my thoughts on this subject will be of help to the Select Committee on Intelligence as it examines the INF Treaty.

Our technical intelligence-gathering systems are increasingly burdened with vital tasks. They must provide our national leaders and military commanders strategic or tactical warning of an attack upon the United States or its friends and allies. They provide the information to maintain currency on numerous orders of battle, and they provide timely intelligence on development in such places as the Persian Gulf. These systems must also support the considerable demands of effective arms control verification. And let's face it, montoring a START or conventional force agreement is only going to make the job harder, not easier.

Let's be plain about it: all this is vital national security information we cannot do without. Therefore, we must insure that our space launch capabilities and backup technical systems are such that we can recover from setbacks in a timely way. I know this problem is not new to members of the SSCI, but I urge the Committee to use the occasion of debate on the INF Treaty to recommend any action our country should take in this regard.

The intelligence chiefs I met with stressed that—in the end—it is people who turn the raw data our sophisticated machines collect into information useful to policy-makers. It is imperative we attract, train, and retain skilled intelligence professionals—they too are a national asset not easily recovered once lost.

I believe the best way to insure effective verification is to dedicate a number of people solely to the arms control monitoring mission. I hope the SSCI will support this idea, and explore with the Administration how such a capability would be organized, and where its staff and leadership would be drawn from.

Creation of this "dedicated capability" will insure that the monitoring mission for verification is carried out. But we should also explore whether its creation, or the cumulation of missions assigned to our intelligence agencies, has caused a shortfall in any vital area. If the SSCI finds that our capabilities need to be shored up, now is the time to make the rest of the Senate aware.

Effective verification will not come cheap; but ineffective verification would exact a cost higher than this nation can ever afford to pay—the cost of a less secure America.

Finally, the SSCI can recommend language which the Senate could use to give advice in the original sense intended by our Constitution's framers when they wrote of "advice and consent." I am convinced that the INF Treaty is verifiable because of its "double-global-zero;" START will require much more. For example, START must have an effective on-site inspection regime for suspect sites—which is also acceptable to the United States. Also, inspectors of the destruction process will have to insure that missiles presented for destruction are genuinely capable, and not just off-specification or training missiles. A clear statement of the Senate's expectations in this regard could strengthen President Reagan's hand as his negotiators tackle tough verification problems with the Soviets in Geneva.

The SSCI's job is exceedingly important. Americans across our great land want stabilizing arms reductions, but they want agreements which are verifiable because they know that the Soviet treaty compliance record is dismal. The details you must master are dauntingly complex, but after all is said and done, your purpose can be simply put: the American people want to know whether the Soviets are complying with their obligations. Your committee can count on any help I can lend to insure we have the answer.

Sincerely,

BOB DOLE,
U.S. Seante. ●

JOHN SORTINO'S TEDDY BEAR COMPANY

● Mr. LEAHY. Mr. President, in a time when everything is imported from overseas and it is difficult to find the "Made in the USA" label, John Sortino is a tribute to Yankee ingenuity and ideals.

Five years ago Mr. Sortino started the Vermont Teddy Bear Co., a small, struggling business in downtown Burlington, VT. Today, it is the largest manufacturer of 100-percent American made stuffed bears.

All the material for the stuffed animals is produced in America and all the labor, including Mr. Sortino and his wife Susan, are 100-percent American, as well. One of their bears is permanently displayed in my office, where it is viewed longingly by every child who visits—and many parents.

Recently a biography of John Sortino and the Vermont Teddy Bear Co. appeared in the Burlington Free Press. I ask that the article from the February 8, 1988 edition be printed in the CONGRESSIONAL RECORD in its entirety.

The article follows:

VERMONT LEADS IN ALL-AMERICAN TEDDY BEARS

(By Kent M. Shaw)

In a world dominated by multimillion dollar giants, John Sortino does not expect to turn the teddy bear industry on its fuzzy, polyester head anytime soon.

On the other hand, he would appear to be the leading American contender.

Starting with the now familiar cart on Church Street in downtown Burlington in 1983, the Vermont Teddy Bear Co. has grown to be the largest manufacturer of completely American-made teddy bears. The firm expects to produce some 100,000 of the huggable creations this year.

"Still," says Sortino, "that's a really, really small company that makes 100,000 bears. Companies like Dakin do over $200 million, just in stuffed animals." Sortino declines to reveal Vermont Teddy Bear Co.'s revenues.

The theme is not a new one. Cheap labor in the Far East had eliminated the U.S.-born teddy bear industry. At least until Sortino left a job driving a United Parcel Service truck and entered the fray. Other American stuffed animal makers use material produced elsewhere in the world to manufacture their animals. Vermont Teddy Bear Co. makes the entire product.

In Vermont, Teddy Bear's beginning, there was Bearcho, a take-off on the elder Marx brother, with thick black glasses, mustache and eyebrows.

"I thought he was going to be the bear to end all bears," laughed Sortino, who now finds the prototype sorely lacking. Poor fur, Sortino pointed out. "You couldn't make a nose like that."

And there was Bearazar, complete with retractable antennae and cape, boasting magic powers.

And there was Fuzzy and Wuzzy and Buffy. Nothing from the original product line remains except the commitment to selling a 100 percent American-made bear with a 100 percent lifetime guarantee.

That first year on Church Street, Sortino sold just 200 bears.

"I went from making a huge salary (with UPS) to about $8,000 a year," he said.

He and his wife, Susan, designed and produced their wares at home, with the occasional help of another seamstress.

Poor but encouraged, Sortino sought the help of the Small Business Administration, created a business plan and went shopping—in vain—for a loan from a Vermont bank.

Instead, the Vermont Teddy Bear Co. was rescued from obscurity by a low-interest development loan from New York state, which put the firm in a manufacturing plant in Albany.

Sales jumped to 1,200 bears in 1984, to 9,000 in 1985, and 17,000 in 1986.

Last year, with almost 30 employees, the company produced 30,000 bears, and in the fall, brought new meaning to its name by leasing a 5,500-square-foot facility on Industrial Avenue in Williston.

"We have the capacity here to do about 300,000 units," Sortino said. "And we want to keep growing."

The Albany plant has been closed and all manufacturing takes place in Williston now,

although some employees work at home on a piece-work basis.

The current line of about 40 bears wholesales from $7.50 to $40. Models are available with and without jointed limbs and heads, including such stars as Jeremiah Pockets, Bear Buns, Pearl (complete with strand), Bogsworth (a rabbit, actually, who can carry a baby teddy) and Sunshine Fogelbear.

A six-foot-tall bear will wholesale for $275. The largest of all is not for sale. In 1986, Sortino unveiled a 26-foot, 1,100-pound colossus made in collaboration with University of Vermont engineering students. It would have set a Guinness record had there been a teddy bear category to enter.

The company has built up a contingent of more than 1,000 retail outlets across the country which sell Vermont Teddy Bear creations. The company employs a sales staff of three, as well as independent sales representatives.

Last week a massive, 10-ton press was stamping out polyester parts for Freddy Freihofer, part of an initial contract for 2,500 of the white promotional rabbits for the giant bread maker. They won't show the Vermont Teddy Bear Co. logo, but in maximizing factory efficiency, piecework like Freddy—or the Pamper Plus Bear for the diaper maker or the Heritage Bear, for a Florida firm—could greatly boost sales.

But mostly, Sortino and five minority shareholders are banking on innovation and quality and, well, a spirit of bear-ness.

"I think that bear people are more open," he mused. "There's been no study about that, but a bear person will sit down and talk to you all day. About anything.

"If you're buying a stuffed animal, you ought to be buying a stuffed animal from someone who cares about them," he said. "It should be a given."

At a time when natural fibers have some cachet, Sortino is proud to use top quality polyesters.

"A kid gets a teddy bear and it's going to get wet. If it's organic, it's going to rot."

And they are virtually indestructable—"A friend for life," says the logo.

Besides, if anything does go awry, the Vermont Teddy Bear Co. will repair or replace any product, at any time, for any reason. Of the 100,000 or so bears it has produced to date, Sortino guesses that between 25 and 50 have come back for a check-up, an experience, he says, that invariably ends up a positive one.

The Vermont Teddy Bear Co. is happy to provide guided tours.

"My goal isn't to do it just for the money," Sortino said. "Part of it is the excitement of watching it grow. It was an industry that had completely lost its base in the United States.

"It's really important that someone does something with this industry and makes it better. And I think we've done that."

Outsold, to be sure. But not outdone.●

THE 150TH BIRTHDAY OF HONEOYE FALLS, NY

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to a small town with a grand past—Honeoye Falls in western New York. The 13th of March marks the village's 150th birthday, and it pleases me to join in the celebration of this historic event.

Founded in 1791, Honeoye Falls has come a long way since its founder, Zebulon Norton, came to western New York and purchased 1,820 acres of land at 12½ cents per acre on Honeoye Creek.

The area, then known as Norton's Mills, attracted villagers almost from the start and by 1822 had developed into a bustling little hamlet with mills, stores, a school, a post office, and churches. The creek played a large part in the life of the inhabitants with its mills and factories along the banks. A bridge had been built in 1810 connecting both sides of the village making for a larger and more closely knit community. The village was by this time known as West Mendon, but in March of 1838, West Mendon became incorporated and from that day on has been known as Honeoye Falls.

Today, 150 years later, Honeoye Falls—population 2,410—maintains the quaintness of a small town while serving the needs of its citizens. An excellent school system and fire department, 4 churches, 11 light industrial plants, and an array of stores and businesses set this unique village apart in terms of both small town charm and the efficiency and growth of many larger communities.

Honeoye Falls' residents have much to be proud of. They enjoy both the nostalgia and lost in time feeling of 150 years ago and the modernization of 1988.●

MR. CHARLES L. GRIZZLE

● Mr. McCONNELL. Mr. President, I rise today to insert into the RECORD a copy of a newspaper article that recently appeared in the Ashland (KY) Independent. The article details the career of a good friend of mine, Charlie Grizzle.

Charlie, who is now the Assistant Administrator for the Environmental Protection Agency's Office of Administration and Resources Management, has a record of distinguished service to our party, our State, and our Nation. He has served the Kentucky Republican Party in numerous capacities. For example, he was the party's executive director in 1981 and 1982, and he was deputy chairman of the Kentucky Reagan-Bush Committee in 1980. In addition, he was chairman of the Young Kentuckians for—former Senator Marlow—Cook in 1974, a position I held in 1968.

The article's headline is now incorrect. Charlie was recently approved by voice vote in the Senate's executive session of February 19, 1987. I would like to congratulate Charlie for his dedicated service and wish him the best of luck in his new position.

The article follows:

GREENUP NATIVE AWAITS SENATE ACTION ON EPA APPOINTMENT

(By Mark Wigfield)

WASHINGTON.—Greenup County native Charles L. Grizzle doesn't mind talking about how political connections have eased his climb up the career ladder in the nation's capital.

But there was something different, he said, about the way he won his recent presidential appointment to a top Environmental Protection Agency post.

"Strange as it seems, I got the job on my merits," said Grizzle, a round, friendly, bespectacled man. Although the Senate probably won't vote on Grizzle's nomination until Tuesday or Wednesday, he has been training for the job since last fall and recently moved to his executive suite.

Already, Grizzle has a book of Kentucky photographs on the coffee table. He thumbs through to find the picture of the white frame church his grandfather, John "Crit" Grizzle, helped build in 1905, the Argillite Methodist Church on Highway 1, since replaced by a brick structure.

On the wall are photos of Kentucky's famous Republicans, including former Sen. Marlow Cook, former 5th District Representative Tim Lee Carter and Sen. Mitch McConnell.

"I know them all well," Grizzle said.

Which is not surprising for a 30-year-old who learned politics at his grandfather's knee and began scouring the hollows for voters by the time he was 15. Two of the Wurtland High School graduate's stories about Grandpa Crit's partisanship stand out.

When Charles and Florine Grizzle, Charles' parents, asked Crit Grizzle for permission to marry, the patriarch granted it on one condition: that the bride-to-be renounce the Democrats and register as a Republican. And when New Deal Democratic President Franklin Roosevelt died suddenly on April 12, 1945, farmer Crit dropped his rake and danced a jig in his corn field.

Grizzle made contacts that led to Washington when he became student party leader in the late 1960s at the University of Kentucky. His appetite for politics left no room for torts when he attended the University of Louisville Law School from 1972 to 1974. He flunked out, he said, because politics took all his time.

He began work in 1973 at the First National Bank of Louisville became a loan officer in 1974, and stayed put until 1981. But his political resume grew in those 7½ years with his paid and unpaid party titles.

He was executive director of the Republican Party of Kentucky for eight months in 1981 and 1982, a deputy chairman for the Kentucky Reagan-Bush Committee in 1980, and a volunteer for the McConnell for County Judge/Executive Committee in 1977, to name a few. Other positions included finance chairman, state committee member, convention chairman, precinct captain and district campaign chairman.

Grizzle was happy with life as a banker. But we kept in touch with his GOP friends in Washington, some of whom were working in the White House. They told him he should come to town and work for the Reagan administration.

Lee Atwater, a South Carolinian working for Reagan who had known Grizzle since college, went further; He asked Grizzle to name the agency, and Atwater would find him a job.

"I had been deputy chairman of the president's campaign in Kentucky," Grizzle said. So the White House told the agencies "here's someone you have to take."

First to take Grizzle was the Department of Agriculture, to the dismay of his new coworkers. The department gave him a desk in an office staffed by career bureaucrats "who had never seen a political appointee," Grizzle said. "They thought I was some kind of spy."

The bureaucrats left the "spy" with nothing to do in the five weeks before then-Agriculture Secretary John Block made him one of his assistants. Grizzle held that title for a year and was promoted in 1983 to deputy assistant secretary.

At the same time, the Kentuckian worked after hours on the social events that feed the capital's power networks. He organized McConnell's inauguration party, and became the first commissioner of the Reagan-Bush softball league. He launched an annual black-tie charity dubbed "A Taste of the South," which brings the town's prominent Southerners together over mint juleps and Southern food. He throws a pre-Kentucky Derby bash in the back yard of his McLean home, and helped gather Kentucky Republicans in an event called "An Evening of Old Kentucky Hospitality."

He also became a good contact for Kentucky Republicans looking for work in Washington. By 1986, Grizzle wanted a new job for himself. With current Agriculture Secretary Richard Long's blessings, Grizzle told his friends at the president's personnel office he was available.

The two agencies most important to Kentucky are Agriculture and Interior, according to Grizzle. So when he became a finalist for a job at the latter agency "I used every ounce of political power I could muster in terms of phone calls and letters, but it didn't work out."

When Grizzle heard about the EPA opening, he took a different approach.

"I said I wouldn't call in my political chits for this," said Grizzle. "If it was meant to be, it would be."

After friendly meetings with Adminstrator Lee Thomas, Grizzle won the appointment to a post with a title nearly as long as the job description: Assistant Administrator for the Office of Administration and Resources Management. The complex job includes oversight of most EPA administrative and budgetary affairs, personnel management and computer services, and procurement for massive programs such as Superfund, the agency's hazardous waste cleanup effort.

But Grizzle will have to work quickly, for he expects to leave with the Reagan administration.

"I'll be gone by January 19 if it's a Republican administration," he said. "And if it's Democratic, I'll be gone by Christmas time. I couldn't bear the humiliation. I won't be around to turn out the lights."

Grizzle says that the training he began last fall prepared him to get things done this year. The down side, he said "is that this is an exciting challenge. I regret that I don't have longer to be here."

A George Bush supporter, Grizzle would like to work next on the White House staff. But if Bush isn't elected, Grizzle would like to work for a trade association or lobby for Kentucky interests here.

Grizzle said he would join a transition team to help the next adminstration get going at EPA. But he won't stay too long.

"I have a conscience, but I'm not a fool," he said.●

INFORMED CONSENT: TEXAS

● Mr. HUMPHREY. Mr. President, there is no more divisive issue for this body than the question of abortion. There seem to be few areas upon which either side can agree or compromise. But, even those who favor abortion on demand should recognize the simple justice and common sense of informed consent. Women have a right to know what abortion entails and what the risks and alternatives are. S. 272 and S. 273 would require that basic information be given to women who seek abortions. Surely, the principle of informed consent is one area in which we can begin to move to benefit all women who face this most difficult decision. I ask that the letters of two women in Texas be entered into the RECORD.

The letters follow:

FEBRUARY 21, 1987.

Hon. GORDON J. HUMPHREY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HUMPHREY: I am thankful for this opportunity to express my feelings about the abortion issue.

I had an abortion when I was 17 years old. I was a straight A student, involved in many organizations in high school and thinking of where to go to college. Of course, I thought it would never happen to me, but it did. I was pregnant. I picked a doctor out of the phone book and called to find out what I needed to do, all I was told was to make an appointment and bring $300.00 in cash when I came in. That's it! Nothing about what was going to happen, nothing about the fact I was carrying a real baby that could feel pain. All I thought was it was just a blob of tissue, not already a baby. I didn't understand what I was doing. There were no books about it in the waiting room, the doctor never mentioned the baby at all, except to use the terminology of "products of conception". He told me I would feel cramping for a few seconds and then it would be over. Because of the fact I was so uninformed of what was going on, I found myself pregnant again when I was 19. Of course, I already knew what I had to do, just make an appointment and bring $300.00 with me. The main problem is no one bothered to tell me about the emotional trauma I would go through for the rest of my life. Not a day goes by that I don't think about what I did.

I became a Christian in May, 1985. It was then that I really found out what I had done. My church showed the film "The Silent Scream" which tells about what happens during an abortion from the baby's point of view. I cried until I thought I would die.

If only someone had told me what I was really doing! If only I had been informed! If only someone had told me the pain the baby and I would go through physically and emotionally, I never would have had one. How I wish I had known.

Please help in whatever way you can to inform women of the circumstances that go along with abortion. Please help end abortion for good.

Sincerely,

A Victim of Abortion.

MARCH 6, 1987.

DEAR SENATOR HUMPHREY: Thank you so much for working on an informed consent bill for abortion. Informed consent is necessary for women to make an intelligent choice on abortion. Women have been making uninformed, ignorant choices for the past 14 years. I know because I made such a decision 13 years ago!

I was a 20 year old, divorced mother of a 3 year old son. I was afraid of how my family would react to my second pregnancy, so I secretly obtained an abortion. The doctor did a pregnancy test and a pelvic exam. Then he said, "Are you sure you want this pregnancy terminated?" I said yes. All this took 20-30 minutes and an appointment was set for 2 days later.

On the day of the abortion, however, no more information was given to me. I didn't see the doctor until I was on the table ready for the abortion. After the abortion, the nurse told me to watch for hemorrhaging and/or infection. That was it—for them. The first day the severe cramping kept my mind occupied with the physical pain. On the second day, I was emotionally numb, so I got drunk. I stayed that way except at work or when I was sleeping it off.

Three years later, I remarried, but kept drinking. I verbally abused my husband and 2 living children. I could not relate to my kids emotionally, so I neglected them and yelled at them or spanked (and slapped) them at inappropriate times. My abortion was not only afflicting me, it affected my whole family. I just didn't seem to care about anything except me, me, me!

Two years ago, after taking a biology class, I began to think about my abortion. I learned about fetal development, and realized I had been denying the fact that I took a human life. The guilt and remorse became so heavy. My behavior became worse; I continued drinking, always lashing out at my husband and children. My marriage almost broke up, and I was severely depressed. I cried out to God and accepted Jesus Christ as my Lord and Savior.

Since then, I've quit drinking and my relationship with my family is improving every day. But, I know I should have another child and I always miss that child. I think, "If only I had known!" Why wasn't I told about the development of my baby? Why did they only tell me about 2 possible physical effects? And why wasn't I informed about the psychological problems that would follow? Why???

I guess it's because no one cared. Thank you for caring Senator. I have an eight year old daughter, and I will do anything that will ensure that she and others have the right to make a totally informed choice to abort or not to abort. Thank you for your time and efforts.

Sincerely,

JEAN WHITTON,
San Antonio, TX.

A PRIVATE SECTOR SOLUTION TO THE LONG-TERM CARE PROBLEM

● Mr. SASSER. Mr. President, long-term health care for America's senior citizens continues to be a matter of grave national importance. And despite the catastrophic health care bill now pending in conference, long-term care is a problem we have yet to deal with. In our search we need to weigh all viable alternatives.

To that end, I would like to call to the attention of my colleagues an article that appeared in the New York Times last month. That article focused on the rising demand for private insurance that covers long-term care.

There is no doubt that this demand will continue to increase as our Nation's elderly population continues to be the fastest growing segment of our economy. The Times article tells us that to meet this demand, major insurance companies are starting to offer long-term care policies for large groups. Several large companies such as Proctor and Gamble, American Express and General Motors are adopting these long-term care policies for their employees. The State teachers retirement system in Ohio has also adopted long-term care insurance for their 65,000 members.

These new long-term care policies differ from existing policies in two ways. They promote group buying, thereby decreasing costs by spreading risk, and they encourage people to start paying for policies which provide retirement coverage during their working years so that the cost can be spread over a longer period of time. Both of these are excellent cost savings concepts.

I am very encouraged by such developments. However, because of the nature of long-term illnesses, the private sector will have a very difficult time single handedly addressing this problem. The needs of an elderly population that exists largely on the fixed income of Social Security or a retirement check will be difficult to meet through these policies alone. The fact of the matter is that many of our Nation's over 65 population cannot afford the premiums that would be necessary to cover the expense of their increased health risk.

The only way that private insurance can insure such a high-risk group of participants is by placing a cap on the amount that that the long-term care policy would pay for a typical day's care. Yet, such a daily expense limit is the major obstacle that prevents this type of insurance from being more effective.

The daily expense limit is a problem because it is difficult if not impossible to set rates for a service that may not be required for 30 or 40 years. If I buy long-term care insurance today, I will be insured against nursing home costs of around $60 a day; a reasonable rate by today's standards. However, the onslought of a long-term illness may not begin for 30 years or more. And in 30 years the policy will pay the same $60 a day for nursing home care that it pays today.

Mr. President, nobody knows what inflation will be like over the next 30 years, but I would wager that the cost of a day's nursing home care 30 years ago was nothing compared to its cost today. In 30 years, $60 will likely not make a dent in a 1 day nursing home bill.

Nevertheless, I am pleased to see that more attention is being given to the issue of long-term care. I hope that the private sector continues to focus on and search for solutions to the problem that long-term illness poses for the financial security of our Nation's elderly. But more importantly, I hope that the long-term care problem remains a congressional priority so that we can eventually implement a comprehensive long-term care solution.

Mr. President, I ask that a copy of the New York Times article be printed in the RECORD at this point.

The article follows:

DEMAND RISING FOR INSURANCE THAT COVERS LONG-TERM CARE

(By Milt Freudenheim)

Thousands of Americans have begun buying a new form of health insurance that pays for nursing homes or care in their own homes for chronic illnesses.

In a development that has raised hopes of alleviating some of the deepest concerns of millions of families, the new policies promise protection in a changing society in which many wives, daughters and other family members are no longer available to stay at home and care for a chronically ill relative.

The protection, known as long-term care insurance, pays a fixed daily amount, which can vary from $10 to $200, for a nursing home stay or the costs of help with the daily tasks of living at home. The national average of nursing home costs is $60 a day, although in New York some homes charge $160 or more. Monthly premiums start at $2 for young people buying minimal policies and rise with age and extensive coverage to $600 or more for people in their 70's.

Late last year, a few companies began offering the new insurance to their employees, in addition to the more traditional health insurance that pays for a hospital stay and doctors' bills. In the past, patients who needed help with such daily tasks as eating, bathing and dressing were rarely covered. Insurers paid only if the patients were ill enough to first require expensive skilled care in a hospital or nursing home.

Many of the new policies have eliminated these barriers. If a chronically ill person qualifies under provisions of the insurance, the payments might be used to pay the costs of an adult day care center or for such expenses as a home health aide, a helper to shop and cook, or a companion to sit with the patient.

The new approaches by private insurers are being developed as a result of growing pressure from Congress and the Reagan Administration and demands by advocates for elderly Americans.

Most of the purchasers of the new policies have been middle-aged and elderly Americans concerned by the experiences of relatives and friends who have been overwhelmed by the expenses and responsibilities that come with chronic illness.

For instance, Mary Mazur and her twin sister, Josephine, spend their days drafting plans in a large New York engineering firm. Nights and weekends in their separate East Side apartments, they alternate in caring for their 90-year-old mother.

Leah Mazur, who has Alzheimer's disease, is cared for by a home health aide while her daughters are at work. The disease afflicts 2.4 million Americans, destroying the memory and eventually rendering them helpless.

"In our family, we live into our 80's," Mary Mazur said. "There are seven of us children, and there's a strong possibility that half of us will get Alzheimer's."

While their mother, like others already ill, cannot purchase the insurance, the Mazur sisters believe they should get it.

GROUP COVERAGE

Late last year, in a development that Government officials and authorities on chronic illnesses said was a breakthrough, several major insurance companies began offering the new coverage to large groups. These groups included employees of the Procter & Gamble Company, the American Express Company's Travel Related Services division, the Aetna Life and Casualty Company, the John Hancock Mutual Insurance Company and the State of Maryland.

At about that time, two other large employers, the General Motors Corporation and the Ford Motor Company, agreed in their contract with the United Automobile Workers to try out in small pilot programs long-term care benefits to be paid for by the companies.

And the State Teachers Retirement System in Ohio plans to offer long-term care insurance to its 65,000 members and their families in July.

Insurance company planners say they anticipate tens of millions of dollars in added revenues from premiums this year as sales of the new policies accelerate. The most active insurers include Aetna, the Travelers Coporation, Hancock and Metropolitan Life.

GROWING NEED CITED

Health care experts say that the steady aging of the United States population and changing social trends are dramatically increasing the need for the insurance.

At least 3.5 million chronically ill or disabled Americans, of which a million are under age 65, already require help with the tasks of daily living. They include 1.4 million in nursing homes, about half suffering from Alzheimer's disease or similar disabilities.

More than half of the estimated $46 billion that Americans are expected to spend on nursing homes in 1988 comes from individuals and their families. Private insurance has paid for only 1 percent, with the balance paid by government programs.

The ultimate success of the new insurance may hinge on proposals for adjustments in the tax laws to encourage companies and employees to obtain it.

The Department of Health and Human Services has been quietly developing new proposals. Thomas R. Burke, the department's chief of staff, said the "up-front cost" of tax concessions might be balanced by savings in Medicaid.

Medicaid is the Government health care program for the poor—including middle-class people who "spend down" until they become poor enough to qualify. Medicaid pays nearly 42 percent, or close to $20 billion a year, of the country's expenditures on nursing homes.

Even before the new group insurance for long-term care became available, nearly 500,000 people had purchased individual policies, most of them last year. More than 70 insurance companies are selling the individual policies, which usually provide more restricted benefits than the group plans.

Public awareness of the issue grew when the Health and Human Services Secretary, Dr. Otis R. Bowen, sent recommendations on insurance for catastrophic illnesses to Congress in February.

Advocates for the elderly used the ensuing committee hearings to call for increased protection for the chronically ill as well.

"The Bowen report let the long-term care issue out of the closet," said John Rother, director of legislation and research for the American Association of Retired Persons, an advocacy group with 26 million members. "Once you started talking about catastrophic care, you had to acknowledge that long-term care was 80 percent of the problem."

Industry analysts expect the recent group offerings to open the way for the program at other companies. "This is a market on the verge of exploding," said Gail P. Schaeffer, a specialist on insurance for the elderly at Hancock.

Other groups weighing the long-term-care idea include Owens-Corning Fiberglas, Southwestern Bell, the 100,000-member Michigan Education Association and Kaiser Permanente, the big California-based prepaid health plan.

In a recent national survey, half the 147 companies responding said they would probably be offering an employee-financed long-term care benefit within five years, according to Robert C. Levin of the Washington

Business Group on Health, an employer's group.

Premiums on the first group policies will be paid by the individual purchasers. But Maryland officials said their state intended to offer the insurance as a subsidized benefit to state employees in about two years.

SOME ARE CRITICAL

But not everyone is satisfied with the new insurance. Citing a study by the General Accounting Office, a subcommittee of the House Select Committee on Aging said recently that many of the policies did not offer protection against inflation, a major concern in health care.

Another criticism was raised by John Jager, director of the New York City chapter of the Alzheimer's Disease and Related Disorders Association. He said, "By and large, long-term-care insurance has specifically excluded Alzheimer's patients."

The exclusions were all too evident to Gertrude Steinberg. "When I turned 65, I was really desperate to find insurance that would fill in the gaps in Medicare," she said. Medicare, the Federal health insurance for the elderly and disabled, does not cover chronic illnesses.

Mrs. Steinberg knew what she was looking for, she said, because her father had died of Alzheimer's disease after six years of total dependence on his wife and daughters. But she said she was unable to find an appropriate policy she could afford.

A.A.R.P. PROGRAM

The American Association of Retired Persons, which also sells insurance, issued 26,000 of the new type of policies after a low-key test offering to members this summer. The policies were underwritten by the Prudential Insurance Company of America.

A notice and advertisement in a members' bulletin brought 108,000 telephone calls requesting information on a toll-free number, Gail Y. Kirby of A.A.R.P. said. There was no direct mail solicitation.

All the insurers hope to attract younger buyers. At Aetna, JoAnn Mathieu, a products manager, said two-thirds of the company's employees who purchased the new policies were 30 to 50 years old—"a very positive indication." This spreads the risks because younger buyers are unlikely to need care for many years. Later, their accumulated premium payments will help pay for it.

Premiums for younger people are relatively low. "It cost me $23 a month to cover myself and my husband," said Linda Ulrey, a Procter & Gamble employee in Cincinnati. She is 38 years old and her husband is 40. Their policies promise to pay $60 a day toward nursing home costs and $30 a day for home care. However, given inflationary trends, these amounts would probably pay only a fraction of the cost by the time the care is needed.

FEDERAL PROGRAM SOUGHT

Democrats on the House Select Committee on Aging, led by Representative Claude Pepper of Florida, are pressing for a federally financed long-term care benefit. The American Association of Retired Persons plans to spend $2 million to build support for the idea in the 1988 Presidential campaign, Mr. Rother said.

Administration officials said their tax proposals, which still must win White House approval, were intended to head off any new Federal entitlement program.

Insurance company officials are also worried about the proposals for a new Federal benefit. "We see the specter of a national program as very real, although not imminent," said James B. Weil, a vice president at Metropolitan Life.

"We have a three- or four-year window, five years at most, in which the private sector has the opportunity to prove that it can write a high-quality product," he added.

Some insurers are put off by the risks. "The people who want it and buy today are the ones who see a need for it in the next five years," said C.B. Hudson, president of the United American Insurance Company, a division of the Torchmark Corporation. "We don't have time to build a fund to cover the benefits." ●

THE CAPITAL MARKET IN MONTPELIER

● Mr. LEAHY. Mr. President, in this fast paced world, change is inevitable. But some things do stay the same, and remind you of those magical times of growing up in Vermont.

My first memories of the Capital Market in Montpelier were as a child, when my parents brought me there. It was a family market then, and still is today.

A place where you can go get groceries, and find out about all your neighbors as well.

There is nothing impersonal about the store that has been operated by Narciso Alvarez for more than 60 years. There are no checkout counters or computerized cash registers.

Ray Alvarez, Narciso's son, still totes up your bill in pencil on the brown, paper shopping bag. And he does it as fast and as accurately as any automated cash register.

But Gayle M.B. Hanson, of the Barre-Montpelier Times Argus, tells the story of the Alvarez family very well in the January 18, 1988, edition of that newspaper. I ask that it be printed in the CONGRESSIONAL RECORD, so that other Senators can enjoy reading about this remarkable family.

The article follows:

[From the Barre-Montpelier (VT) Times Argus, Jan. 18, 1988]

WHERE 'THE GOOD OLD DAYS' LIVE ON

(By Gayle M.B. Hanson)

MONTPELIER.—When the Capital Market first opened its doors on Jan. 14, 1928, customers bought their flour and sugar in bulk, potatoes by the bushel, and coffee for 25 cents a pound. Raymond Alvarez was nine months old.

Times have changed: The price of coffee has long since gone beyond a dollar and flour and sugar now come conveniently prepackaged. In the grocery store business, success these days is often measured by the length of the lines at the check-out counters.

Not so at the Capital Market, a family-owned operation that last week marked its 60th year in business, making it one of Montpelier's oldest retail markets and longest continually running businesses.

The Alvarez family which runs the market, still takes orders by phone and it's not unusual to see boxes of groceries being filled up on the counter while few customers are in the store. Raymond Alvarez, now 60, often can be seen getting the orders ready.

Capital Market also still delivers every day but Monday and maintains charge accounts for favored customers, some of whom have been trading at the market since it opened.

"We used to have at least 20 customers who'd order 10 bushels of potatoes every winter," recalled Narciso "Villa" Alvarez, 92, founder of the business.

"People would come in and buy molasses by the gallon."

A self-described "meat man," Alvarez said he decided to go into business for himself after working for several years at the old L.B. Brooks and Co. market on Barre Street, now the site of Steve's Market.

"There were 12 or 13 clerks working in that store," he recalled. "Of course when we started, we used to have two trucks delivering orders."

Among the customers who continue to order their groceries by phone is Marguerite McKee, 94, who the Alvarez's reckon to be their oldest, longest continuous customer.

When asked how the store had changed over the years she couldn't pinpoint anything exactly, and with good reason.

"I always did most of my shopping over the phone," she said. "I still get an order every week."

These days McKee's children, now grown, are also customers.

The them, and for the Alvarez family, Capital Market is a family affair.

Raymond, who was nine-months old when his parents opened the market, began working there at the age of nine; his job was filling the bulk orders of food. These days he can be found at the market almost all the time, often with both his father and mother, Josephine.

"Villa" Alvarez still works in the store six days a week, from 8 a.m. until one in the afternoon. Josephine, at 84, is there from 7 a.m. until 6 p.m. from Monday through Saturday.

The family is pleased that in 60 years in business, they have not had to open evenings or on Sundays in order to maintain a steady clientele.

"We've pretty much been able to keep things as they were," said Raymond Alvarez.

In all, seven people work at the market, which is particularly known for its meats.

At a time when ground beef comes wrapped in plastic, and every other chicken is named Perdue, the Capital Market prides itself in offering custom meats, their own corned beef and sausage and chickens shipped in fresh from Maine three times a week.

Raymond Alvarez recalled being slightly perturbed when the Agriculture Department made them eliminate the word "home made" from their own speciality meat products—after all, while the market may not be classified as a residence it certainly qualifies as a second home to the family.

Tastes have changed over the years, he added, and today the younger customers aren't eating quite as much meat as their parents did.

"We used to render our own lard and sell about 100 pounds of it a week," he said. "These days we don't even sell a pound a week."

Other changes in the business include the availability of fresh fruit all year round and a wide selection of "gourmet" foods.

"We've always tried to offer something just a little bit different," Raymond Alvarez said.

Then, as he ran out to make a delivery to a local restaurant, his father took a breather, relaxing for a few minutes while paging through the Wall Street Journal.

"I think we've done some things right and some things probably wrong," he said looking up momentarily from his paper.

Suddenly though, he's attracted by an item in the upper right hand corner of the financial pages.

"Mmmm," he pondered. "It looks like the Grand Union chain is being sold again."●

JUSTICE FOR VICTIMS OF AGENT ORANGE

● Mr. KERRY. Mr. President, there is no issue more important to America's Vietnam veterans than the issue of agent orange. Today, 13 years after the end of the Vietnam war, Vietnam veterans are still not receiving any compensation from the Federal Government for diseases caused by agent orange. This injustice has gone on for too long. It is time for Congress to take action.

Last fall, I joined with Senator TOM DASCHLE in introducing S. 1787, the Veterans Agent Orange Disabilities Act of 1987. This legislation would begin the process of providing compensation for the victims of agent orange. Identical legislation was introduced in the House by Representative LANE EVANS. I am very pleased that Senators SIMON, WIRTH, HEINZ, SPECTER, PRESSLER, DODD, MELCHER, BURDICK, HARKIN, MOYNIHAN, RIEGLE, BRADLEY, PELL, HEFLIN, MATSUNAGA, and INOUYE have joined as cosponsors of S. 1787. I hope that more Senators will join in helping to resolve this vital issue.

Providing compensation for the victims of agent orange is a simple matter of justice. It is not, and should not be, a partisan issue. It is not an issue of liberal versus conservative. It is an issue of fundamental fairness, an issue which all Americans who are concerned about our Vietnam veterans can agree upon. It is time to heal the wounds, and bring all of our Vietnam veterans home again.

I am very pleased that the Senate Veterans Affairs Committee has now scheduled a hearing on the agent orange issue, and on this legislation, for March 31. I commend Senator ALAN CRANSTON, chairman of the committee, for taking this important step. Vietnam veterans deserve a hearing in Congress. We owe them no less.

A recent article in the Veteran newspaper, published by Vietnam Veterans of America, contains a clear and cogent analysis of the agent orange issue. As the article concludes, "New studies should be undertaken, compensation should be authorized, and perhaps most importantly, an unbiased mechanism for providing compensation should be put in place." This is an important and valuable contribution to our understanding of the issue of agent orange. I hope that all of my colleagues will study the issue of agent orange, and join in an effort to resolve it. I ask that the text of the article be printed in the RECORD.

The article follows:

DOES CONGRESS HIDE BEHIND SCIENCE ON AO ISSUE?

(By Paul Eagan)

Just prior to adjournment of the first session of the 100th Congress, while the Senate was debating an omnibus veterans' health bill, an exchange of views on the subject of Agent Orange took place. The exchange involved Senators Tom Daschle (D-SD) and John Kerry (D-MA) speaking with Senator Alan Cranston (D-CA), the chairman of the Senate committee on Veterans Affairs. Essentially, Senators Daschle and Kerry were expressing their interest in seeing the Senate take steps legislatively to provide compensation to veterans with disabilities associated with exposure to dioxin, the principal contaminant in Agent Orange. They were also inquiring as to when and if Chairman Cranston planned to hold hearings on the subject.

Senator Cranston responded by saying that the Senate Veterans Affairs Committee as well as the House Committee on Veterans Affairs were awaiting evaluations (by the Office of Technology Assessment, the Agent Orange Working Group of the Cabinet Council, and the VA's Advisory Group on Environmental Hazards) of the recently released VA longitudinal mortality study, another study conducted in Washington State on the possible association between dioxin exposure and non-Hodgkin's lymphoma, and another VA study on the soft-tissue sarcoma. Once these evaluations are available, a hearing will be held, most likely in February or March. The scope of the upcoming hearing will include legislation favored by VVA to provide compensation for Agent Orange-related disabilities.

That the chairman of the Senate Committee on Veterans Affairs has agreed to hold a hearing is genuinely significant, because earlier in the year, he expressed the view on the floor of the Senate that compensation at this point in time would be premature. In the past, Senator Cranston has been a clear ally on the Agent Orange issue. It was legislation he authored that mandated the original Agent Orange studies, which were later turned over to the Centers for Disease Control (CDC), and it was his legislation that required the VA to review all pertinent scientific studies and promulgate regulations compensating veterans with illnesses found to be associated with Agent Orange exposure.

CRANSTON KEY

Given the fact that not one veteran has yet been compensated under that legislation, it is hoped that Senator Cranston is coming around to the realization that the intent of his own legislation has been ignored by the VA, that it is about time something meaningful were done.

VVA has recently sought serious legislation for compensation as a result of the findings of the VA's longitudinal study released last summer. That study, a study the VA had with held for several months, found that Marines having served in I Corps had a 110 percent greater likelihood of becoming afflicted with non-Hodgkin's lymphoma and a 58 percent greater likelihood of becoming afflicted with lung cancer than those having served outside the Republic of Vietnam. Not suprisingly, the VA immediately characterized the study's findings as a statistical fluke—as having little merit in ascertaining a scientific relationship between exposure to dioxin and specific diseases.

As a result of the VVA's efforts and those of Senators Kerry and Daschle in the Senate, and Representatives Lane Evans (D-IL), John Bryant (D-TX), Jim Jeffords (R-VT), and several others in the House, a bill addressing the issue was written. On October 14, 1987, this legislation was introduced in both the House and Senate, HR 3486 and S 1787. Currently there are 53 House cosponsors and 15 Senate cosponsors for the legislation.

THE SCOPE OF AO LEGISLATION

Each of these measures would authorize immediate compensation on a presumptive basis for non-Hodgkins' lymphoma and for lung cancer manifesting itself within 25 years of departure from Vietnam. These two diseases were shown in the VA-conducted longitudinal mortality study to be much more likely to appear in Marine veterans having served in Vietnam than in other individuals.

Additionally, a general review of all relevant studies, completed or ongoing, would be assigned to an unbiased, nongovernmental, scientific entity for the purpose of determining which diseases are likely to result from the presumed immuno-suppressive effects of dioxin exposure. At the end of each year that the review is undertaken, a list of these diseases would be provided to the VA. The VA would then be required to compensate exposed veterans for these diseases on a presumptive basis unless Congress passed, and the president enacted, legislation to the contrary, within 90 days of the VA's receipt of the disease.

Finally, the VA would be required, for the first time, to evaluate data already at its disposal to determine whether any disease patterns can be discerned on the basis of individuals treated at VA facilities for alleged Agent Orange-related physical problems (the VA has been required to provide this care for several years.)

At prsesent, virtually hundreds of thousands of veterans have been treated, but the VA has never attempted to evaluate the resulting data. Why the VA has never undertaken such an analysis is an open question.

Naturally, obtaining broad cosponsorship of the legislation will be important in order to prevail upon the House and Senate veterans affairs committees to move forward with the desired legislation; VVA has already taken steps to increase cosponsorship. It is encouraging to note that House Veterans Affairs Committee chairman, G.V. "Sonny" Montgomery, introduced a bill last summer that would provide a presumption of service connection for non-Hodgkin's lymphoma. Similar legislation was subsequently introduced by the Senate committee's ranking minority member, Senator Frank Murkowski.

Unfortunately, neither of these bills go far enough.

In view of the VA's foot-dragging attitude in awarding compensation for disabilities associated with Agent Orange—a foot-dragging that has persisted in spite of the VA's existing legal authority under Senator Cranston's original legislation to provide compensation—it is now time for an approach extending beyond compensation for a single obscure disease.

The measures the VVA is supporting, HR. 3486 and S. 1787, constitute a modest first step on the road to meaningfully putting the Agent Orange issue to rest. For years, veterans and their families have been asked to await the outcome of various epidemiologic studies before compensation is provided. Some in the VA as well as in Congress have been able to successfully hide behind scientific inconclusiveness in order to avoid the tough political decisions that must ultimately be brought to bear in resolving the Agent Orange issue. By now, with many years having passed and numerous dioxin studies having been completed, it is clear that the epidemiologic community is incapa-

ble of reaching a consensus on the effects of exposure. For veterans, the final strokes came in November when it was officially announced by the CDC and others that the long-awaited Agent Orange exposure study, also mandated by Senator Cranston's earlier legislation, was impossible to undertake. Adding insult to injury, the CDC then filed its final report of a blood study comparing dioxin levels of exposed and non-exposed veterans. That report shows negligible differences in dioxin levels between veterans having served in Vietnam and those who served elsewhere.

DERAILING LEGISLATION

The study, finding that there is practically no difference in body levels of dioxin between Agent Orange-exposed and non-exposed veterans, could be politically devastating to efforts aimed at providing compensation for disabilities associated with Agent Orange exposure in Vietnam. Already, those who oppose compensation are seizing upon this study's findings to derail the legislation to provide even modest compensation. As expected, the VA tops the list of those in opposition.

Nevertheless, the results of this study may be confidently relied upon as being accurate to the extent that the study's parameters were narrowly defined. Perhaps the most important variable the study failed to consider, however, is the meaning of equal levels of dioxin in veterans exposed to Agent Orange and veterans who were not exposed to Agent Orange. The very existence of dioxin in those having served outside of Vietnam suggests strongly that these individuals were exposed to dioxin even though the form of exposure was other than Agent Orange. As we have seen from numerous examples of dioxin contamination around the country in places like Love Canal, NY, Elizabeth, NJ, and Times Beach, MO, (as well as from the fact that dioxin has been used widely in a variety of industries) the dioxin levels in veterans who served outside of Vietnam must be understood to constitute normal exposure in an "acceptably" polluted domestic environment. The equally low levels of dioxin in veterans who served in Vietnam must be understood differently.

Since all the study sought to do was determine dioxin blood levels in veterans who did not serve in Vietnam, the study is silent on the question of why the levels for each category are about the same. One possible explanation that makes sense to the VVA and has considerable grounding in the scientific community is that over time dioxin disintegrates within the body. If the veterans who served in Vietnam have dioxin body levels of five parts per trillion today, what might those levels have been seven or fourteen years ago? According to some in the scientific community, it takes about seven years for dioxin levels to fall by 50 percent.

Looking at the dioxin comparison of the two groups from a different perspective suggests that a Vietnam veteran whose dioxin level is five parts per trillion today may have had a level of ten parts per trillion seven years ago and twenty parts per trillion fourteen years ago. With no similar reason to suspect previously higher dioxin levels in veterans who served outside of Vietnam, the explanatory differences in the two groups of veterans become extremely important. Unless we are to believe—which VVA does not—that the significantly higher dioxin levels in Vietnam veterans years ago hold no greater risks of causing disease than modest constant levels in veterans who served outside of Vietnam, there are very compelling reasons to proceed with compensation, regardless of the CDC blood study.

VVA'S POSITION

This, however, should not be taken to mean that VVA finds further study of dioxin pointless. Studies should continue even though it is unlikely that consensus in the scientific community will emerge. After the nearly eight years since the Congress approved an exposure study, it is clear enough that too much has been invested financially on the part of the government and emotionally on the part of the exposed veterans and their families to allow the scientific process to cease.

In fact, the absence of any further federally mandated studies of Agent Orange's effects on exposed individuals would improperly signal to public health policy makers in and out of Congress that the issue has been resolved and, by extension, the compensation is unwarranted.

Nevertheless, by using the mechanism incorporated in the legislation supported by the VVA to add disabilities to the list of those for which the VA must provide compensation, an important change in policy direction would follow. First of all, the VA would be stripped of its ability to withhold compensation by pointing to a lack of scientific consensus. Secondly, the scientific community would be forced to share in the responsibility for determining what diseases should be compensable.

It is ironic that this mechanism is nearly identical to what was intended by the Cranston legislation enacted several years ago, legislation that authorized the VA to establish its Advisory Committee on Environmental Hazards. That committee was to have surveyed the exsting and ongoing scientific dioxin studies. It was then to have recommended diseases reasonably associated with dioxin for compensation purposes. True to its longstanding reputation for failing to meet its responsibilities on the Agent Orange issue, however, the VA manipulated the committee's scope of dioxin literature review in order to prevent awarding compensation. By limiting the studies to be reviewed, the committee has been unable to fulfill the mission intended for it by law. As a result, only one disease to date, chloracne, has been recommended for compensation.

At present, it is unclear what progress will be made on meaningful legislation this year. It is hoped that both Cranston and Montgomery will intervene aggressively in view of the VA's disregard for its Agent Orange responsibilities. The CDC should be called to account for the lateness of its decision to cancel the long-awaited Agent Orange exposure study, and it should be pointedly asked to fully explain the reasons for similar dioxin levels in the blood study of veterans having served in Vietnam and those who served elsewhere. New studies should be undertaken, compensation should be authorized, and perhaps, most importantly, an unbiased mechanism for providing compensation should be put in place.●

COMMUNITY HEALTH CENTERS PROGRAM

● Mr. DASCHLE. Mr. President, I rise today in strong support of the reauthorization of the Community Health Centers [CHC] Program. I commend the distinguished Senator from Massachusetts for his timely introduction of this important reauthorization and am pleased to join as an original cosponsor.

In 1975, Congress recognized the need to expand health services in both rural and urban underserved areas and authorized CHC's under section 330 of the Public Health Service Act. Since the inception of the program, the number of CHC's has grown from 150 to over 600. Approximately 5 million Americans have received care at CHC's, 85 percent of whom had incomes below 200 percent of the poverty level.

Community health centers provide critically needed primary care services in rural areas like South Dakota. In South Dakota, a disproportionate number of poor elderly are served by CHC's. With the decline of the rural economy, CHC's in my State have witnessed a dramatic rise in the need for subsidized services. Although there are 7 projects and 14 satellite clinics serving over 26,000 people in South Dakota, CHC's are only able to serve a fraction of the people needing health care services.

The need to strengthen and expand the services of CHC's is greater than ever. These health centers are primarily serving the low income and uninsured whose numbers are increasing rapidly. Unfortunately, these trends are accompanied by consistent cuts in major health programs. Low-income discretionary health programs have declined by 26 percent from 1981 to 1988 when adjusted for health care inflation. In 1969, Medicaid reached 65 percent of the poor; by 1985 that number had dropped to 46 percent.

Over the years, CHC's have demonstrated the ability to provide high-quality, cost-effective health care. CHC's have been extremely effective in encouraging families to end their reliance on expensive emergency room care and begin using preventive health services. In addition, CHC's have helped reduce the infant mortality rate in areas which they serve, sometimes as much as 40 percent, by providing high quality maternity and infant care services.

Mr. President, few programs make as significant a contribution to health care in underserved areas as the community health centers programs. I strongly urge my colleagues to join in support of this valuable program.●

ORDER OF PROCEDURE ON TOMORROW

Mr. BYRD. Mr. President, the first rollcall vote tomorrow will occur at 9:30. That will be a 30-minute rollcall. At the conclusion of the 30 minutes, the call for the regular order will be automatic.

ORDERS FOR THURSDAY

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

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

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business not to extend beyond 9:30 a.m., that the call for the mandatory quorum be waived, that the vote occur immediately on the motion to invoke cloture, and that Senators may speak for not to exceed 2 minutes each during the period for morning business.

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

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

S. 2117 HELD AT DESK

Mr. BYRD. Mr. President, I ask unanimous consent that S. 2117 be held at the desk until the close of business Thursday.

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

ORDER OF PROCEDURE TOMORROW

Mr. BYRD. Mr. President, with respect to the maximum of 3 minutes which will be in order tomorrow under the agreement entered, I ask unanimous consent that no amendment to any one of the amendments be in order.

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

EXPRESSIONS OF APPRECIATION

Mr. BYRD. Mr. President, let me thank the distinguished acting Republican leader and the assistant Republican leader, both of whom are my good friend, the distinguished Senator from Wyoming, ALAN SIMPSON.

I yield to the Senator.

Mr. SIMPSON. Mr. President, I want to say I very much appreciate working with the majority leader today and in these days past, as I take on this additional responsibility of acting leader. I have found him to be most extraordinarily courteous and we have, I think, assumed a very high degree of mutual respect, which is helpful when you legislate. Certainly I share with him in my earthy way: Mr. Leader, this is what I have to deal with on my side; and he tells me what he has to deal with on his side; and we are, therefore, when all the cards are there, able to shuffle them up and deal them correctly and fairly, and that is a very pleasant way to do business, and it is called legislating, and that is what I am about on this side of the aisle. I like to legislate, and the only way to do that is to move legislation. I appreciate the way in which we are accomplishing that.

Mr. BYRD. Mr. President, the distinguished Senator has my utmost admiration and respect.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, if there is no further business to come before the Senate, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 10:09 p.m., the Senate recessed until tomorrow, Thursday, March 3, 1988, at 9 a.m.

House of Representatives

WEDNESDAY, MARCH 2, 1988

The House met at 2 p.m.

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

We pray for the leaders of our Nation and specially for those who labor in this assembly, that they would receive the gifts of wisdom and judgment. We recognize, gracious God, the unique concerns that confront people to whom great responsibility has been given, and we pray that they will be motivated not by personal satisfactions, but rather by the earnest desire to do justice for every person, from every land. Grant to our leaders, O God, all blessings and encouragement so they will be good and faithful custodians of our heritage as a people. Amen.

THE JOURNAL

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

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

Mr. CRAIG. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

Mr. CRAIG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 124, answered "present" 1, not voting 38, as follows:

[Roll No. 15]

YEAS—270

Ackerman	Bevill	Bustamante
Alexander	Bilbray	Byron
Anderson	Boggs	Campbell
Andrews	Boland	Cardin
Annunzio	Bonior	Carper
Applegate	Bonker	Carr
Archer	Borski	Chapman
AuCoin	Bosco	Clarke
Barnard	Boucher	Clement
Bartlett	Boxer	Coats
Bateman	Brennan	Coelho
Bates	Brooks	Coleman (TX)
Beilenson	Broomfield	Collins
Bennett	Bruce	Combest
Berman	Bryant	Conte
Conyers	Jontz	Ravenel
Cooper	Kanjorski	Ray
Crockett	Kaptur	Regula
Darden	Kasich	Richardson
Davis (MI)	Kastenmeier	Rinaldo
de la Garza	Kennedy	Ritter
DeFazio	Kennelly	Robinson
Dellums	Kildee	Rodino
Derrick	Kleczka	Roe
Dicks	Kolter	Rose
Dingell	Konnyu	Rowland (GA)
Dixon	Kostmayer	Roybal
Donnelly	LaFalce	Russo
Downey	Lancaster	Sabo
Duncan	Lantos	Saiki
Durbin	Lehman (FL)	Savage
Dwyer	Lent	Sawyer
Dymally	Levin (MI)	Scheuer
Dyson	Levine (CA)	Schneider
Early	Lipinski	Schumer
Eckart	Livingston	Sharp
Edwards (CA)	Lloyd	Shaw
English	Lowry (WA)	Shumway
Erdreich	Lujan	Shuster
Espy	Luken, Thomas	Sisisky
Evans	MacKay	Skaggs
Fascell	Manton	Skelton
Fazio	Markey	Slattery
Fish	Martinez	Slaughter (NY)
Flake	Matsui	Smith (IA)
Flippo	Mavroules	Smith (NE)
Florio	Mazzoli	Smith (NJ)
Foglietta	McCloskey	Smith (TX)
Foley	McCurdy	Solarz
Ford (MI)	McEwen	Spence
Frank	McHugh	Spratt
Frost	McMillen (MD)	St Germain
Garcia	Mfume	Staggers
Gaydos	Mica	Stallings
Gejdenson	Miller (WA)	Stark
Gibbons	Mineta	Stenholm
Gilman	Moakley	Stokes
Glickman	Mollohan	Stratton
Gonzalez	Montgomery	Studds
Gordon	Morella	Sweeney
Gradison	Morrison (CT)	Swift
Grandy	Mrazek	Synar
Grant	Myers	Tallon
Gray (IL)	Nagle	Tauzin
Green	Natcher	Taylor
Guarini	Neal	Thomas (GA)
Gunderson	Nelson	Torres
Hall (OH)	Nichols	Torricelli
Hall (TX)	Nielson	Towns
Hamilton	Nowak	Traficant
Harris	Oakar	Traxler
Hatcher	Oberstar	Udall
Hawkins	Obey	Valentine
Hayes (IL)	Olin	Vento
Hayes (LA)	Ortiz	Visclosky
Hefner	Owens (NY)	Volkmer
Hertel	Owens (UT)	Walgren
Hochbrueckner	Oxley	Watkins
Horton	Patterson	Waxman
Howard	Pease	Weiss
Hoyer	Pelosi	Whitten
Hubbard	Pepper	Williams
Hughes	Perkins	Wilson
Hutto	Petri	Wise
Jeffords	Pickett	Wolpe
Jenkins	Pickle	Wortley
Johnson (CT)	Price (IL)	Wyden
Johnson (SD)	Price (NC)	Wylie
Jones (NC)	Quillen	Yates
Jones (TN)	Rahall	Yatron

NAYS—124

Armey	Bliley	Callahan
Badham	Boehlert	Chandler
Ballenger	Brown (CO)	Cheney
Barton	Buechner	Clay
Bentley	Bunning	Clinger
Bereuter	Burton	Coble
Coleman (MO)	Jacobs	Roukema
Coughlin	Kolbe	Rowland (CT)
Courter	Kyl	Saxton
Craig	Lagomarsino	Schaefer
Crane	Latta	Schroeder
Dannemeyer	Leach (IA)	Schuette
Daub	Lewis (CA)	Sensenbrenner
Davis (IL)	Lewis (FL)	Shays
DeLay	Lowery (CA)	Sikorski
DeWine	Lukens, Donald	Skeen
Dickinson	Lungren	Slaughter (VA)
DioGuardi	Madigan	Smith, Denny (OR)
Dorgan (ND)	Marlenee	Smith, Robert (NH)
Dornan (CA)	Martin (IL)	Smith, Robert (OR)
Dreier	Martin (NY)	Snowe
Edwards (OK)	McCandless	Solomon
Emerson	McCollum	Stangeland
Fawell	McDade	Stump
Fields	McMillan (NC)	Sundquist
Gallegly	Meyers	Swindall
Gallo	Michel	Tauke
Gekas	Miller (OH)	Thomas (CA)
Goodling	Molinari	Upton
Gregg	Moorhead	Vander Jagt
Hammerschmidt	Morrison (WA)	Vucanovich
Hansen	Murphy	Walker
Hastert	Packard	Weber
Hefley	Parris	Weldon
Henry	Pashayan	Wheat
Herger	Penny	Whittaker
Hiler	Porter	Wolf
Hopkins	Pursell	Young (AK)
Houghton	Rhodes	
Hunter	Ridge	
Hyde	Roberts	
Inhofe	Rogers	
Ireland	Roth	

ANSWERED "PRESENT"—1

Chappell

NOT VOTING—38

Akaka	Frenzel	Mack
Anthony	Gephardt	McGrath
Aspin	Gingrich	Miller (CA)
Atkins	Gray (PA)	Moody
Baker	Holloway	Murtha
Biaggi	Huckaby	Panetta
Bilirakis	Kemp	Rangel
Boulter	Leath (TX)	Roemer
Brown (CA)	Lehman (CA)	Rostenkowski
Coyne	Leland	Schulze
Dowdy	Lewis (GA)	Smith (FL)
Feighan	Lightfoot	Young (FL)
Ford (TN)	Lott	

□ 1415

Mr. PACKARD changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

TAX CUT: DEJA VU ALL OVER AGAIN

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

Mr. DOWNEY of New York. Mr. Speaker, in listening to the latest hullaballoo in the Democratic Presidential debate on the fairness of the 1981 tax cut, I'm reminded of something said by Yogi Berra: "It's deja vu all over again."

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

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

The debate on the 1981 tax cuts is redundant. They were unfair in 1981 and they're unfair today. They were a mistake then and they're a mistake now.

In 1981 we knew the Reagan tax cut would be a windfall for the rich. We knew in 1981 that the average American family was getting ripped off under the Reagan bill. Seven years does not change the fact that it's unfair to give $120 to families making between $10,000 and $20,000 and $8,300 to those making over $80,000.

Thanks in part to the Reagan tax cut, the richest families in America pay 25 percent less in taxes than they did 10 years ago. Yet CBO tells us that families at the low end of the spectrum are paying 10 percent more than they did 10 years ago.

Mr. Speaker, rotten eggs don't sweeten with time. A vote for the 1981 tax bill smells just as bad in 1988 as it did in 1981.

UNITED STATES $400 MILLION LOAN TO MEXICO'S STEEL INDUSTRY

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

Mr. REGULA. Mr. Speaker, tomorrow the World Bank members will vote on whether to grant a $400 million low-interest loan to Mexico. I rise to protest this loan.

Seventy-five percent of this loan will directly aid Mexico's steel industry. This $300 million is to compensate Mexico for rationalizing and modernizing its steel industry. The remaining $100 million will go directly into Mexico's treasury.

Mr. Speaker, this loan amounts to an international subsidy designed to provide Mexico with a competitive advantage in the world steel market.

American steel companies are presently struggling to stay alive, not only because of world steel overcapacity, but also because of foreign subsidized steel. This proposed loan flies in the face of competitive rationale, tipping the scales even further against U.S. steel producers in the trading arena.

At a time when American steel companies are in grave trouble, it makes absolutely no sense for the World Bank to subsidize foreign steel. I urge my colleagues to oppose this loan by contacting the U.S. World Bank member,

□ 1430

THE WAR ON DRUGS

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

(Mr. TRAFICANT. Mr. Speaker, the President has said that we are winning the war on drugs. I do not believe it. In fact last week a rookie policeman in New York City was gunned down while he was guarding a witness for a drug trial.

Police suspect that the hit was ordered by a drug boss in prison. That drug boss had been sentenced to 25 years to life and he is also under indictment for having murdered his parole officer.

Mr. Speaker, I think it is time for Congress to declare war. Saying no is not enough. I think it's time for these drug kingpins who kill our policemen and destroy our kids to face the death penalty. We must defend our borders and bolster our Coast Guard, and I think it is time to take issue with people like Panama strong man Manual Noreiga.

Mr. Speaker, what bothers me is that rumors abound that the Central Intelligence Agency supposedly turned their back on General Noriega because he was helping the Contras. I do not know if that is true, but the CIA has flatly denied it. In fact they say they know nothing about General Noriega. Mr. Speaker, if my colleagues believe that, I have got some swampland I would like to talk to them about located down in Florida.

The truth of the matter is if a 10-year-old in New York City can find heroin and crack, the CIA knows where it is coming from. I think it is time that if necessary we attack those sources in Colombia and put our foot down. I think the problem is everyone in America is trying to say no. The only problem is our Government has yet to say "no."

RESOLUTION OF OPPOSITION TO A $400 MILLION WORLD BANK LOAN TO RESTRUCTURE THE MEXICAN STEEL INDUSTRY

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

Mr. RIDGE. Mr. Speaker, here we go again. My constituents may be, once again, paying their taxes to put themselves out of work. Unless we do something and quickly, the World Bank will vote tomorrow to approve a $400 million loan to help refinance a restructuring of the Mexican steel industry.

Worldwide, there are more than 200 million excess tons of steel capacity. The United States currently is spending $50 million on trade adjustment assistance each year to retrain workers who have lost their job due to this overcapacity. The American steel industry has undertaken a massive restructuring, 8 billion dollars' worth, without Government assistance and has improved its competitive position. Now, the World Bank, which receives 20 percent of its funding from the United States and its taxpayers, is about to make a $400 million contribution to a $1 billion effort to upgrade plants and equipment in order to increase the Mexican output.

Additionally, I understand that the Mexicans hope to attract American auto parts manufacturers to Mexico with its modernized steel industry and a free trade zone. So the $1 billion may only be the tip of the iceberg.

While I sympathize with Mexico's desire to reinvest in its steel industry and the World Bank's desire to assist the ailing Mexican economy, I cannot stand idling by and watch the World Bank use American tax dollars to add capacity at a time when the industry suffers from a worldwide glut.

The American steel industry and the American steelworker have suffered and have restructured without the benefit of assistance from the American Government or any international lending body. The World Bank should assist the Mexican economy but not at the direct and immediate expense of American workers. Many in our Government turned their back on the U.S. steel industry because they felt that change and shakeout in the industry was necessary. Well, a change and a shakeout has taken place. Let's not punish the survivors by saving jobs in Mexico that we refused to save in the United States.

Today, I am introducing a resolution of opposition to the proposed $400 million World Bank loan making it clear that the House of Representatives does not see this loan to be in the best interests of the United States and our economic revitalization. It resolves that our Representatives should make its best effort to prevent approval of the loan. At this time, I understand that our Treasury Department supports the loan. My colleagues, we must demonstrate our dissatisfaction and must do it today. I ask that you join me on this resolution and I ask that my colleagues contact the Treasury Department today.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. SCHUMER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1259.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REJECT $400 MILLION IN BAILOUT OF MEXICO'S STEEL INDUSTRY

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

Mr. KOLTER. Mr. Speaker, tomorrow, the World Bank will vote to approve a $400 million project to aid in the downsizing of Mexico's steel industry. I rise to express my outrage and indignation over this project, and to plead with the administration to withhold its approval of this project.

We lack the courage to support our own industry in its efforts to relieve itself of excess capacity. We won't "bail them out." That's not the American way. That's not the way the marketplace should work. That's not the way to stimulate competition.

But we will willy-nilly help to bail out a Mexican industry that expanded in the 1970's and 1980's. We will relieve them of the financial and social pain involved in downsizing. And the marketplace is almost irrelevant: The Government of Mexico owns at least 60 percent of its industry. We will bail out Mexico's inefficient and overbuilt industry but we won't raise a finger to help our own.

Now, some will say that this project will get rid of some of the 200 million tons of excess capacity in the world's steel industry. But it probably will not lower production. You see, if Mexico's capacity is reduced by 20 to 30 percent, they could still maintain its nearly 8 million tons of production. But they will be able to lower their costs, and thus enhance their competitiveness. We will help them to compete in the world steel market but we won't raise a finger to make our own industry more competitive.

And, I would point out to you that Mexico is shipping more and more steel to our market. They exceed their VRA quota limits under the President's steel program.

The products they sell here are the high value products, like pipe and tube, galvanized sheet, and cold rolled sheet and strip. By giving Mexico $400 million, we make it easier for them to compete in our markets, and diminish the opportunities for American steelworkers to produce their products.

I urge the administration to back off from this bail out of Mexico's steel industry. Let them start at home. If we want the world's steel industry to be more competitive, let it be done here first.

CREATING OUR OWN ADVERSITY

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

Mrs. BENTLEY. Mr. Speaker, it has been learned that tomorrow the World Bank will vote to lend Mexico $400 million; $300 million is for modernizing its steel industry, $100 million is for the general fund of its Treasury.

I think the Congress should be asking the World Bank to stop, to cease and desist from encouraging any expansion of the steel capacity of any nation. Right now, every statistic available points to the overproduction-overcapacity of steel worldwide. Our own industries are being beaten around the ears to phase out old plants, old technologies with no help from our own Government.

Does the World Bank offer such loans to U.S. steel companies? Of course not. And the $100 million going into the Treasury? Where is that going? To retire debts to International Banks?

With about 50 cents of every dollar of World Bank money being contributed by the U.S. taxpayer, it might be time that we demand an audit through the treasuries of some of these foreign nations to make sure that our money is not being used against our best interests or to guarantee the bad debt of incompetents.

STOP THE FLOW OF DRUG MONEY FROM PANAMA

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

Mr. MANTON. Mr. Speaker, illegal drugs are killing our Nation's youth and having a devastating impact on every segment of our society. Just 3 days ago, Edward Byrne, a 22-year-old uniformed New York City police officer, was murdered in cold blood in eastern Queens. Officer Byrne was sitting in a patrol car guarding the house of a witness in a drug case.

Upon hearing of this summary execution by way of three bullets to the head, I thought, "there but for the grace of God go I," having also served years ago as a New York City police officer on solo foot patrol on some of the meanest, drug plagued streets in the Harlem area of New York.

Mr. Speaker, we must stop the flow of illegal drugs into our Nation. Regrettably, that the Government of Panama, under Gen. Manuel Noriega, has become a major center for assisting international drug trafficking.

Along with the drugs from Panama that are crossing our border, billions of dollars in laundered drug money is flowing into United States banks through the Federal Reserve payment system.

In that regard, today I and Congressman ACKERMAN are introducing a resolution expressing the sense of the Congress that the Board of Governors of the Federal Reserve should take every step necessary to stop the transfer of funds from Panama to banks in the United States through the Federal Reserve System.

We must not allow Panama to use the Federal Reserve System as a tool for its deadlly trade.

GROVE CITY

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

Mr. BURTON of Indiana. Mr. Speaker, I rise in opposition to the so-called 1987 Civil Rights Restoration Act. If this legislation passes the House, entire private elementary and secondary school systems, including religious school systems, will be covered if just one school in the system gets any Federal assistance.

Mr. Speaker, this is just one example of how this bill tramples on the rights and religious liberties guaranteed to all Americans by the U.S. Constitution. The first amendment to the Constitution states that "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof." Nowhere does it say that the Department of Education shall have the supreme power to decide which religious tenets are important and which are not.

Congress must uphold the civil rights of religion and religious institutions just as it affirms the civil rights of other vital parts of our society. I therefore urge my colleagues to vote "no" on this bill.

PERSONAL EXPLANATION

Mr. ALEXANDER. Mr. Speaker yesterday I was unavoidably detained in an important meeting with Arkansas soybean producers during rollcall No. 14, the vote on the Dannemeyer motion to instruct conferees regarding the dial-a-porn amendment to H.R. 5. Had I been present, I would have voted "yes."

CIVIL RIGHTS RESTORATION ACT

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

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to the rule under which the House will today debate S. 557, the so-called reinstatement of civil rights, caused by Grove City.

Mr. Speaker, I went before the Committee on Rules, and I asked authority to offer an amendment. I was turned down.

Mr. Speaker, I intend to speak about this when the matter is relevant. In a nutshell, however, under existing law, if one wishes to come into this country as an immigrant and has a communicable disease, they are not eligible, but the bill in the form that we are going to consider it goes in the opposite direction, that if one has a communicable disease an affirmative action program would come into existence whereby the whole force of the Federal Government would come to your aid in order to get a particular job.

Mr. Speaker, it is ludicrous that we would have such a result in our law. We need time to debate this issue because it relates to one of the most fundamental issues facing the country; namely, the necessity of developing a public health response to deal with the AIDS epidemic and stop this nonsense of treating it as a civil rights issue.

THE FUTURE OF NATO

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

Mr. DURBIN. Mr. Speaker, history seldom deals a perfect hand. The convergence of our Nation's fiscal crisis with a fresh dialog between the United States and the Soviet Union on disarmament puts the future of NATO in question.

NATO has served its allies well for more than 40 years but today it faces stark realities. The United States is the principal ally in terms of monetary support, and the United States is mired in a budget crisis which forces significant cutbacks in military expenditures. Changes in our exchange rate have made the cost of troops overseas more expensive than ever and there is a growing feeling that our allies should have matured economically and politically to the point where they can shoulder equal shares of the NATO burden. But these challenging issues may go unaddressed in Brussels, where the President is meeting with NATO ministers. At a time when we should be meeting to assess, redefine, and position NATO in a changing world we hear only the strains of Auld Lang Syne from an administration whose eye may be more on retirement than the realities which face us.

PERSONAL EXPLANATION

Mr. SWINDALL. Mr. Speaker, I would like to state that I was unavoidably absent during rollcalls 13 and 14 on yesterday, March 1, 1988. Had I been present I would have voted "no" on rollcall 13, and I would have voted "yes" on rollcall 14.

THE FEDERAL GOVERNMENT INTRUSION ACT

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

Mr. SWINDALL. Mr. Speaker, I would like to take this opportunity to speak out against the Civil Rights Restoration Act. First of all certainly that is a misnomer. It ought to be entitled "The Federal Government Intrusion Act."

Mr. Speaker, I particularly am perturbed about one particular aspect that affects the religious tenets. It is something that has been from the time this country was founded a very protected area. I wanted to offer an amendment to correct this new intrusion but unfortunately the rule that we will be voting under later today prevents any such amendments.

Specifically what this bill will allow to happen is that any church or synagogue that has for example a homeless shelter or any type of soup kitchen that receives Federal funds, it will now bring that facility under Federal jurisdiction, that synagogue or that church, and that has never before existed in this country.

Mr. Speaker, I am concerned about it because the title says "civil rights restoration." This is not a restoration. It is a new intrusion into a previously protected area. I think it is a grave mistake, and I urge my colleagues to vote no on the rule which allows no amendments to correct the flaw, and then if the rule does in fact pass I ask my colleagues to please vote no on the bill until it can be corrected.

□ 1445

WHISTLEBLOWER PROTECTION ACT AMENDMENTS OF 1988

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

Mr. SLATTERY. Mr. Speaker, today I am introducing legislation that will help protect nuclear powerplant employees who report safety problems from retaliation by their plant managers.

As someone who is deeply concerned about nuclear powerplants' inherent safety problems, I want to make sure potential problems do not escalate into major threats to public safety.

The best way to do this is to ensure that plant workers, who are safety's first line of defense, have the security of knowing they can report these problems without being harassed or losing their jobs.

My legislation will strengthen existing laws created to protect whistleblowers in an effort to encourage these employees to come forward.

The bill gives employees who feel they have been fired or harassed because they reported safety problems a year—rather than the current 30 days—to file a complaint, and protects their rights to file a claim in a State court as well as with the Secretary of Labor.

It also requires management to prominently post the rights of employees who report safety problems, and grants explicit protection to workers who report problems directly to management rather than Federal regulators.

This legislation improves the Federal Government's ability to protect nuclear powerplant employees who report safety problems. Their honesty should not cost them their jobs.

OPPOSITION TO FmHA FARMER RELIEF

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

Mr. DIOGUARDI. Mr. Speaker, I rise today to express my strong opposition to the Farmers Home Administration announcement to draft rules relieving farmers of up to 7 billion dollars' worth of debt owed to the U.S. Treasury, thus passing this cost on to all American taxpayers.

Unfortunately, the story gets worse. Not only is FmHA heaping this $7 billion cost onto all of us, it is doing so with the intent of lending even more money to the very same enterprises that were unable to pay back their loans in the first place.

What happens when we hit another downturn in the farm economy? Will we once again wipe the slate clean and extend new loans that will never be paid back?

Mr. Speaker, whether you're from the farm or the city, this policy makes little horse sense or common sense. It is a policy that will further sow the seeds of disaster for our budget deficit without giving any real long-term health and stability to the farmers it is designed to help. I have written to FmHA Administrator Vance Clark expressing my opposition to their proposal and my intention to introduce legislation that would block its implementation.

This action is just another in a long line of government shell games that disguise economic reality and hide the true cost of government from the American people. In fact, the only thing this farm policy will put on the kitchen table of most Americans is more debt.

EMERGENCY HUNGER RELIEF ACT OF 1988

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

Mr. PANETTA. Mr. Speaker, I today, along with close to 50 of my colleagues, in a bipartisan effort, am introducing the Emergency Hunger Relief Act of 1988.

It is a sad commentary in America that there is a need to introduce any Emergency Hunger Relief Act at all. In a land blessed with the great agricultural bounty, it is a national shame that there is hunger in our society.

Just a week ago I convened a hearing on this issue and heard from a wide range of people who confront daily the reality of hunger in our society, food bank directors, ministers, national experts on nutrition and child health, and the mayors, mayors indicating that there will be an increase in hunger needs in this country from some 18 to 20 percent over this next year, all of whom spoke of the growing problem of hunger and the failure of the current programs to meet the need. They also spoke in particular of the fact that there will be a failure of distribution of the temporary emergency food assistance program within the next few months.

So today we introduce what I think is a balanced and prudent agenda to try to deal with the hunger problem in our society. The consequence of delay is already evident. We are seeing in-

creases in infant mortality, anemia and malnutrition, and the simple fact is that we cannot afford not to act. The time is now. I urge your support for the Emergency Hunger Relief Act of 1988.

COMMUNIST FOOTHOLD IN CENTRAL AMERICA

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

Mr. DORNAN of California. Mr. Speaker, tomorrow we have our monthly vote on whether or not communism is going to get a permanent foothold on the Isthmus, the land bridge between our country and the Panama Canal. I am going to take a special order tonight. I want my colleagues to watch. It should be on sometime between 7:30 and 9:30. We will be so limited in debate, the issue becomes more and more critical but the key debate time becomes more and more narrow. So this special order is going to be important. For those who follow the written and electronic record of this House, that means about 5 o'clock in California, Pacific time, or 3 o'clock in the afternoon in Hawaii. They can take time out from paradise to listen to the latest Communist shipments, deliveries from General Secretary Gorbachev to the Communists in Nicaragua.

Here is a Rand report on communism in Nicaragua, how close they are to fulfilling a lifelong dream of 70 years of communism, a permanent colony on the Continent of North America. And here is a report taken off of the body of a killed Communist guerrilla in El Salvador, eight pages long of detailed commentary on how they use the Congress, negotiations, and the peace process.

My colleagues may hear Yoko Lennon caterwauling "All we are saying is give peace a chance," but, Mr. Speaker, put the word "communism" in place of peace, and that is what you and your liberals and radicals and your party are helping to prop up on the soil of North America.

EMERGENCY HUNGER RELIEF ACT OF 1988

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

Mr. STAGGERS. Mr. Speaker, I am proud to join with my colleague, Congressman PANETTA in cosponsoring the Emergency Hunger Relief Act of 1988 to address the growing problem of hunger in America—this land of plenty.

Clear indicators show a rising demand for emergency food assistance in this country. This need will expand even farther when commodities distributed through the Temporary Emergency Food Assistance Program will no longer be available later this year. While the number of persons living in poverty grew between 1980-86, there were 400,000 fewer persons participating in the Food Stamp Program in an average month. In addition, the USDA estimates that the WIC Program reaches just 40 percent of those eligible. This is a particularly disturbing statistic to my State of West Virginia where 50 percent of all babies born in the State last year were born into poverty. All of these indicators combine to evidence a grave shortfall in ensuring the basic nutritional needs of poor Americans.

I would like to alert my colleagues to a recent study conducted by public voice for food and health policy on rural poverty and nutrition. It highlights the growing segment of rural poor who are at high risk because of nutritional deficiencies and outlines the barriers to food assistance programs that the rural poor face.

The Emergency Hunger Relief Act of 1988 addresses the hunger crisis in all of America by eliminating the barriers to food assistance programs and by increasing benefits to meet nutritional needs.

My colleagues, tomorrow we will be asked to vote on humanitarian aid for victims of the war in Central America, today I ask that you lend support to legislation which would provide humanitarian aid to the victims of the war on hunger in America.

THE MANAGEMENT INTERLOCKS REVISION ACT OF 1988

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

Mr. PARRIS. Mr. Speaker, today I am introducing legislation that will amend the Management Interlocks Act of 1978. That act's broad intention was to promote competition among financial institutions. First, it prohibited the dual service by management officials in nonaffiliated institutions within the same standard metropolitan statistical area. Second, if a depository institution holding company has assets over $1 billion, a management official from that company was prohibited from serving as a management official of a nonaffiliated institution with $500 million in assets.

Mr. Speaker, since the enactment of this legislation, we have seen some rather dramatic changes in the financial services industry. I could spend an hour talking about the disintermediation of the banking industry, but in sum, there are now a greater number of financially diverse institutions. For example, one of the largest thrift holding companies in the United States is Ford Motor Co. Moreover, the provision from the 1978 act that restricts companies with assets over $1 billion is hopelessly outdated. In 1978, only 3 percent of the institutions insured by FSLIC, 144 institutions, had assets over $500 million. Now, that number has grown to 400 institutions.

The effect of this in the marketplace is that commercial firms that have acquired thrifts have difficulty getting persons to serve on their, the company's, board because potential directors usually serve on another financial institution's board. This is a frustrating exercise, and it is one impediment that we certainly need to clarify, particularly if we want to continue encouraging commercial firms to buy thrifts. This bill will allow the regulators to determine if dual service is a competitive problem. The primary supervisory agent in each region will have 60 days in which to disapprove of the dual service.

A second part of this bill is designed to ease the effects that this bill has had on smaller banks. First, it would define "control" of an institution at 25-percent share ownership, as opposed to 50 percent ownership. This will bring this legislation in line with the definition of control of a bank holding company; moreover, it will allow a greater number of institutions which are affiliated in practical reality to be affiliated for management purposes. Additionally, this legislation will allow an interlock in a primary Federal supervisory area if the regulators believe that no competitive problems will be created by allowing it. Because statistical areas have changed in the last 10 years, many banks find themselves facing interlock problems now—where there were none before.

Mr. Speaker, on December 3, 1987, the Independent Banker's Association of America testified in support of these revisions to the Interlock's Act. In doing so, they stated that "competent directors are the foundation of a bank's survival and profitability." Having once served on the board of directors of a bank, I could not agree more. I am confident that these changes will strengthen the banking industry.

Finally, exemptions are made for acquisitions of failing banks and thrifts. Perhaps this is the most important change since 1978, 10 years ago we did not have a FSLIC crisis, and we weren't experiencing nearly the number of bank failures that we are now. Easing the acquisition of a failing institution is one of the most important aspects of this bill.

Mr. Speaker, I am pleased to be joined by three distinguished members of the House Banking Committee in introducing this legislation. They are Mr. BARNARD, Mr. SHUMWAY, and Mrs. SAIKI.

DRUGS AND CRIME

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

Mr. GARCIA. Mr. Speaker, a great deal has happened in the city of New York over this past week. A young

police officer was shot five times in the head as he was sitting in a patrol car outside of a drug witness' home.

What I would like to ask my colleagues to do is to join with me. I am sending around a "Dear Colleague" letter and I hope that my colleagues would join with me and with the New York delegation in a special order that will take place this coming week, and if not the following week, but it will be done.

I think this is an issue that affects every one of us, the question of drugs, the question of AIDS, the question of how these criminals are getting away with what they are getting away with.

So I hope that all my colleagues will be able to join together in a special order on behalf of Patrolman Edward Byrne, who gave his life.

THE CIVIL RIGHTS RESTORATION ACT

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

Mr. RICHARDSON. Mr. Speaker, the Civil Rights Restoration Act is the most important civil rights legislation of this session of Congress. The goal of this legislation is simple. It will restore original congressional intent to the laws which prohibit discrimination in federally funded programs and institutions.

Passage of this act will restore enforcement authority to civil rights statutes which have been crucial to minorities, especially Hispanics and underprivileged Americans in their fight for equal opportunity in our society.

Title VI of the Civil Rights Act has been a powerful tool for minorities, blacks, Hispanics, and Native Americans in their efforts to combat discrimination in employment, education, and housing. The restrictions imposed on that law by the Grove City decision have been used to deny minorities the basic civil right of equal opportunity.

We rely on our laws to secure our fundamental rights. If we fail to pass this bill, we will leave in place a law which condones discrimination with our tax dollars. Such has no place in a country which professes to be governed by a Constitution which declares that all are created equal.

DESIGNATING MORGAN AND LAWRENCE COUNTIES IN ALABAMA AS A SINGLE METROPOLITAN STATISTICAL AREA

The SPEAKER pro tempore (Mr. GRAY of Illinois). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1447.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DYMALLY] that the House suspend the rules and pass the Senate bill, S. 1447.

The question was taken.

Mr. MICHEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 284, nays 122, not voting 27, as follows:

[Roll No. 16]

YEAS—284

Ackerman	Feighan	Martinez
Alexander	Fish	Matsui
Anderson	Flake	Mavroules
Andrews	Flippo	Mazzoli
Annunzio	Florio	McCloskey
Applegate	Foglietta	McCurdy
Aspin	Foley	McEwen
Atkins	Ford (MI)	McHugh
AuCoin	Frank	McMillen (MD)
Barnard	Frost	Mfume
Bates	Garcia	Mica
Beilenson	Gaydos	Miller (CA)
Bennett	Gejdenson	Mineta
Berman	Gibbons	Moakley
Bevill	Glickman	Mollohan
Bilbray	Gonzalez	Montgomery
Boggs	Gordon	Morrison (CT)
Boland	Grandy	Morrison (WA)
Bonior	Grant	Mrazek
Bonker	Gray (IL)	Murphy
Borski	Gray (PA)	Murtha
Bosco	Guarini	Myers
Boucher	Gunderson	Nagle
Boxer	Hall (OH)	Natcher
Brennan	Hall (TX)	Neal
Brooks	Hamilton	Nelson
Bruce	Hammerschmidt	Nichols
Bryant	Harris	Nowak
Buechner	Hatcher	Oakar
Bustamante	Hawkins	Oberstar
Byron	Hayes (IL)	Obey
Callahan	Hayes (LA)	Olin
Campbell	Hefner	Ortiz
Cardin	Hertel	Owens (NY)
Carper	Hochbrueckner	Owens (UT)
Carr	Horton	Panetta
Chandler	Howard	Pashayan
Chapman	Hoyer	Patterson
Chappell	Hubbard	Pease
Clarke	Hughes	Pelosi
Clay	Hutto	Penny
Clement	Ireland	Pepper
Coats	Jacobs	Perkins
Coleman (TX)	Jeffords	Pickett
Collins	Jenkins	Pickle
Conyers	Johnson (CT)	Porter
Cooper	Johnson (SD)	Price (IL)
Courter	Jones (NC)	Price (NC)
Coyne	Jones (TN)	Pursell
Crockett	Jontz	Rahall
Darden	Kanjorski	Rangel
Daub	Kaptur	Ravenel
Davis (MI)	Kastenmeier	Ray
de la Garza	Kennedy	Richardson
Derrick	Kennelly	Ridge
Dickinson	Kildee	Rinaldo
Dicks	Kleczka	Ritter
Dingell	Kolter	Robinson
Dixon	Konnyu	Rodino
Donnelly	Kostmayer	Roe
Dorgan (ND)	LaFalce	Rogers
Downey	Lancaster	Rose
Duncan	Lantos	Rowland (GA)
Durbin	Lehman (CA)	Roybal
Dwyer	Lehman (FL)	Russo
Dymally	Levin (MI)	Sabo
Dyson	Levine (CA)	Savage
Early	Lipinski	Sawyer
Eckart	Lloyd	Scheuer
Edwards (CA)	Lowry (WA)	Schroeder
Emerson	Luken, Thomas	Schumer
English	Lukens, Donald	Sharp
Erdreich	MacKay	Shaw
Espy	Madigan	Sikorski
Evans	Manton	Sisisky
Fascell	Markey	Skaggs
Fazio	Martin (NY)	Skelton
Slattery	Studds	Visclosky
Slaughter (NY)	Sundquist	Volkmer
Slaughter (VA)	Sweeney	Walgren
Smith (IA)	Swift	Watkins
Smith (NJ)	Synar	Waxman
Smith, Robert (OR)	Tallon	Weiss
Snowe	Tauzin	Wheat
Solarz	Taylor	Whitten
Solomon	Thomas (GA)	Williams
Spratt	Torres	Wilson
St Germain	Torricelli	Wise
Staggers	Towns	Wolpe
Stallings	Traficant	Wortley
Stark	Traxler	Wyden
Stenholm	Udall	Yates
Stokes	Valentine	Yatron
Stratton	Vander Jagt	Young (AK)
	Vento	Young (FL)

NAYS—122

Archer	Gradison	Packard
Armey	Green	Parris
Badham	Gregg	Petri
Ballenger	Hansen	Quillen
Bartlett	Hastert	Regula
Barton	Hefley	Rhodes
Bateman	Henry	Roberts
Bentley	Herger	Roth
Bereuter	Hiler	Roukema
Bilirakis	Hopkins	Rowland (CT)
Bliley	Houghton	Saiki
Boehlert	Hunter	Saxton
Broomfield	Hyde	Schaefer
Brown (CO)	Inhofe	Schneider
Bunning	Kasich	Schuette
Burton	Kolbe	Sensenbrenner
Cheney	Kyl	Shays
Clinger	Lagomarsino	Shumway
Coble	Latta	Shuster
Coleman (MO)	Leach (IA)	Skeen
Combest	Lent	Smith (NE)
Conte	Lewis (CA)	Smith (TX)
Coughlin	Lewis (FL)	Smith, Denny (OR)
Craig	Livingston	
Crane	Lowery (CA)	Smith, Robert (NH)
Dannemeyer	Lujan	
Davis (IL)	Lungren	Spence
DeLay	Marlenee	Stangeland
DeWine	Martin (IL)	Stump
DioGuardi	McCandless	Swindall
Dornan (CA)	McCollum	Tauke
Dreier	McDade	Thomas (CA)
Edwards (OK)	McMillan (NC)	Upton
Fawell	Meyers	Vucanovich
Fields	Michel	Walker
Frenzel	Miller (OH)	Weber
Gallegly	Miller (WA)	Weldon
Gallo	Molinari	Whittaker
Gekas	Moorhead	Wolf
Gilman	Morella	Wylie
Gingrich	Nielson	
Goodling	Oxley	

NOT VOTING—27

Akaka	Dowdy	Lightfoot
Anthony	Ford (TN)	Lott
Baker	Gephardt	Mack
Biaggi	Holloway	McGrath
Boulter	Huckaby	Moody
Brown (CA)	Kemp	Roemer
Coelho	Leath (TX)	Rostenkowski
DeFazio	Leland	Schulze
Dellums	Lewis (GA)	Smith (FL)

□ 1518

Mr. CONTE, Mrs. SMITH of Nebraska, and Mr. MILLER of Washington changed their votes from "yea" to "nay."

Mr. EMERSON changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION AS MEMBERS TO CERTAIN STANDING COMMITTEES

Ms. OAKAR. Mr. Speaker, I offer a privileged resolution (H. Res. 393) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 393

Resolved, That the following Members be, and are hereby, elected to the following standing committees of the House of Representatives:

Committee on Armed Services, H. Martin Lancaster, North Carolina;

Committee on Public Works and Transportation, Bob Clement, Tennessee; and

Committee on Merchant Marine and Fisheries, Bob Clement, Tennessee.

The SPEAKER pro tempore. The question is on the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 278, nays 122, not voting 33, as follows:

[Roll No. 17]

YEAS—278

Ackerman	Crockett	Harris
Alexander	Darden	Hatcher
Anderson	Davis (MI)	Hawkins
Andrews	de la Garza	Hayes (IL)
Annunzio	DeFazio	Hayes (LA)
Applegate	Derrick	Hefley
Aspin	Dicks	Hefner
Atkins	Dingell	Herger
AuCoin	DioGuardi	Hertel
Ballenger	Dixon	Hochbrueckner
Barnard	Donnelly	Hopkins
Bates	Dorgan (ND)	Horton
Beilenson	Downey	Howard
Bennett	Durbin	Hoyer
Bereuter	Dwyer	Hubbard
Berman	Dymally	Hughes
Bevill	Dyson	Hutto
Bilbray	Early	Hyde
Bilirakis	Eckart	Jacobs
Boehlert	Edwards (CA)	Jeffords
Boggs	Emerson	Jenkins
Boland	English	Johnson (SD)
Bonior	Erdreich	Jones (NC)
Bonker	Espy	Jones (TN)
Borski	Evans	Jontz
Bosco	Fascell	Kanjorski
Boucher	Fazio	Kaptur
Boxer	Feighan	Kastenmeier
Brennan	Fish	Kennedy
Brooks	Flake	Kennelly
Brown (CA)	Flippo	Kildee
Brown (CO)	Florio	Kleczka
Bruce	Foglietta	Kolter
Bryant	Foley	Kostmayer
Bustamante	Frank	LaFalce
Byron	Frost	Lancaster
Campbell	Garcia	Lantos
Cardin	Gaydos	Lehman (CA)
Carper	Gejdenson	Lehman (FL)
Carr	Gekas	Levin (MI)
Chapman	Gibbons	Levine (CA)
Chappell	Glickman	Lipinski
Clarke	Gonzalez	Lloyd
Clay	Gordon	Lowry (WA)
Clement	Gradison	Luken, Thomas
Coble	Grandy	MacKay
Coelho	Grant	Manton
Coleman (TX)	Gray (IL)	Markey
Collins	Gray (PA)	Martinez
Combest	Guarini	Matsui
Conyers	Gunderson	Mazzoli
Cooper	Hall (OH)	McCloskey
Coyne	Hall (TX)	McCurdy
Craig	Hamilton	McEwen
Crane	Hammerschmidt	McHugh
McMillan (NC)	Pickle	Staggers
McMillen (MD)	Porter	Stallings
Mfume	Price (IL)	Stenholm
Mica	Price (NC)	Stokes
Miller (CA)	Rahall	Stratton
Miller (OH)	Ravenel	Studds
Mineta	Ray	Stump
Moakley	Richardson	Swift
Mollohan	Robinson	Synar
Montgomery	Rodino	Tallon
Morrison (CT)	Roe	Tauzin
Mrazek	Rogers	Thomas (GA)
Murphy	Rose	Torres
Murtha	Rowland (GA)	Torricelli
Nagle	Roybal	Towns
Natcher	Russo	Traficant
Neal	Sabo	Traxler
Nelson	Sawyer	Udall
Nichols	Saxton	Valentine
Nowak	Scheuer	Vento
Oakar	Schroeder	Visclosky
Oberstar	Schumer	Volkmer
Obey	Sharp	Walgren
Olin	Shaw	Watkins
Ortiz	Shays	Waxman
Owens (NY)	Shumway	Weiss
Owens (UT)	Sikorski	Wheat
Oxley	Sisisky	Whittaker
Panetta	Skaggs	Whitten
Parris	Skelton	Wilson
Pashayan	Slattery	Wise
Patterson	Slaughter (NY)	Wolpe
Pease	Slaughter (VA)	Wortley
Pelosi	Smith (IA)	Wyden
Penny	Snowe	Yates
Pepper	Solarz	Yatron
Perkins	Spratt	Young (AK)
Pickett	St Germain	

NAYS—122

Archer	Hiler	Rhodes
Armey	Houghton	Ridge
Badham	Hunter	Rinaldo
Bartlett	Inhofe	Ritter
Barton	Ireland	Roberts
Bateman	Johnson (CT)	Roth
Bentley	Kasich	Roukema
Bliley	Kolbe	Saiki
Broomfield	Konnyu	Schaefer
Buechner	Kyl	Schneider
Bunning	Lagomarsino	Schuette
Burton	Latta	Sensenbrenner
Callahan	Leach (IA)	Shuster
Chandler	Lent	Skeen
Cheney	Lewis (CA)	Smith (NE)
Clinger	Lewis (FL)	Smith (NJ)
Coats	Livingston	Smith (TX)
Coleman (MO)	Lott	Smith, Denny (OR)
Conte	Lowery (CA)	Smith, Robert (NH)
Coughlin	Lujan	Smith, Robert (OR)
Courter	Lukens, Donald	Solomon
Dannemeyer	Lungren	Spence
Davis (IL)	Madigan	Stangeland
DeLay	Marlenee	Sundquist
DeWine	Martin (IL)	Sweeney
Dickinson	McCandless	Swindall
Dornan (CA)	McCollum	Tauke
Dreier	McDade	Taylor
Duncan	Meyers	Thomas (CA)
Edwards (OK)	Michel	Upton
Fawell	Miller (WA)	Vander Jagt
Fields	Molinari	Vucanovich
Frenzel	Moorhead	Walker
Gallegly	Morella	Weber
Gallo	Morrison (WA)	Weldon
Gingrich	Myers	Wolf
Goodling	Nielson	Wylie
Green	Packard	Young (FL)
Gregg	Petri	
Hansen	Pursell	
Hastert	Quillen	
Henry	Regula	

NOT VOTING—33

Akaka	Gilman	McGrath
Anthony	Holloway	Moody
Baker	Huckaby	Rangel
Biaggi	Kemp	Roemer
Boulter	Leath (TX)	Rostenkowski
Daub	Leland	Rowland (CT)
Dellums	Lewis (GA)	Savage
Dowdy	Lightfoot	Schulze
Ford (MI)	Mack	Smith (FL)
Ford (TN)	Martin (NY)	Stark
Gephardt	Mavroules	Williams

□ 1539

Mrs. SMITH of Nebraska changed her vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF S. 557, CIVIL RIGHTS RESTORATION ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 391 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 391

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 557) to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964 and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole except an amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Michel of Illinois, or his designee, which shall be considered as having been read, which shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto, and which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] and pending that I yield myself such time as I many consume.

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

Mr. MOAKLEY. Mr. Speaker, House Resolution 391 is a modified closed rule providing for the consideration of the bill S. 557, the Civil Rights Restoration Act of 1987.

The rule provides for 1-hour of general debate with 30 minutes equally di-

vided between the chairman and the ranking minority member of the Committee on Education and Labor and 30 minutes equally divided between the chairman and ranking minority member of the Committee on Judiciary.

Mr. Speaker, under the rule no amendments are in order to the bill in the House or in the Committee of the Whole, except an amendment in the nature of substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by the gentleman from Illinois [Mr. MICHEL] or his designee.

The substitute shall be debatable for 1 hour, with the time equally divided and controlled by a proponent and a Member opposed to the amendment also, Mr. Speaker, no amendments to the substitute are in order. Finally, the rule provides for one motion to recommit.

Mr. Speaker, S. 557 would overturn the 1984 Supreme Court decision, Grove City College versus Bell which narrowed the application of Federal antidiscrimination laws. The bill would restore and clarify the interpretation of a program or activity within an agency or institution that receives Federal assistance.

What the Supreme Court ruled was that Federal laws barring discrimination did not apply to entire agencies or institutions but only to the specific programs or activity that received Federal assistance. This bill, which passed the Senate 74 to 14, would amend four major civil rights statutes that prohibit discrimination in federally assisted programs: The Education Amendments of 1972, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Civil Rights Act of 1964 to make clear that under each act discrimination is prohibited throughout an entire agency or institution if any part receives Federal financial assistance.

Also, Mr. Speaker, there is language in the bill that specifically states that institutions that receive Federal aid would not be required to perform or pay for abortions and would prohibit an educational institution from discriminating against anyone who has had or is seeking a legal abortion.

Mr. Speaker, immediately after the Grove City ruling of 1984 the House attempted to overturn that ruling by a vote of 375 to 32. The Senate, however, chose not to act on the measure. Now that the Senate has acted it is time for the House to move this bill expeditously through and put a stop to the loss of educational benefits, jobs, and job opportunities that can never be recovered and to ensure that no Federal dollars will be sent to any institution that allows or encourages discrimination. I urge my colleagues to vote for this rule and for final passage of the bill

□ 1545

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

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

Mr. LATTA. Mr. Speaker, I do not believe that most Members of this House realize how important this legislation is. This is an extremely important piece of legislation and it has been handled in an extraordinary way.

Believe it or not, there was not one single minute's worth of hearings on this legislation during this Congress by a House committee. My colleagues would think that the Members of this House would be entitled to some hearings on a piece of legislation this important. So without hearings, the committee came before the Rules Committee and got a rule that is very restrictive allowing only one amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. Speaker, that is not the way to legislate. Over on the Senate side they had an opportunity to amend the legislation. Why not the Members of the House? Why deny the Members of this body the opportunity to amend an important piece of legislation?

We are talking about a piece of legislation under which, according to the Justice Department, an entire church or synagogue, including its prayer rooms and religious classes, will be covered under at least three of these statutes if it operates one federally assisted program or activity. Every school in a religious school system would be covered in its entirety if one school within the school system receives even one dollar of Federal financial assistance, even though the others receive no assistance.

Grocery stores and supermarkets participating in the Food Stamp Program will be subject to coverage solely by virtue of their participation in that program.

Every division, plant, facility, store, and subsidiary of a corporation or other private organization principally engaged in the business of providing education, health care, housing, social services, or parks or recreation will be covered in their entirety whenever one portion of one division, plant, facility, store, or subsidiary receives any Federal aid.

A private national social service organization will be covered in its entirety, together with all of its local chapters, councils or lodges, if one local chapter, council or lodge receives any, and I stress the word "any" Federal financial assistance.

As a consequence more sectors of American society will be subject to increased paperwork requirements, and random on-site compliance reviews by Federal agencies, even in the absence of an allegation of discrimination. Thousands of words of Federal regulations will be forthcoming. There will be costly accessibility regulations that can require structural and equipment modification, the need to attempt to accommodate contagious persons, and increased exposure to costly private lawsuits that will inevitably seek the most expansive interpretation of the already overbroad language of the bill.

Moreover, the bill inadequately protects the religous tenets of entities covered under title IX by refusing to strengthen the current exemption to allow institutions not only controlled by, but also those closely identified with the tenets of, a religious organization, to seek an exemption from title IX coverage when title IX conflicts with those tenets.

Mr. Speaker, let me just read a part of a letter that was sent to our Republican leader, the gentleman from Illinois [Mr. MICHEL] from the President dated March 1:

> The bill poses a particular threat to religious liberty. It interferes with the free exercise of religion by failing to protect the religious tenets of schools closely identified with religious organizations. Further, the bill establishes unprecedented and pervasive Federal regulation of entire churches and synagogues whenever any one of their many activities, such as a program to provide hot meals for the elderly, receives any Federal assistance. Moreover, and in further contrast to the pre-Grove City coverage, entire private elementary and secondary school systems, including religious systems, will be covered if just one school in such a private system receives Federal aid.

Let me also say that the President says if this legislation reaches his desk in its present form he will veto it. So why, why not have the Members of the House have an opportunity to have hearings on it so that they could make proper changes, so we could send to the President a bill that he can sign? Why, why all of the hurry? Why deny the Members of this House that opportunity?

The only chance we have today to show any kind of a protest is to adopt the amendment to be offered by the gentleman from Wisconsin [Mr. SENSENBRENNER]. That is all we have.

So we are looking down a road toward a veto and accomplishing absolutely nothing.

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

Mr. MOAKLEY. Mr. Speaker, I yield 14 minutes to the gentleman from California [Mr. HAWKINS], chairman of the Education and Labor Committee.

Mr. HAWKINS. Mr. Speaker, I rise in support of the rule and urge my colleagues to do the same.

The decision in Grove City College versus Bell is now 4 years old and hundreds of people are being denied their basic rights to be treated equally in education, housing, health, and other federally sponsored programs. It is time to restore the original congressional intent of broad systemwide coverage to these four statutes affecting women, disabled, the elderly, and minorities.

This measure has been heard and heard again. It is incorrect to say that no hearings have been held on this subject. We have had more than 22 days of hearings in the Education and Labor Committee. I am confident that hearings have also been held by the other committee of jurisdiction, the Judiciary Committee as well.

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

Mr. HAWKINS. I am glad to yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, the gentleman just said that there have been hearings on this legislation. When were hearings held on S. 557 as it came over from the Senate?

Mr. HAWKINS. S. 557 is a bill that has been in this House several times before. The issues have certainly been heard in three different Congresses. It is similar to legislation introduced in the 98th Congress, heard throughout that Congress and identical to legislation introduced in the 99th Congress, and certainly has had enough hearings that everyone is acquainted with it. To say that this specific piece of legislation has to have hearings I think is being totally illogical, and certainly would not add at all to the knowledge of the Members of this body.

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

Mr. HAWKINS. I yield to the gentleman from Michigan just briefly. I do not have much time.

Mr. HENRY. Mr. Speaker, is it not correct, however, that when the committee last considered this 3 years ago in the previous Congress it adopted a religious tenets provision, in fact a religious tenets provision broader than the one we seek to bring to the floor and have been denied an opportunity to do so?

Mr. HAWKINS. No, we did not. I think the gentleman has misconstructed what we really adopted. It was different from the one before us today.

Mr. HENRY. It was broader.

Mr. HAWKINS. But that is not the issue. The issue is whether or not we have had hearings, and I am asserting that we have had hearings on an identical piece of legislation, and the only difference basically is the abortion amendment. I have never heard of any issue that has been discussed more than the abortion amendment. Certainly this is true in this body as well as the other body.

I think that it is totally unfair for those who have delayed the consideration of this proposal since the 98th Congress to be advocating the issue of unfairness. It is certainly unfairness on the side of those who have been denied their rights since the 98th Congress, and therefore, I think the time has come to act and not deny this bill through the guise that hearings have not been held.

This bill has been fully debated by both Houses and it was passed, I think it should be understood, by the House in 1984 by a vote of 375 to 32, and in the other body just recently by a vote of 75 to 14 with 11 not voting.

All the compromises, it seems to me, that could possibly be made have already been made. All the negotiations have gone on. If those opposed to civil rights had done what the proponents of civil rights had done in S. 557 and put their ideas into their amendment; that is, the substitute which is allowable today, then they would have had an opportunity to have obtained a vote. They apparently preferred not to do that, and consequently it seems to me they come in with ideas that they have refused to discuss among themselves.

Mr. Speaker, I have promised a colloquy to the gentleman in the well, so let me rapidly conclude.

Since this bill has been first introduced in the 98th Congress almost 2,500 amendments have been offered to identical bills. Certainly all of the ideas that could ever have been thought of have already been expressed. Just how many more ideas can we think of to delay the passage of this bill?

The time is now. Certainly we have been fair. Certainly we have had hearings and the choices now are clear, and this rule ensures a clear vote. No more delays or obfuscation is needed, and it is time to vote, and I urge my colleagues to do so in support of S. 557.

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

Mr. HAWKINS. I yield to the gentleman from Tennessee.

Mr. GORDON. Mr. Speaker, does the Civil Rights Restoration Act change in any way the standards for determining whether or not a handicapped individual has been discriminated against on the basis of a handicap under section 504 of the Rehabilitation Act of 1987?

□ 1600

In particular, does the bill change in any way the standards for determining whether a handicapped person has been discriminated against because of the lack of accessibility of a facility.

Mr. HAWKINS. May I say this to the gentleman from Tennessee: The answer is "No."

The purpose of the bill is simply to restore the scope of coverage that existed prior to the Grove City decision. The bill does not redefine what constitutes discrimination under section 504. Many in the civil rights community, including advocates for persons with handicaps, would have liked to strengthen and expand the current definition of discrimination. However, it was agreed, in the spirit of bipartisanship, and in an effort to gain passage of the bill, to put aside such agenda and to support the restoration principle.

Mr. GORDON. What is your understanding of the standards in the current regulations for determining whether a recipient has been denied access to a program provided in an existing facility? Are there different standards for new construction?

Mr. HAWKINS. The regulations issued by the Reagan administration's Department of Justice pursuant to Executive Order 12250, which requires Department of Justice to coordinate the implementation of section 504, contain two standards—one standard for new construction and a second standard for existing facilities. The standard for new construction is that each new facility must be designed and constructed to be readily accessible to and usable by handicapped persons. The rationale for this standard was first enuciated on May 17, 1976, when the Secretary of Health, Education, and Welfare explained in the Inflationary Impact Statement accompanying HEW's "Notice of Intent to Publish a Proposed Regulation" his belief that is reasonable to require that all newly constructed facilities be accessible because the additional cost of incorporating such a requirement into construction plans from the onset usually amounts to less than one-half of 1 percent.

On the other hand, to make an existing facility accessible may require additonal costs. Thus, the regulations include a far more flexible standard for existing facilities, which is commonly referred to as the program accessibility standard. The regulations require that the program operated in an existing facility, when viewed in its entirety, must be readily accessible to handicapped persons. Under this standard, a recipient is not required to make each existing facility or every part of a facility accessible to handicapped persons, so long as the program as a whole is accessible. Thus, a recipient is not even required to make any structural changes when other methods are effective in making the program accessible.

Mr. GORDON. In other words, it is your opinion that the standards of program accessiblity have been in existence for over 11 years and have not caused any significant burden on recipients. And, these standards have been reaffirmed by the Reagan administration.

Mr. HAWKINS. The gentleman is correct. It is interesting to note that following the publication of the final section 504 regulations issued by the Department of Health, Education, and Welfare, numerous letters were sent to the Department and the Congress erroneously describing the exorditant costs of complying with these new regulations. In attempt to address these concerns, David Tatel, the Director of the Office for Civil Rights, issued a statement noting:

It has been difficult to get attention focused on program accessibility, because some people seem to skim over the regulations and explanatory materials and start fretting about the widening of thousand of door or installation of high- and low-water fountains in every facility at every conceivable point. A result of the misunderstanding

is a rising exaggeration of the potential cost of making programs accessible * * *. A recent report by Mainstream, Inc., a private nonprofit organization indicates that the cost of making 34 facilities accessible—in a survey they conducted—totaled only 1 cent per square foot. These same facilities spend 13 cents a square foot to clean and polish their floors.

Mr. GORDON. Mr. Chairman, in the situation of a hypothetical of corporation A receives Federal funds to construct and operate a low- and moderate-income apartment complex. Corporation A also owns and operates a luxury apartment rental complex and a candy company. Which components of corporation A are subject to the nondiscrimination laws?

Mr. HAWKINS. The housing project being constructed using Federal financial assistance is clearly covered. The luxury apartment rental complex would also be covered under subsection (3)(A)(ii) if, as appears to be the case, the corporation is principally engaged in the business of providing housing. In that circumstance, the entire corporation, including the Candy Co., would be under an obligation to comply with the several laws amended by S. 557.

If Housing is not the corporations' principle business, the scope of coverage of its components would depend on whether the Federal assistance was extended to the corporation "as a whole" within the meaning of subsection (3)(A)(ii) which is simply a question of fact. It is unlikely that a corporation, other than in a Chrysler bailout type situation, will be construed to be receiving assistance to the corporation "as a whole." The housing assistance described in the hypothetical would not be assistance to the corporation "as a whole," and the Candy Co. would not be covered.

Mr. GORDON. Questions have also been raised regarding what constitutes Federal financial assistance to a recipient entity. For example, do FHA loans, VA loans or other federally guaranteed loans to individuals, corporations or partnerships that are used to purchase or build single family or multifamily housing units constitute Federal financial assistance as contemplated by the law?

Mr. HAWKINS. I should stress at the outset that this is an issue which must ultimately be resolved on a case-by-case basis in the courts. Indeed, whether or not Pell Grants constitute Federal financial assistance to the institution was the principle question in Grove City College versus Bell. I would stress also that nothing in this legislation affects the definition of Federal financial assistance.

Mr. Speaker, I would like to emphasize that point: That nothing in this legislation affects the definition of Federal financial assistance; that which constitutes Federal financial assistance before S. 557 was enacted will constitute Federal financial assistance after it is enacted. We affect only the scope of coverage of the four laws amended by S. 557. A private individual would most likely be an ultimate beneficiary and thus not covered. However, a developer could be covered depending upon the kind of assistance it obtained.

Mr. GORDON. I thank the chairman.

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

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding.

Mr. Speaker, what has just occurred on the floor is a prime example of why we should reject the rule and ultimately the bill in its present form. The gentleman from Tennessee who is honestly in favor of this bill also has honest doubts about the efficacy and the wording of this piece of legislation. He has even in the Rules Committee expressed his reservations about the unintended consequences of this bill. He seems to feel, and the gentleman from California is accommodating him, that this whole thing can be straightened out by a colloquy on the floor. There are unanswered questions about higher assistance, there are unanswered questions about the effect of this law on the housing bill. But the gentleman from Tennessee and the gentleman from California are willing to allow the body to proceed into the passage of this bill with a colloquy in explaining all these unintended consequences.

I say to you that the only way that we can deal with the unintended consequences is to have hearings, full debate on every single one of them; on how it would affect the Amish in Pennsylvania; how it would affect the religious houses of our country; how it would affect the religious colleges and their curricula; how it would affect the religious colleges in separate facilities for men and women if that is the desire; unintended consequences on our grocery stores, on our market places.

Colloquies and opinions on the part of people putting records into this debate are not sufficient. The wording of the law is going to bring about unintended consequences like you can never imagine.

Mr. LATTA. Mr. Speaker, I yield 6 minutes to the Republican leader, the gentleman from Illinois [Mr. MICHEL].

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

Mr. MICHEL. Mr. Speaker, I have always supported every Voting Rights Act—Mr. Speaker, I rise in opposition to the rule. In a little over 32 years in this House, I voted for every civil rights bill. But I must confess that in times past I wanted to know for sure what I was voting for, what I was voting against. The point that the gentleman from Pennsylvania just made is a very valid one. When we take legislative history only from the colloquy of two individual Members on matters that are this controversial when frankly no one person of us as individuals is all that knowledgeable to have all the answers. There is nothing wrong with full aeration and debate on some of these more controversial issues.

In 1964 we in the House took 9 days to debate the Civil Rights Act. In the next year we took 4 days to discuss the Voting Rights Act. Yet today we have 1 hour of debate time on the bill and 1 hour on a substitute; we have 2 hours to discuss what the proponents call the single most important piece of civil rights legislation to appear before us since those landmark bills of 20 years ago.

I am reminded by one of the knowledgeable folks on the committee that there has not been any kind of hearings before the Committee on the Judiciary, for example, since April of 1985 on this particular legislation.

I am not necessarily all that enamored with what the other body does, whether they have an opportunity to amend or not. It is not that old great deliberative body that it once used to be where we could count, maybe, on an extended debate on some controversial issues from that other body. Today they are just as political as the city councils and the county commissioners back home.

There have been questions raised about the effect of this legislation on local and State governments, private organizations, churches, synagogues, businesses, farmers, private and religious schools and higher education. The modified closed rule, allowing one substitute, simply cannot address all those issues.

Now this term "restoration" that I heard the distinguished chairman mention in the bill is misleading because the effect of the legislation is not simply to restore civil rights to the status quo before the Supreme Court decision but to actually expand in many areas of coverage and that is what we ought to explore in full aerated debate around here. I am not arguing a case against expanding coverage of civil rights. What I am saying is we must not sacrifice our beliefs in open and free debate to pass a civil rights bill.

The two are equally essential pillars of our democratic society.

Procedure determines substance in so much of our legislation.

The way we debate an issue can change the very substance of that issue by either leaving no time for reasoned debate or in overlooking possible consequences of well-intentioned legislation.

The rule is in essence not a guide to debate but a way of determining its outcome; the medium truly is the message here.

Mr. Speaker, no one, least of all this Congressman, wants to take issue with the sincere motivations or good intentions of those supporting this bill in

and out of Congress. Protecting civil rights is such an essential part of the duties of Congress that I can think of few issues outside of actual national security of our country that so deserve our attention. But that is precisely my point. We are debating a complex, wide-ranging issue but we are not applying our energies and our talents really to the fullest.

We are not doing what legislators do best in a great deliberative body. The rule assumes that since the goal is so profound the responsibilities of lawmakers can be temporarily suspended for the sake of expediency.

All we ask is that the issues get proper hearings. II ask you what is wrong with that? Suppose we were being asked today to consider a bill which has wide-ranging consequences in every aspect of national security, including the right of privacy, questions about electronic surveillance et cetera.

□ 1615

Suppose the bill was supported by a patriotic organizations and anti-Communist organizations; suppose they claimed that support of this bill was mandatory for anyone really patriotic. Suppose further that supporters demanded that the national security bill, with all its unknown consequences in so many areas, would be debated for only 1 hour, with one substitute. I think we would hear all kinds of protests, and rightly so.

But those who would protest would not, therefore, be against national security. They would be against passing a national security law without proper time for debate and reflection.

That is exactly our position. We believe so strongly in the goals of this bill that we do not want to see those goals put at the mercy of unacceptable legislative methods.

If every aspect of this bill is in the public interest, an open rule would not be harmful to its passage. On the other hand, if parts of this bill ought to be amended, then an open rule would certainly be helpful to the process.

For the record, I just want to make it abundently clear that the Rules Committee—and let us face it—with a 9-4 Democratic majority over Republicans, is a tool of the Democratic leadership. With the tendency in recent years to move more and more toward closed rules or limiting alternatives to one substitute, we ought to take a good look at that. We are stifling debate in this House of Representatives.

Frankly, we have all the time in the world. We have not been doing that much from January to March 2. We have plenty of time to debate these issues. What is so terrible about talking about it in this body, for heaven's sake?

I testified in the committee for an open rule. I did not ask for a substitute; I said I wanted an open rule. I remind the Members that we debated this thing for 9 days a few years back, and we had 4 days on another civil rights bill. What is wrong with talking about it and debating it and letting every Member have an opportunity to offer their amendments? The gentleman from Wisconsin is going to have his amendment. This is his view on several selected areas. I am going to support what he is proposing here, but it seems to me we ought to be talking more in terms of opening up the process.

Mr. Speaker, I include with my remarks the full text of the letter from the President and the letter from the Secretary of Education, as follows:

THE WHITE HOUSE,
Washington (Brussels, Belgium),
March 1, 1988.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR BOB: I am writing to advise you of my deep concern with the "Civil Rights Restoration Act" (S. 557), also called the "Grove City" bill, which the House is scheduled to consider shortly. I will veto the bill if it is presented to me in its current form.

Preservation of the civil rights of Americans is an important function of government. In the area directly affected by the Grove City decision of the Supreme Court—education—my Administration has supported the effort to end discrimination against women, such as in collegiate athletics. In this and other areas, we remain committed to the effort to eradicate invidious discrimination in American society.

Unfortunately, the Grove City bill dramatically expands the scope of Federal jurisdiction over State and local governments and the private sector, from churches and synagogues to farmers, grocery stores, and businesses of all sizes. It diminishes the freedom of the private citizen to order his or her life and unnecessarily imposes the heavy burden of compliance with extensive Federal regulations and paperwork on many elements of American society.

The bill poses a particular threat to religious liberty. It interferes with the free exercise of religion by failing to protect the religious tenets of schools closely identified with religious organizations. Further, the bill establishes unprecedented and pervasive Federal regulation of entire churches and synagogues whenever any one of their many activities, such as a program to provide hot meals for the elderly, receives any Federal assistance. Moreover, and in further contrast to pre-Grove City coverage, entire private elementary and secondary school systems, including religious systems, will be covered if just one school in such a private system receives Federal aid.

I regret that the Members of the House of Representatives were not given the opportunity to consider and solve these and the many other problems with the bill through the normal process of committee consideration. I urge the House to correct these deficiencies.

Sincerely,

RONALD REAGAN.

U.S. DEPARTMENT OF EDUCATION,
THE SECRETARY,
March 1, 1988.

Hon. BOB MICHEL,
U.S. House of Representatives,
Washington, DC.

DEAR MR. MICHEL: We understand that S. 557, the Civil Rights Restoration Act will be debated under a very restrictive rule on Wednesday, March 2, 1988. This legislation, in its current form, presents many problems; two of the more serious deal with corporate coverage and the question of religious tenets exemption.

While the Department of Education strongly supports legislation to restore the status of civil rights enforcement by the Department prior to *Grove City,* it does *not* support attempts to expand jurisdiction beyond its prior scope, as S. 557 proposes to do. It is important to understand that under past policies and practices, the Department of Education never claimed jurisdiction based on education funding over more than all facets of the education program in question. Prior to the *Grove City* case, jurisdiction was asserted by the Department over every educational facet of an institution connected with education: transportation of students, housing of students, employment of faculty and staff, athletics, extra-curricular activities, etc. whether or not the particular activity received Federal education grants.

Prior to *Grove City,* the Office for Civil Rights, U.S. Department of Education (OCR/ED) would not have accepted a complaint alleging that a large private corporation, *e.g.,* Widgit Corp., was discriminating against women in the management of Widgiet's officies if the only federal monies it received were funds under the Vocational Education Act for participating in model programs for teaching computer repair. S. 557 would subject the company's other operations, however unconnected with the educational activities of the corporation, to Education Department civil rights jurisdiction. (See Section 908 "all operations of" read together with Section 908(3)(A)(i).)

I am concerned that if S. 557 became law, social service organizations or businesses that previously felt a mission to support education might decide that the intrusion of the government into every aspect of their operations (and S. 557 makes it clear that *all* aspects of a covered entity's operations will be included) is not worth bearing. They may, therefore, withdraw from participating in programs for the improvement of education.

The pending legislation, S. 557, also does not address a serious concern that arose during consideration of Grove City legislation in both the 99th and 100th Congress, namely the scope of current Title IX exemption to protect religious organizations.

In 1972, when Congress enacted Title IX, it contained the following exemption to its coverage: "(Title IX shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religous tenets of such organization * * *" 20 U.S.C. S 1681(a)(3)). At that time, many religious institutions were controlled outright by religious entities. By contrast, many of these institutions are today controlled by law boards, or are otherwise organized so that they fall outside the exemption, even though they retain their religious mission and their affiliation with religious entities. A number of organizations, including the United States Catholic Conference, expressed concern about this development. In response, the House Education and Labor Committee adopted language in May 1985, that excluded from Title IX coverage "any operation of an entity which is controlled by a religious organization, or affiliated with such an organization when the religious tenets of that organization are an integral part of such operation, if the application of (Title IX) to such operation would not be consistent with the religious tenets of such organization."

A substitute amendment to S. 557, to be offered by Mr. Sensenbrenner, addresses the concern about adequately protecting religious tenets under Title IX. The pending legislation, S. 557, does not address the religious tenets issue. The religious tenets amendment that would be included in the substitute bill contains language identical to that enacted by Congress in the Higher Education Amendments of 1986, in a provision barring religious discrimination in the construction loan program. The law (P.L. 99-498) provides that any prohibition with respect to religion shall not apply to an educational institution which is controlled by or *which is closely identified with the tenets of* a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization. (Emphasis supplied.) The Education Department believes that this language clearly expresses the appropriate scope of the religious tenets exemption.

It should also be noted that there is precedent under other civil rights laws for employing a broader test than "control" for a religious tenets exception. For example, Title VII of the Civil Rights Act of 1964 currently contains a religious tenets provision that establishes a broader test than the "control" test in Title IX.

The Department of Education supports the amendment to be offered by Mr. Sensenbrenner, which would resolve these two major problems in S. 557.

Sincerely,

WILLIAM J. BENNETT.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. DERRICK].

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

Mr. DERRICK. Mr. Speaker, I wish to have a colloquy with the gentleman from California [Mr. EDWARDS], and I will ask the gentleman this question first:

Does title IX's prohibition against sex discrimination require that colleges provide unisex housing for its students?

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

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

Mr. EDWARDS of California. No, it does not. Section 106.32(b)(1) of the Code of Federal Regulations explicitly provides that "a recipient may provide separate housing based on sex." These regulations apply to all educational institutions, not just institutions controlled by a religious organization.

Mr. DERRICK. Does this bill in any way change those regulations?

Mr. EDWARDS of California. No; this bill has no effect on those regulations. They would remain in effect.

Mr. DERRICK. Mr. Speaker, I thank the gentleman for this clarification.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the distinguished whip, the gentleman from California [Mr. COELHO].

Mr. COELHO. Mr. Speaker, I rise today in support of the Civil Rights Restoration Act. This is one of the most important civil rights bills of recent years. It is a bill that breaks no new ground, it only restores rights this body long ago granted.

The passage of this bill will take us back to where we have already been in assuring necessary antidiscrimination protections for minorities, for women, for the elderly and for people with disabilities. This bill is a simple restoration of rights—it does nothing to further the cause beyond eliminating discriminatory practices we have already banned—but until this restoration is complete, there is no way we can pursue a future vision.

I have a personal interest in this bill as a member of America's largest minority—people with disabilities. I have epilepsy. I understand discrimination because I have experienced it. I, like millions of other disabled people—people who are blind, or deaf, or mentally retarded, or who have spinal cord injuries, or cerebral palsy, or a host of other disabling conditions, have been subject to discrimination based on ignorance, irrational fear, and prejudice.

In 1973 Congress recognized that Americans with disabilities, like minorities and women, were subject to discrimination and were entitled to basic civil rights protections—were entitled to share in the promise of America. When Congress passed section 504 of the Rehabilitation Act, it sent a loud and clear message to all disabled Americans—Congress told us that we did not have to be relegated to second-class citizenship—that we have the right to the same opportunities that other Americans take for granted—the right to an education, to employment, to housing, to transportation, and to health care.

Americans with disabilities have made great progress in our fight for equal citizenship since the enactment of section 504. Today, disabled people are no longer "out of sight, out of mind"—shut away in institutions and school basements. However, this fight for equal citizenship is only just beginning—we have a long way to go.

The Grove City College versus Bell decision has halted much of the progress that has been made. Immediately following the decision, the Supreme Court ruled in Consolidated Rail Corporation versus Darrone that Grove City's narrow interpretation of "program or activity" for title IX would apply to section 504. As a result the protections afforded disabled Americans under section 504 have been eroded by the courts and Federal agencies in succeeding judicial and administrative decisions regarding education, transportation, health care, and employment.

Some of the most serious setbacks have occurred in the employment area where the Darrone ruling has been used to thwart persons with disabilities in their efforts to seek legal recourse for job-related discrimination. In one case, a young woman who had epilepsy was denied employment by a large corporation solely on the basis that the company had a blanket policy preventing anyone with epilepsy from being hired for that particular job. The company received Federal job training funds. However, the court ruled that section 504 only covered persons participating in the job training program, not the entire corporation.

For disabled Americans, achieving equal employment opportunity is essential to achieving full integration in society—our ultimate goal. I know all too well from my own personal experience as well as from conversations with other people with epilepsy and other disabilities, that employment discrimination based on disability is rampant in this country. Employers, like other in the public at large, hold stereotypes and prejudices about disabled people which impede their ability to objectively evaluate the qualifications of applicants or workers with disabilities. I believe that stereotypes and prejudices rather than handicaps themselves, are the most potent barriers to equal employment opportunity. Too often, the image of what disabled people "can do" has no basis in reality.

There is perhaps no area in which that image has become more distorted lately than in the arena of contagious diseases, particularly as it has focused on the dilemma of AIDS. The distortion has paralleled the historical response to all disabilities. Irrational fears and prejudice have prompted uninformed and unjustifiable responses in all aspects of life for people with AIDS, but particularly within the workplace. The lack of understanding has not just been about the realities of the disability, but also about the employer's responsibilities relative to an individual with AIDS under the compliance requirements of section 504 of the Rehabilitation Act.

Last year the Supreme Court in the case of School Board of Nassau County versus Arline reaffirmed the fact that individuals with contagious diseases has protections available to them under section 504 of the Rehabilitation Act. In its decision, the Court reflected on the congressional intent behind the development of section 504 stating:

> Congress acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from the actual impairment.

However, the Court also made clear that such individuals would not otherwise be qualified for employment purposes if the individual posed a significant risk of communicating the infectious disease to others in the workplace and such risk could not be eliminated by reasonable accommodation.

In the bill we are considering today, the Senate has included an amendment which places the precise standard and approach articulated in Arline into statue. Their amendment provides that individuals with contagious

diseases or infections are protected under the statue unless they pose a direct threat to the health or safety of others or cannot perform the duties of the job.

The purpose of this provisions is to clarify without modifying or altering the substantive standards of section 504 of the Rehabilitation Act as they apply to individuals with contagious diseases. As is clear from the discussion in the Senate, the essential objective of this amendment was to parallel the efforts undertaken by the Congress in 1978 with regard to coverage of alcohol and drug users under the statue. Some employers today, as was the case in 1978, are unjustifiably concerned that they may be required to hire or retain handicapped individuals who are not qualified for a particular employment position.

This amendment reaffirms that section 504 does not impose such a requirement. To the contrary, under the statue, as now clearly stated in this amendment, individuals with contagious diseases and infections are not otherwise qualified—and thus are not protected in a particular position—if, without reasonable accommodation, they would pose a direct threat to the health and safety of others or cannot perform the duties of the job. This type of amendment maintains, as section 504 always has, the proper balance between private rights and legitimate employment and health-related concerns.

People with contagious diseases and infections, such as people with AIDS or people infected with the AIDS virus, can be subject to intense and irrational discrimination. I am pleased that this amendment makes clear that such individuals are covered under the protections of the Rehabilitation Act. Although it may be unfortunate that we must, at the same time, include a specific requirement of section 504 as it applies to individuals with contagious diseases and infections, in order to allay the fears of some employers, such a clarification of existing section 504 law may itself be useful.

Section 504 is regarded by all Americans with disabilities as the hallmark of this Nation's commitment to full integration and equal opportunity. Since its enactment, section 504 has opened doors for disabled Americans which the Grove City decision is closing once more. We can no longer delay the fulfillment of the promise of nondiscrimination that Congress extended to disabled Americans in 1973.

Now is the time for us to act. People with disabilities, as well as minorities, women, and the elderly have been waiting for the past 4 years for us to restore to them what we had already granted. We cannot ask them to wait any longer. It is time to reaffirm our commitment to basic civil rights protections. It is time, once and for all, to say that Federal dollars cannot be used to subsidize discrimination.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

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

Mr. HENRY. Mr. Speaker, I rise in strong opposition to the rule, and I plead with my colleagues to listen very carefully to what the issue is. The issue is really a twofold one, a fundamental question as to religious rights and, quite frankly, first amendment freedoms. When this issue was last considered in a House committee on May 21, 1985, the House Education and Labor Committee, which considered and debated and heard testimony on this issue, voted 18 to 11 for a religious tenets amendment because of the problems we have in this area. Every Republican voted for it, and 40 percent of the Democrats of that committee voted for that. That was not a partisan vote, and it was almost a 2-to-1 vote in committee.

Subsequent to that time the committee voted another piece of legislation in 1986. That was the higher education reauthorizations bills, and we put identical language in the higher education authorization bill which, if I am not mistaken, every single Member of this House except one voted for that change in that act believing it was necessary. Now the committee in discussing this act felt that language was necessary. The committee in the entire House and the Senate agreed to this language in the higher education bill.

What is the problem now? Frankly, I know of no opposition to this language. Why not open it up to this question? A second question in terms of scope has been issued. Does this bill extend to primary, secondary, tertiary definitions of a recipient under the Civil Rights Act?

Now we deserve clear answers to those questions. That does not mean necessarily in my opinion that, if we extend Civil Rights Act applications more broadly than they have been, that is bad. I am not saying that, but I would like to know, and unfortunately this is a bill which in the name of broadening civil rights threatens religious rights and constitutional rights. It is a bill that in the name of broadening rights denies rights to the minority legislatively.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Rhode Island [Miss SCHNEIDER].

(Miss SCHNEIDER asked and was given permission to revise and extend her remarks.)

Miss SCHNEIDER. Mr. Speaker, I find it very amazing that before 1972 the School of Agriculture at Cornell University required women to have SAT scores 30 to 40 percent higher than those of men. Times have changed as a result of title IX to the Education Act.

But now the Supreme Court several years ago had issued an opinion in the case of Grove City, which I believe has set back the practice of civil rights enforcement in the United States by easily 20 years.

I also believe that no other decision cries out as loud for corrective legislative action, and this decision reversed the record of a decade during which title IX provided to all the programs or activities of an institution receiving taxpayers dollars. By rejecting the argument in Grove City justice put hundreds and thousands of students out in the cold, and only 4 percent of all education assistance is direct aid. After Grove City the overwhelming majority of educational programs, including athletics, counseling services, and curriculum procedures were exempted from the title IX coverage, but only 1 year later 61 investigations of alleged discrimination and education institutions have been dropped by the education department because Federal aid did not go far enough.

Mr. Speaker, let us look to the future. Seven out of ten people entering the work force in the next 10 years will be women. They need equal access to education.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise today to voice my support of the rights which are such precious and fundamental elements of our democracy, constitutional rights, rights to protection against discrimination based on gender, race, age, or handicap, and rights such as the opportunity for free and open discussion in this House of Representatives. I oppose this rule for the same reason that I have opposed other rules in the past that are closed and artificially obstruct the open deliberation of serious ideas of serious consequence in this body of which we are all elected. On very rare occasions can such restrictiveness be justified in a democracy, and this bill at this time could hardly be considered one of those occasions. In fact, I suggest to all of us who are ardent supporters of the fundamental rights that I mentioned originally that this action actually works to the harm of those final results that we seek.

Mr. Speaker, I had hoped to offer an agriculture amendment to this bill today that would guarantee in statute, as some have not only hinted but have kindly agreed to in colloquy, that this bill has no intention of imposing new paperwork requirements, vulnerability to lawsuits, and susceptibility to unannounced Federal inspections on family farms and ranches.

My simple question to the Rules Committee is, if indeed no such intrusions are intended by the authors of the legislation, it seems there should be no problem in stating so in the actual law.

Of course, without the opportunity to offer an agriculture amendment on the floor, and to offer other amendments, there is no way of expressing

the will of the Congress in statute on this specific issue.

Mr. Speaker, I reluctantly urge my colleagues to oppose the rule but not the intent of the legislation. We all agree on the intent. It just seems that of all the legislation this is one on which we should be a little more willing to hear the debate and to answer the questions before it is put into law so that the problems that we have found in the past would not be there for us in the future.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER]

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

Mr. SENSENBRENNER. Mr. Speaker, it is ironic that today we are going to consider civil rights legislation under a closed, restrictive rule that prevents the House of Representatives from working its will on this major civil rights bill. The problem that this bill faces, as was correctly stated by the gentleman from Michigan [Mr. HENRY], is the unintended consequences of the language contained in the draft which will come before us under this rule.

Let me emphatically state that no one, including this Member, is against having antidiscrimination provisions where Federal funds flow, but we are opposed to a gag rule and a "railroad job" which brings the bill up in such a way that in that amendments we had to eliminate the unintended consequences that could not be debated and voted on and hopefully adopted. The type of procedure that is being utilized today is going to set the stage for another Grove City decision by the Supreme Court misinterpreting the intent of Congress. There are no hearings in this Congress, there is no committee report filed, debate is limited; amendments, except for one substitute, are prohibited under this rule, and consequently the courts are not going to have an adequate legislative history on this piece of legislation to interpret what Congress actually meant, as they really should.

□ 1630

In effect, by not adopting the usual procedure of an open rule, we are abdicating our responsibility to the Senate where there is an adequate legislative record.

There have been no dilatory tactics relating to this piece of legislation being considered. The two committees voted on this bill in May 1985, and the committee chairmen responsible for bringing this bill to the floor, my two friends from California, Congressman HAWKINS and Congressman EDWARDS, never filed the committee report until the closing days of the 99th Congress and never asked the Rules Committee for a rule to bring this bill up, so the dilatory tactics were on that side of the aisle, not on this side of the aisle. We were prepared to vote with an open rule in May 1985. The other side of the aisle did not bring it up.

Finally, because this bill cannot be approved, a veto is certain. I received a letter from the President today dated March 1 that says:

DEAR JIM: I am writing to advise you of my deep concern with the Civil Rights Restoration Act, S. 557, also called the Grove City bill, which the House is scheduled to consider shortly. I will veto this bill if it is presented to me in its current form.

We need to undo the damage caused by the Grove City decision. We can do that with a correctly drafted bill and avoid a veto, but we cannot do it with this closed rule, and that is why the rule should be defeated.

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

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in opposition to the rule. It prohibits fair and open debate on the complex and far-reaching piece of legislation before us. S. 557, as passed by the Senate, does not adequately protect religious values. While the Sensenbrenner substitute includes a broader and more realistic standard for a title IX exemption, it does not go far enough in protecting religious institutions from the reach of Federal control. Only an open rule will let us address that important issue.

In 1972 Congress enacted title IX banning sex discrimination in education programs receiving Federal financial aid. The legislation included an exception to coverage which applied to educational institutions controlled by religious organizations if application of title IX requirements would be inconsistent with the organization's religious tenets.

Today only 150 schools qualify for this exemption. In fact, the governing bodies of many church-related educational and health institutions are made up of lay persons. As such, many institutions, which may have previously qualified, are now outside the scope of the existing religious tenets exemption.

The Sensenbrenner substitute would modernize the exemption to include these church-related institutions. Without this change it is possible some schools may be subject to future actions, either administrative or legal, designed to strip them of their exemptions. I am concerned, as you should be, for institutions such as Georgetown and Notre Dame. And Grove City College, a Presbyterian College which has never practiced discrimination of any kind.

Let me assure Members that the proposed exemption applies only to a policy of a particular institution if that policy is based on religious tenets which conflict with title IX. Furthermore, an institution cannot claim protection under this exemption for differentiation on the base of race, handicap or age. Finally, the exemption would have no application to public schools or public hospitals.

In framing this, the authors have mirrored language which Congress included in the Higher Education Amendments of 1986. There, Congress provided a nearly identical exception to a prohibition on religious discrimination for projects under the construction loan insurance program. This exemption is supported by the National Association of Independent Colleges and Universities, the American Association of Presidents of Independent Colleges and Universities, the Association of Catholic Colleges and Universities, Agudath Israel of America, the National Association of Evangelicals and the Lutheran Church—Missouri Synod. I am told that the National Society for Hebrew Day Schools, and the Association of Advanced Rabinical and Talmudic Schools are also supportive.

The second issue threatening the independence of religious institutions is the scope of coverage. In the other body, Senator HATCH offered an amendment, which was not adopted, that would limit coverage of religious institutions to the particular program or activity of the institution receiving federal funds. Such an amemdment is consistent with the ruling in Grove City versus Bell as well as pre-Grove City case law. These cases include decisions from four U.S. Courts of Appeal and even a prior U.S. Supreme Court case.

During the last 4 years proponents of this legislation have provided us with no evidence that these civil rights laws covered entire churches, synagogues, or other religious entities, when just one of their programs received Federal funds. In view of the potential constitutional problems, it is not prudent for Congress to enact legislation that would invite Federal interference with and control over private independent religious institutions.

The leadership has completely bypassed regular procedures in an effort to railroad this bill through the House under an unfair rule. The rule should be defeated.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr LUNGREN]

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

Mr. LUNGREN. Mr. Speaker, I yield to the gentleman from Iowa [Mr. TAUKE]

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

Mr. TAUKE. Mr. Speaker, I rise in opposition to the rule that has been proposed for consideration of the Civil Rights Restoration Act, S. 557.

Mr. Speaker, I want to be able to support this legislation, and I think most Members of the House are in favor of restoring institution-wide coverage of our civil rights laws. However, the procedures under which the leadership

is asking us to consider this far-reaching legislation is making it difficult for many of us to lend our full support to its passage.

I think it would be useful to review the history of this legislation since the 1984 Grove City decision. Shortly after the decision was renderd, legislation was introduced in Congress to overturn it. That bill received quick consideration and broad, bipartisan support in the House, reflecting the basic, underlying sentiment of this body to restore civil rights coverage to entire institutions receiving Federal financial aid. That original bill died in the Senate in 1984 when unintended ramifications of it were identified.

In the 99th Congress a revised bill, the Civil Rights Restoration Act, was introduced. This bill went a long way toward addressing concerns raised about the measure that was considered in 1984, and again there was broad, bipartisan support for the concept, reflected by the large number of cosponsors that this bill, H.R. 700, garnered.

Action on H.R. 700 in the 99th Congress seemed likely. The House Committees on Judiciary and Education and Labor, held hearings, and marked up the bill early in 1985. Both committees approved the legislation in May, 1985. But reports were not filed on H.R. 700 by the committees for over a year. Only in the last few days of the second session of the 99th Congress, in October 1986, were committee reports on H.R. 700 filed. This delay in filing the reports prevented further House consideration of this important civil rights legislation in the 99th Congress.

The decision not to go forward with the Civil Rights Restoration Act in 1985 or 1986 was because of the adoption by the Education and Labor Committee of two amendments to the bill. Those amendments dealt with abortion and with religious tenets. Neither amendment was designed to undercut or jeopardize the restoration of the civil rights laws, but served to address two serious concerns raised by the bill. Nevertheless, the House was denied an opportunity to consider the Civil Rights Restoration Act in the 99th Congress.

In the 100th Congress, the Civil Rights Restoration Act was again introduced. H.R. 1214 was introduced with numerous cosponsors and referred to the committees of jurisdiction. But this year, these committees decided to allow the other body to act first on the legislation. And it did so, passing the bill with amendments January 28, 1988.

Now, nearly 4 years after the Grove City decision, the Civil Rights Restoration Act is being brought before the House. I congratulate the leadership and proponents of this legislation for this apparently herculean task of finally getting this bill before the House.

But by avoiding House committee consideration of this bill in the 100th Congress, no hearings have been held, no legislaitve history has been established and, moreover, no opportunity for amendments has been available to Members of this body. And now, the Rules Committee, proposes to deny Members their final and only opportunity in the 100th Congress to offer amendments to this important legislation. I think this procedure is unfair and unwarranted.

This bill has been waiting for House consideration for 3 years. Another few hours to allow for the full and fair consideration of legitimate amendments to this bill is justified; indeed, it is the only way that this bill should be considered by this body.

Mr. LUNGREN. Mr. Speaker, I would just like to address my colleagues because of an experience I have just gone through over the last few weeks in my home State of California where I was being considered, still being considered, for an appointment statewide.

My record was subjected to question and misrepresentation. One of the examples of misrepresentation is this very bill. I voted against this bill 4 or 5 years ago because it did not have an abortion-neutral amendment in it and it did not have a religious tenents amendment in it. For that reason I was called, among other things, racist, anticivil rights, insensitive to minorities, et cetera.

What we have done and what we are doing now is to put ourselves in an untenable position where men and women of good faith on both sides have a difference of agreement with respect to how to achieve civil rights in this country, but we create a rule in this House which prevents legitimate debate, which prevents people who are as equally committed to civil rights as anybody on your side of the aisle and we cast them in the posture of being against civil rights. We cast them in the posture of being insensitive to minorities. We cast them in the posture of being attacked for being racist.

Why? Because they have a concern about religious tenents.

Now, Mr. Speaker, we have thick skins in this House and thick skins in politics we have to have, but I am more concerned about what this does to the process and I am more concerned about what this does to the cause of civil rights, because if what we do in terms of adopting rules and forcing division amongst us, as opposed to reconciliation in this House and in this Nation, we demean the cause of civil rights. We say that for partisan political advantage we are willing to see a civil rights law go down so that we can talk about it in the next election. That does not serve anybody's purpose at all. That demeans the House. It demeans the memory of those who fought for civil rights in the past and it does not help the people we want to help.

Mr. Speaker, give us a fair rule. Fairness ought to be part of the debate on civil rights as well.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

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

Mr. JEFFORDS. Mr. Speaker, it is not often that I disagree with my good chairman, but it seems to me that we have a very, very important bill here. I can understand the desire to limit amendments, but to limit debate when you have two major committees involved is not the way it ought to work. To me, this is a reverse filibuster. It is an abomination to deny us the opportunity in a rational way to establish legislative history or to debate the important issues involved. This rule does not allow this body to be the kind of deliberative body it ought to be.

We have had no time to establish any legislative history and we will have no time. To see legislative history being established under a rule is just the opposite of the way things ought to go.

What legal effect does it have if you establish legislative history under the rule instead of in the debate on the bill?

Mr. Speaker, I hope and I wish we could change this situation, and I will vote against the rule in the hope that we can get a better rule to allow the proper kind of debate on these critically important issues.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

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

Mr. HYDE. Mr. Speaker, it is tragic. I do not want to overstate the case, but this is the most important civil rights bill in 25 years. That is what you say.

Why do you circumscribe debate? Are you afraid of the democratic process? Do you not want to debate these issues? Do you want to intimidate people and say you are against civil rights when you are for freedom of religion?

There are five liberties in the first amendment. The first freedom is freedom of religion, and some of us are concerned that religiously affiliated schools, not religiously controlled, but religiously affiliated schools will have their free practice of religion trampled on by this very bill.

We ought to be able to explore that, to debate it, to go into the nuances of it.

The chairman said that we prevented this bill from coming forward for years. You control the progress, the odyssey of this bill. You did not want to bring it here. You can bring any bill any day any time you want, but for some reason you are afraid of debating openly what you are doing to the cause of civil rights.

We fought for a Voting Rights Act a few years ago and a bloody fight it was, but it was incomplete. We need a Voting Rights Act for Congressmen so we can vote on issues that are important, especially civil rights issues.

The first amendment is sacred. You are running all over it with your railroad. You will not give us a chance to debate freedom of religion. If this was freedom of speech, oh, my God, if this was freedom for homosexual rights, we would be tied up here for a couple of days. No, it is just freedom of religion, cut off debate and shove it down our throats. Is that civil rights? That is your version of civil rights.

Mr. SHAW. Mr. Speaker, I rise today in strong opposition to this highly restrictive rule that does not allow Members to offer and debate individual amendments to the Civil Rights Restoration Act.

I am opposed to this rule for several reasons. First, it would be a mockery of civil rights if a major civil rights bill were considered under this rule.

The committees with jurisdiction over this matter have not even held hearings or acted on the House version of the bill. We are simply taking up the Senate-passed version of Grove City. I would like to know when this body started rubber stamping legislation that the Senate created?

Once again, we are not proceeding with the normal legislative process. No committee hearings. No committee markup. Why do we even have the committee system if we are going to merely usurp their powers to study legislation?

Furthermore, if I recall correctly, isn't there supposed to be a discharge petition if the committees don't report out a bill? If so, I haven't seen one. Under these extraordinary circumstances, I would have at least expected an open rule.

If we had not been discriminated against, I would have offered an amendment related to drugs. My amendment would have clarified a loophole in section 504 in the Rehabilitation Act which prohibits discrimination on the basis of handicaps in federally assisted programs and activities.

The regulations implementing section 504 define drug addicts as handicapped persons with physical or mental impairments within the meaning of the Rehabilitation Act. The regulation states that "Congress did not focus specifically on the problems of drug addiction * * * in enacting section 504." However, the regulation defines drug addicts as handicapped individuals. This was not the intent of Congress.

This interpretation of the regulation has had a negative effect in our public school system. Drug addicts must be kept in schools and their "handicap" must be given special accommodation. Twelve individual complaints have been filed with the Office of Civil Rights in the Department of Education alleging handicap discrimination on the basis of drug use. In my opinion, one case is one too many.

Mr. Speaker, we have got to correct this grave error in the interpretation of the 1973 statute before it is too late. I do not believe that the American public wants to impede public school officials in their fight against drugs. My amendment would have helped our schools fight drugs. Unfortunately, under this rule I am not given the opportunity to assist in this effort.

Mr. KOLBE. Mr. Speaker, I rise today in strong opposition to the rule.

The rule that has been proposed, if adopted, amounts to nothing more than a procedural choke device, designed to circumvent full participation by all Members of the House. If this rule is adopted, the House, will have no impact on one of the most important pieces of civil rights legislation in recent years.

I believe it was the intention of Congress to prohibit discrimination in an entire organization if any program or activity of such organization received Federal aid. I agree with the thrust of this legislation. At the same time, Congress has always sought to ensure that civil rights legislation has been approached in a fair and open manner, allowing full debate and consideration of amendments. And yet, there have been no hearings, no markups, and no committee reports in the House on S. 557 during the 100th Congress. Now we propose to also block consideration of any amendments. I am disturbed to see the House move in such a manner on an issue of such importance. Since when has this body become a rubberstamp for the Senate?

During the last two Congresses, and in this one—a span of 4 years—Congress has worked to clarify the language of the civil rights statutes and to reverse the narrow decision of the Court in Grove City versus Bell. Considering the time and effort that has been devoted to this issue, it is disheartening to view the action taken to rush this legislation through now without any House hearings, and without the opportunity for fair debate and consideration of amendments. Clearly, we are more content to do something, anything, to have the appearance of accomplishment, than to take the time and effort to make sure it is done right.

The issues that my colleagues have raised, and the amendments that would have been offered under an open rule are not frivolous. In nearly every case they were issues and amendments which were debated at length by several committees in previous Congresses, and which received substantial support. These issues deserve full consideration in committee and in the House, and the intent of the civil rights statutes must be established.

The gains this country has made in civil rights have been hard fought. And always, the efforts have been made in a fair and bipartisan way. Honorably, Congress has put aside party differences and avoided strong arm tactics. If this rule is passed, this will no longer be the case, and the issue of civil rights will be subverted to just another partisan power play.

I urge my colleagues to oppose any attempt to restrict debate and amendments on this bill. Vote "no" on this rule.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute and 15 seconds.

Mr. Speaker, I would hope that this House would vote down the previous question so that we could offer a different rule which would give us an opportunity to make amendments to this very important bill; an open rule, that is all we are asking, an open rule so this House can work its will on this very, very important piece of legislation.

Now, as for the argument that they discussed this bill in 1985, there are a lot of different Members in this House today and they all are not privy to what went on in the Judiciary Committee. It has already been stated here today that there are changes. It is not the identical piece of legislation. Let us not fool ourselves. This is a broader piece of legislation. There are other facets to it, and to say that this thing was debated back in 1985 just is not sufficient; so all we are saying is let us have an open rule so we can amend this piece of legislation so it can become law.

How much plainer can the President of the United States be than when he says he will veto the bill if you send it down to him as it is? That is exactly what you want to do. You want to send it down to him so he will have to veto it. Then where are you? Where is the cause of civil rights then? You will come back here and start all over. You are not going to be able to pass this bill over his veto.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 15 seconds to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I have 15 seconds, but I appreciate the gentleman's generosity.

The SPEAKER pro tempore. Does the gentleman from Ohio yield himself additional time?

Mr. LATTA. Mr. Speaker, I yield myself the balance of the time.

The SPEAKER pro tempore. The gentleman from Ohio has 45 seconds remaining.

Mr. LATTA. Plus the 15 seconds from the gentleman from Massachusetts?

The SPEAKER pro tempore. That will give the gentleman 1 minute.

The gentleman from Ohio is recognized for 1 minute.

Mr. LATTA. Mr. Speaker, that is wonderful. I thank my friend, the gentleman from Massachusetts.

Mr. Speaker, we should not be arguing about whether or not we ought to have an open rule. You know, I could put into the RECORD here, and maybe I should, what has been going on in this Congress, the 100th Congress. We have had 45 percent of the rules passed out of the Rules Committee this 100th Congress which have been restrictive, restricting the rights, as the gentleman from Illinois said, that we ought to have as elected Members of this House.

Civil rights—we have 500,000 people who elect us to come here to represent their interests and the interests of the United States of America, but just because you have the votes up there in the Rules Committee, 9 to 4, you restrict every Member's right.

Now, come on. Let us have some civil rights in the House of Representatives so we can at least offer amendments to this important piece of legislation. What is unfair about that?

OPEN AND RESTRICTIVE RULES, 95TH–100TH CONGRESS[1]

Congress	Open rules		Restrictive rules		Total rules
	No	Percent	No.	Percent	
95th	213	88	28	12	241
96th	161	81	37	19	198
97th	90	80	22	20	112
98th	105	72	40	28	145
99th	65	64	36	36	101
100th[2]	44	55	36	45	80

[1] Source for data: Survey of Activities of the House Committee on Rules (Reports by the Committee on Rules), 95th-99th Congress. Rules counted were those providing for the initial consideration of legislation (as opposed to special rules on conference reports, etc.) For the purposes of this table, restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules.

[2] Data for the 100th Congress is based on "Notice(s) of Action Taken," Committee on Rules, 100th Congress, as of Mar. 2, 1988.

Note: Prepared by Minority Staff, Subcommittee on Legislative Process, Committee on Rules

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 158, not voting 23, as follows:

[Roll No. 18]

YEAS—252

Ackerman	Dymally	Lancaster
Akaka	Dyson	Lantos
Alexander	Early	Lehman (CA)
Anderson	Eckart	Lehman (FL)
Andrews	Edwards (CA)	Levin (MI)
Annunzio	Erdreich	Levine (CA)
Applegate	Espy	Lewis (GA)
Aspin	Evans	Lloyd
Atkins	Fascell	Lowry (WA)
AuCoin	Fazio	Luken, Thomas
Barnard	Feighan	MacKay
Bates	Fish	Manton
Beilenson	Flake	Markey
Bennett	Flippo	Martinez
Berman	Florio	Matsui
Bevill	Foglietta	Mavroules
Bilbray	Foley	Mazzoli
Boehlert	Ford (MI)	McCloskey
Boggs	Frank	McCurdy
Boland	Frenzel	McHugh
Bonior	Frost	McMillen (MD)
Bonker	Garcia	Mfume
Borski	Gaydos	Mica
Bosco	Gejdenson	Miller (CA)
Boucher	Gibbons	Miller (WA)
Boxer	Gilman	Mineta
Brennan	Glickman	Moakley
Brooks	Gonzalez	Mollohan
Brown (CA)	Gordon	Montgomery
Bruce	Grant	Morella
Bryant	Gray (IL)	Morrison (CT)
Bustamante	Gray (PA)	Morrison (WA)
Byron	Green	Mrazek
Cardin	Guarini	Murphy
Carper	Hall (OH)	Murtha
Carr	Hamilton	Nagle
Chapman	Harris	Natcher
Chappell	Hatcher	Neal
Clarke	Hawkins	Nelson
Clay	Hayes (IL)	Nichols
Clement	Hayes (LA)	Nowak
Coelho	Hefner	Oakar
Coleman (TX)	Hertel	Oberstar
Collins	Hochbrueckner	Obey
Conte	Howard	Olin
Conyers	Hoyer	Owens (NY)
Cooper	Hubbard	Owens (UT)
Coughlin	Hughes	Panetta
Coyne	Jacobs	Patterson
Crockett	Jenkins	Pease
Darden	Johnson (SD)	Pelosi
Davis (MI)	Jones (NC)	Penny
de la Garza	Jones (TN)	Pepper
DeFazio	Jontz	Perkins
Dellums	Kanjorski	Pickett
Derrick	Kaptur	Pickle
Dicks	Kastenmeier	Price (IL)
Dingell	Kennedy	Price (NC)
Dixon	Kennelly	Rahall
Donnelly	Kildee	Rangel
Dorgan (ND)	Kleczka	Richardson
Downey	Kolter	Ridge
Durbin	Kostmayer	Rinaldo
Dwyer	LaFalce	Robinson
Rodino	Slaughter (NY)	Traficant
Roe	Smith (FL)	Traxler
Rose	Smith (IA)	Udall
Rowland (CT)	Snowe	Valentine
Rowland (GA)	Solarz	Vento
Russo	Spratt	Visclosky
Sabo	St Germain	Volkmer
Savage	Staggers	Walgren
Sawyer	Stallings	Watkins
Scheuer	Stark	Waxman
Schneider	Stokes	Weiss
Schroeder	Stratton	Wheat
Schumer	Studds	Whitten
Sharp	Swift	Williams
Shays	Synar	Wilson
Sikorski	Tauzin	Wise
Sisisky	Thomas (GA)	Wolpe
Skaggs	Torres	Wyden
Skelton	Torricelli	Yates
Slattery	Towns	Yatron

NAYS—158

Archer	Hefley	Pursell
Armey	Henry	Quillen
Badham	Herger	Ravenel
Ballenger	Hiler	Regula
Bartlett	Hopkins	Rhodes
Barton	Horton	Ritter
Bateman	Houghton	Roberts
Bentley	Hunter	Rogers
Bereuter	Hutto	Roth
Bilirakis	Hyde	Roukema
Bliley	Inhofe	Saiki
Broomfield	Ireland	Saxton
Brown (CO)	Jeffords	Schaefer
Buechner	Johnson (CT)	Schuette
Bunning	Kasich	Sensenbrenner
Burton	Kolbe	Shaw
Callahan	Konnyu	Shumway
Campbell	Kyl	Shuster
Chandler	Lagomarsino	Skeen
Cheney	Latta	Slaughter (VA)
Clinger	Leach (IA)	Smith (NE)
Coats	Lent	Smith (NJ)
Coble	Lewis (CA)	Smith (TX)
Coleman (MO)	Lewis (FL)	Smith, Denny (OR)
Combest	Lipinski	
Craig	Livingston	Smith, Robert (NH)
Crane	Lott	
Dannemeyer	Lowery (CA)	Smith, Robert (OR)
Daub	Lujan	
Davis (IL)	Lukens, Donald	Solomon
DeLay	Lungren	Spence
DeWine	Madigan	Stangeland
Dickinson	Marlenee	Stenholm
DioGuardi	Martin (IL)	Stump
Dornan (CA)	Martin (NY)	Sundquist
Dreier	McCandless	Sweeney
Duncan	McCollum	Swindall
Edwards (OK)	McDade	Tallon
Emerson	McEwen	Tauke
English	McMillan (NC)	Taylor
Fawell	Meyers	Thomas (CA)
Fields	Michel	Upton
Gallegly	Miller (OH)	Vander Jagt
Gallo	Molinari	Vucanovich
Gekas	Moorhead	Walker
Gingrich	Myers	Weber
Goodling	Nielson	Weldon
Gradison	Ortiz	Whittaker
Grandy	Oxley	Wolf
Gregg	Packard	Wortley
Gunderson	Parris	Wylie
Hall (TX)	Pashayan	Young (AK)
Hansen	Petri	Young (FL)
Hastert	Porter	

NOT VOTING—23

Anthony	Hammerschmidt	McGrath
Baker	Holloway	Moody
Biaggi	Huckaby	Ray
Boulter	Kemp	Roemer
Courter	Leath (TX)	Rostenkowski
Dowdy	Leland	Roybal
Ford (TN)	Lightfoot	Schulze
Gephardt	Mack	

□ 1704

The Clerk announced the following pair:

On this vote:

Mr. Anthony for, with Mr. Boulter against.

Mr. ENGLISH changed his vote from "yea" to "nay."

Mr. COUGHLIN changed his vote from "nay" to "yea."

So, the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the resolution

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 391.

The SPEAKER pro tempore. Is there objection to the request from Massachusetts?

There was no objection.

CIVIL RIGHTS RESTORATION ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 391 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 557.

□ 1705

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 557) to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, with Mr. SWIFT in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 15 minutes, the gentleman from Vermont [Mr. JEFFORDS] will be recognized for 15 minutes, the gentleman from California [Mr. EDWARDS] will be recognized for 15 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GARCIA].

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

Mr. GARCIA. Mr. Chairman, I rise in strong support of S. 557, the Civil Rights Restoration Act and in opposition to the Republican substitute.

I, like most of my colleagues, was outraged by the 1984 Supreme Court decision of Grove City versus Bell which overturned the clear legislative intent of title IX of the Education Amendments Act of 1972. It is an absurd notion that only those departments or programs receiving Federal aid within institutions should comply with anti-discrimination laws and the decision was clearly in conflict with the legislative intent of several other major pieces of civil rights legislation.

I believe that the original intent of Congress needs to be reasserted, thus, I have been a cosponsor of the Civil Rights Restoration Act since it was first introduced in 1984 to restore the broad applicability of title IX of the Education Amendments of 1972, the Civil Rights Act of 1964, the Rehabilitation Act of 1974 and the Age Discrimination Act of 1975.

It was clearly the intent of Congress in these laws to prohibit widespread discrimination based on race, sex, age, and disability. Institutions do not have the right to discriminate against minorities, women, or handicapped persons particularly if these institutions are receiving Federal aid. Moreover, I am pleased to see that the sponsors of this bill included provisions to extend these anti-discrimination laws to persons with contagious diseases such as AIDS. While AIDS is a grave public health concern, the disease should not give anyone the right to discriminate against persons who have had the misfortune of contracting it.

I would like to commend the sponsors of the Civil Rights Restoration Act for their perserverance in trying to secure passage of this extremely important legislation. Passage of this bill will truly be a great victory for all those who support the strongest possible enforcement of our civil rights.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

(Mr. HAYES of Illinois asked and was given permission to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Chairman, I rise in support of the Civil Rights Restoration Act.

This bill provides that Federal laws which prohibit discrimination on the basis of sex, race, age, or handicapped condition apply to all operations of any institution receiving Federal assistance. The purpose of this legislation is to overturn the Grove City versus Bell, 1984 Supreme Court decision, which restricted the coverage of federal anti-discrimination laws to the individual programs or activities receiving aid.

The Grove City ruling reversed a previous interpretation that held that Federal anti-discrimination laws applied to the entire institution if any part of the institution received Federal aid. Grove City decision does not correct discrimination but has caused a dramatic reduction in the enforcement of four major civil rights laws. The Civil Rights Restoration Act will restore the law to its broad interpretaton before the Grove City decision.

The bill would not require individuals, institutions, programs, or activities that receive Federal assistance to provide or pay for abortions. The measure makes clear, however, that the law would not permit an educational institution to discriminate against a person who has had a legal abortion.

The bill also codifies court rulings that provisions of the Rehabilitation Act that prohibit employment discrimination against disabled persons applies to those with a contagious disease or infection (such as AIDS), unless the disease constitutes a direct threat to the health or safety of others or the disease prevents them from performing their jobs.

We all know that the Civil Rights Restoration Act is one of the most important civil rights measures to come before the 100th Congress. This bill has 153 cosponsors in the House and is supported by a broad coalition of more than 185 national organizations.

Since the 1984 Grove City decision, the application of civil rights laws has been unpredictable, unfair and unacceptable. Today, we have a unique opportunity to right a wrong that is long overdue, by ending the discriminatory impact of the Grove City decision. I support the Civil Rights Restoration Act and ask that all of my colleagues express their support to end discrimination in institutions or agencies that receive Federal assistance. In closing, I urge you to vote for this bill without further amendments.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

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

Mr. MARTINEZ. Mr. Chairman, I rise in full support of the bill.

As chairman of the Employment Opportunities Subcommittee, with oversight responsibility for several of the statutes covered here today, I think the whole debate comes down to one simple issue: Should the Federal Government sanction discrimination in institutions receiving Federal support? My unequivocal response to you is "No."

As I stand here today, I can't help but feel that we are fighting the civil rights battle once again. If we vote this bill down, even with amendments added by the other body, we disavow all the principles embodied in the civil rights laws and negate the gains that were made over the past 35 years. We take a giant step back.

We ignore the obvious if we say that the institution as a whole does not benefit if Federal dollars are only used by one department; another four are not required to abide by anti-discrimination laws. One part of a institution does not exist with it being a part of the whole, consequently the whole institution should be subject to requirements of the law. I say as public officials we cannot allow any Government moneys being used by any institution to support discrimination.

Gentlemen and gentleladies of the House, I urge your consciences to stand firm in eliminating discrimination in every institution receiving Federal dollars moving toward a truly discrimination free society. There is no room anywhere in our free country to accept any principle short of applying the rule that our citizens should be judged and employed and given rights on the basis of their ability, and not their position by birth or circumstance. There should be no room for debate on any of this. Let us stand for the decent principles fought for over the past 35 years, indeed over the past 200-plus years of our existence as a country. Let us not turn back to the time when discrimination was allowed and even condoned in our land.

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

Mr. Chairman, in 1984 the Supreme Court decided in Grove City College versus Bell that the duty, of a recipient of Federal financial assistance, not to discriminate on the basis of sex, was program-specific and not institution or system wide. By narrowly defining the term "program or activity" the Court severely restricted the scope of coverage of title IX of the education amendments of 1972, in clear contradiction of congressional intent and prior and consistent enforcement practices. With such narrowing has come the resurgence of gender based barriers in our educational systems denying equal opportunity to young women in athletics and in their choices of educational disciplines.

On the same day as the Court decided the Grove City case, it applied the same misconstrued interpretation to the phrase "program or activity" under section 504 of the Rehabilitation Act of 1973 in Consolidated Rail Corp. versus Darrone, thereby denying equal rights and opportunities to this Nation's disabled population.

In the face of such a clear cut misinterpretation of congressional intent, the reaction was swift and within 2 months of the decision, H.R. 5490 was introduced in this body. H.R. 5490, the Civil Rights Act of 1984 was designed to restore the broad coverage of these laws and to reaffirm and rededicate our efforts to eliminate all forms of discrimination and to say without equivocation, that the Federal Government would not condone nor subsidize any form of discrimination; that with the acceptance of Federal dollars came a duty not to discriminate.

Accompanying the transmittal of the Civil Rights Act in 1963, President John F. Kennedy stated:

> Simple justice requires that public funds, to which all tax-payers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial discrimination. * * *

Again in 1984, a full 20 years after the enactment of the Civil Rights Act of 1964, "simple justice" became the rallying cry of the campaign to enact H.R. 5490, a bill to restore the vitality of four major civil rights laws lost as a result of the Grove City decision.

Mr. Chairman, I stand here today, 4 years after the decision in Grove City and the introduction of H.R. 5490, as evidence that "simple justice" is neither simple nor swift. I desperately want to believe that this Nation has grown since the early civil rights days; that since it has seen the heinous nature of discrimination that it would act swiftly to repel it. But yet I see a new resurgence of discrimination in all forms—age, race, sex, and handicapped, and in all areas—education, housing, and health, and I see an un-

fortunate public tolerance for such acts and a Congress unable or unwilling to respond. For 4 years I have listened to excuse after excuse as to why this legislation just wasn't perfect enough to be passed. Now, Mr. Chairman, we have the clear opportunity to do "simple justice," to insure equal opportunities for all people. No more diversions or excuses; this is the time to restore our civil rights laws to their intended broad scope of coverage and effectiveness. I, therefore, urge my colleagues to support the passage of S. 557, as it is before us today.

Mr. Chairman, S. 557, the Civil Rights Restoration Act of 1987, as passed by the other body, like H.R. 1214 and its predecessor, H.R. 700 of the 99th Congress, defines the terms "program or activity" and "program" broadly to reflect the principle of institutionwide coverage as applied to public and private entities which are recipients of Federal financial assistance. The act's definition is applied to title VI of the Civil Rights Act of 1964, prohibiting race discrimination; to the Age Discrimination Act of 1975, prohibiting discrimination on basis of age, to title IX of the education amendments of 1972, prohibiting discrimination on the basis of sex in education programs or activities; and section 504 of the Rehabilitation Act of 1973, prohibiting discrimination against handicapped individuals. It adds no new language to the coverage or fund termination sections of these four statutes and the definitions make clear that discrimination is prohibited throughout entire agencies, institutions or systems if any part receives Federal financial assistance.

S. 557 will leave in effect the enforcement structure common to each of these statutes. The section in each statute states that the termination of assistance "shall be limited * * * to the particular program, or part thereof, in which such noncompliance has been so found." The bill defines "program" in the same manner as "program or activity," and leaves intact the "or part thereof" pinpointing language. Thus, consistent with the Supreme Court's holding in Board of Public Institution of Taylor County versus Finch, Federal funds earmarked for a specific purpose would not be terminated unless discrimination was found in the use of those funds or the use of the funds was infected with discrimination elsewhere in the operation of the recipient. In the case of Grove City College, for example, if there is discrimination in the math department, a fund termination remedy would be available because the funds from BEOG's flow throughout the institution and support all of its programs. (S. Rep. p. 20.) On the question of what entities are covered the Senate report to accompany S. 557, which we endorse by passing this act, clearly states:

For education institutions, the bill provides that where federal aid is extended anywhere within a college, university, or public system of higher education, the entire institution or system is covered. If federal aid is extended anywhere in an elementary or secondary school system, the entire system is covered.

For State and local governments, only the department or agency which receives the aid is covered. Where an entity of state or local government receives federal aid and distributes it to another department or agency, both entities are covered.

For private corporations, if the federal aid is extended to the corporation as a whole, or if the corporation provides a public service, such as social services, education, or housing, the entire corporation is covered. If the federal aid is extended to only one plant or geographically separate facility, only the plant is covered.

For other entities established by two or more of the above-described entities, the entire entity is covered if it receives any federal aid.

This last provision as passed by the Senate reflects a clarifying amendment adopted in the Committee which states that part (4) of the "program or activity" definition, the catch-all provision, applies to entities which (1) are not described in parts (1), (2), or (3) of the definition of "program or activity" in the bill; and (2) are established by two or more entities which are described in parts (1), (2), and (3) of the "program or activity" definition. (S. Report 100-64, 100th Cong., 1st sess. June 5, 1987, at 19).

In addition, Mr. Chairman, churches and religious organizations have expressed concern that, if the Restoration Act passes, all of their operations will be subject to coverage if one of their facilities or parishes receives any federal financial assistance. This would not be the case. As indicated in Senate Report No. 100-64, a limited purpose grant, for example, for refugee assistance, to a religious organization to enable it to assist refugees would not be assistance to the religious organization 'as a whole' if that is only one among a number of activities of the organization. Federal financial assistance to a corporation for particular purposes does not become assistance to the corporation as a whole simply because the assistance may free up funds for use elsewhere. Similarly, because they are principally religious organizations, institutions such as churches, dioceses and synagogues would not be considered to be 'principally engaged in the business of providing education, health care, housing, social services or parks or recreation,' even though they may conduct a number of programs in these areas. Nor would a Catholic diocese be covered in its entirety under the catch-all provision where, for example, three geographically separate parishes receive Federal financial assistance and the diocese is a corporation or private organization of which the parishes are a part. Only the three parishes which receive Federal assistance would be covered by the antidiscrimination statutes.

"The bill contains a rule of construction which leaves intact the current exemption from coverge by the civil rights laws for 'ultimate beneficiaries' of Federal financial assistance." (S. Rept, at p. 4.) Examples of "ultimate beneficiaries include farmers who receive price supports or loans, persons receiving Social Security benefits, or Medicare and Medicaid benefits, and individual recipients of food stamps.

"The bill also incorporates regulatory 'small providers' exception into the coverage provisions of section 504 * * *." (Id. at p. 4), as did H.R. 700 of the last Congress. "This new subsection specifies that small providers such as pharmacies or grocery stores, are not required to make significant structural alternations to their existing facilities to ensure accessibility to handicapped persons if alternative means of providing the services are available." (Id. at 23.) This provision is limited to those providers with 15 or fewer employees.

Mr. Chairman, not all parts of the Senate passed bill now before us are to my personal liking, and I know many of my colleagues share my view specifically with regard to the Danforth Abortion Amendment, but I want to make it clear that I intend to support passage of the bill in its entirety. The Danforth amendment reads as follows:

Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

This amendment invalidates the title IX regulation only in so far as the regulation may be construed to require the performance of or payment for abortion. In addition, the second sentence makes clear that no person or individual may be discriminated against based on any abortion, or benefit or service related thereto.

The act as passed by the Senate, and now presented here, includes a floor adopted compromise amendment regarding coverage of individuals with contagious diseases and infections under section 504 of the Rehabilitation Act of 1973. This amendment is patterned after a similar amendment that was added in 1978 regarding coverage of alcohol and drug users. The amendment, No. 1396, ensures that people with contagious diseases and infections remain covered under the statute as handicapped individuals and codifies the existing "otherwise qualified" standard of section 504 as it applies to such individuals. This amendment is consistent with the holding and standards announced by the Supreme Court in the recent case of School Board of Nassau County versus Arline.

As the amendment indicates, its purpose is "to provide a clarificaton for otherwise qualified individuals with handicaps in the employment con-

text" under the Rehabilitation Act of 1973. It is important to note that the purpose of the amendment is to clarify, and not to modify or alter, the substantive protections afforded individuals with contagious diseases and infections under the Rehabilitation Act.

One of the cosponsors of the amendment and chair of the Senate Subcommittee on the Handicapped, in a letter addressed to me and Congressman DON EDWARDS, as a response to our request for a description of the terms of the amendment and its impact, has explained that the amendment was designed to clarify clearly in the statute the current requirement of section 504 so as to allay any unnecessary fears on the part of employers. As I believe this to be an important compromise, I ask unanimous consent that both letters be included in the text of my remarks at this point.

Concerns have been raised that this legislation would require sex integrated college dorms. That is, of course, completely incorrect. Regulations which continue to be applicable after the enactment of S. 557, while requiring that "a recipient shall not, on the basis of sex, apply different rules or regulations, impose different fees or requirements or offer different services or benefits related to housing * * *," nevertheless clearly provide that" a recipient may provide separate housing on the basis of sex." "Similarly" a recipient may provide separate toilet, locker room, and shower facilities on the basis of sex * * *," so long as the facilities provided are comparable.

In conclusion, and in anticipation of the debate to follow it is important to note what this act does not do. First, it does not alter in anyway who is a "recipient" of Federal financial assistance. Likewise, this act does not change what is defined as "Federal financial assistance." The Senate report on page 29 is clear on this point and I quote:

> Whatever was determined to constitute "federal financial assistance" as that term applies to title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975 and title VI of the Civil Rights Act of 1964, before the enactment of S. 557 will continue to constitute "Federal financial assistance" after its enactment.

I would like to make one last point clear. A number of groups have expressed concern about certain issues where no concern is in fact warranted. For example, it is clear that this bill, and the underlying antidiscrimination statutes the bill amends, are self-contained laws designed to promote a broad scope of civil rights coverage. Their definitions, terms and provisions have no necessary bearing in any other context. Thus, a recipient of Federal financial assistance for purposes of the civil rights laws will not necessarily be deemed a recipient of Federal financial assistance for other purposes.

Mr. Chairman, we have spent 4 long years in our effort to insure "simple justice" by restoring these four statutes to their original broad scope of coverage. Granted not all parts are to my personal liking but it is enough. Enough to assure full and equal participation for all people in programs funded by this government. Passage of the Civil Rights Restoration Act of 1987, will reaffirm this Nation's true and continuing dedication to the principle of civil rights for all people—there can be no more excuses—no more diversions—no more lost school years—the time is now and I urge each and every one of my colleagues to this rededication to equality.

□ 1715

Mr. GREEN. Mr. Chairman, will the gentleman from California yield?

Mr. HAWKINS. I yield to the gentleman from New York, [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding for the purpose of a colloquy with regard to the Danforth amendment. A question has arisen whether the first sentence of the Danforth amendment applies to treatment that may arise because of medical complications stemming from an abortion.

Mr. HAWKINS. The first sentence of the Danforth amendment would not apply to medical treatment needed for complications arising from an abortion.

Mr. GREEN. When the second sentence of the Danforth amendment speaks of "a penalty," does that include the denial of things that may be considered privileges, such as participation in athletics or extracurricular activities?

Mr. HAWKINS. Yes, Senator DANFORTH and other Senate supporters of his amendment made this clear. This would include the denial of student scholarships; the denial of student access to housing; refusal to hire or promote employees; denial of participation in extracurricular activities, such as athletics, and the like.

Mr. TAUKE. Mr. Chairman, will the gentleman from California yield?

Mr. HAWKINS. I yield to the gentleman from Iowa, a member of the Committee on Education and Labor.

Mr. TAUKE. I thank that gentleman for yielding.

Mr. Chairman, I confirm that that also is my understanding.

Mr. GREEN. If the gentleman would further yield I simply want to thank the chairman and the distinguished gentleman from Iowa [Mr. TAUKE] who has been very much involved in the issues relating to the Danforth amendment for those clarifications.

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

Mr. HAWKINS. I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, may I say that this also confirms my understanding.

I would like the gentleman from California [Mr. EDWARDS] the chairman of the subcommittee, to consider this as well.

Mr. Chairman, it is only because of the interpretation that has been given and that you have said is the legislative intent behind this bill that I do support adoption of the bill and I would like to make reference to the Senator from Missouri who said in the debate on the Senate bill, and I quote, "This amendment says that a college is prohibited from discrimination——"

The CHAIRMAN. The Chair would advise the gentleman that under the rules he may not quote a Senator in the House.

The gentleman may continue.

Mr. BERMAN. It was the sum and substance of the comments of the Senator from Missouri that a college is clearly prohibited from discrimination against people who have had abortions or who are seeking abortions. I think if one searches the legislative record of the Senate debate, they will find that intent set forth very clearly.

I ask the gentleman from California his understanding of this matter.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman from California yield?

Mr. HAWKINS. I yield to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Chairman, the answer is yes, that is my understanding too.

Mr. BERMAN. I thank the gentleman from California for yielding and yield back.

Mr. HAWKINS. Mr. Chairman, I yield to the gentleman from Iowa [Mr. TAUKE] for a colloquy.

Mr. TAUKE. I thank the gentleman for yielding.

Mr. Chairman, I wish to engage the chairman of the Education and Labor Committee in a short colloquy. Mr. Chairman, I wish to address concerns raised by this legislation regarding the proper interpretation and application of the current title IX religious tenet exemption. I believe that congressional deliberations on this issue may provide helpful guidance to the Department of Education on how exemption requests should be handled in the future.

By way of background, title IX provides a limited exemption for educational institutions "controlled by a religious organization" if application of any provision of the title is inconsistent with the religious tenets of such organization. The religious tenet exemption does not provide institutions with a blanket exemption from the requirements of title IX or other civil rights statutes. Rather, it provides a limited exemption from specific title IX requirements that conflict with religious tenets.

The Department of Education should continue to avoid the role of

determining the nature and meaning of religious beliefs and should give deference to the claims of qualifying institutions regarding those beliefs. Good faith claims by eligible institutions as to their religious tenets are entitled to a presumption of validity. Furthermore, doubts about the existence or meaning of religious tenets should be resolved in favor of religious liberty.

In connection with our earlier deliberations on this legislation in 1985, we expressed serious concern about how the Department of Education handled title IX exemption requests. The Department had clearly been dilatory in administering its responsibilities under this section of title IX. In fact, between 1975 and 1985 some 200 exemption requests were filed without action and remained pending when Grove City legislation was first considered by Congress.

In the context of the Grove City legislative debate, the Department finally began to act on these many pending requests. While the Department has now acted on these requests, the prior situation was clearly unacceptable. Such administrative inaction caused institutions to be left uncertain as to their status; the Department should not allow this situation to be repeated. Institutions must be assured that their claims for an exemption will be given proper attention.

In enacting the religious tenet exemption in 1972, Congress sought to provide to religious educational institutions a limited exemption from title IX requirements inimical to their religious beliefs.

The concerns that underlie the religious tenets exception were articulated by the senior Senator from Oregon during the Senate debate. He said "our country was founded on principles of diversity and pluralism, particularly with regard to the free exercise of religious beliefs * * *. We must continue to protect our full rights, under the Constitution and the first amendment, particularly in the field of religious education."

As the importance of equal opportunity in education is recognized in this legislation, so must the strongly held religious beliefs of these institutions be respected.

Mr. HAWKINS. That is my understanding.

Mr. Chairman, I would say to the gentleman from Iowa [Mr. TAUKE], that that is clearly my understanding.

Mr. TAUKE. I thank the chairman.

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

Mr. HAWKINS. I yield to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman from yielding.

Mr. Chairman, I just want to also say that I agree with the statement of the gentleman from Iowa, and that is my understanding of the legislation.

Mr. HAWKINS. I thank the gentleman.

Mr. DORGAN of North Dakota. Mr. Chairman, would the chairman of the Committee on Education and Labor yield for a question?

Mr. HAWKINS. I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, I would ask the chairman what is the status of the farmer under the Civil Rights Restoration Act?

Mr. HAWKINS. Mr. Chairman, farmers retain their exempt status under this legislation. Since the passage of title VI of the 1964 civil rights farmers have been excluded from coverage because they are "ultimate beneficiaries" of Federal aid and thereby qualify for an exemption under the "recipients" category of Federal aid. This construction has been consistent in Federal regulation for nearly 25 years. Farmers who receive price and income supports and loans are exempt from the requirements of this legislation as they have always been.

I refer the gentleman to section 7 of the bill. That section explicitly states that ultimate beneficiaries like farmers continue to be excluded from this act. This grandfather clause ensures the continued exemption for farmers and explicitly states the exemption in statutory language. The exemption will continue upon enactment of this legislation.

Mr. DORGAN of North Dakota. I thank the chairman for his answer and rise in strong support of the bill as reported.

The CHAIRMAN. The Chair informs the gentleman from California that he has 45 seconds remaining.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

(Mr. MILLER of Washington asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Civil Rights Restoration Act. The battle in this Nation for civil rights laws has been fought and won. After decades of struggle, today, the law of the land is "thou shalt not discriminate."—period. In Grove City vs. Bell, the Supreme Court found a chink in our armor of antidiscrimination laws. Institutions can discriminate in one branch and not be penalized in another branch. In other words you can discriminate on one hand as long as you don't discriminate with the other. It is up to us now, to repair that chink, to close that loophole, to make sure that the antidiscrimination laws work. That is what this bill is all about. Making the laws work.

Making the laws work means knowing when to go back to the drawingboard to do some fine tuning. The Senate has added to this Civil Rights Restoration Act an amendment to protect from discrimination, people who have contagious diseases and infections. This is a good amendment, carefully crafted to protect the public from contagion—and to protect the individual from intolerance and ignorance.

We live in a dynamic, ever changing world. A world driven by technology, with uncharted waters in social and scientific arenas. Our laws must respond to these dynamics. But the sense of fair play, the preservation of individual liberty and the democratic principles upon which these laws are based cannot change. I urge my colleagues to make the laws work—and pass the Civil Rights Restoration Act today.

Mr. JEFFORDS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

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

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of S. 557 notwithstanding reservations regarding certain aspects of the Senate-passed bill. I am able to support this legislation however, because it advances civil rights and because it contains the Danforth amendment, which makes a major and positive change in Federal law with respect to abortion. Much has been said on this floor concerning the progress we hope to achieve in mitigating discrimination by passing this bill so I will focus the gist of my remarks on the language relating to abortion.

The Danforth amendment states:

NEUTRALITY WITH RESPECT TO ABORTION

SEC. 909. Nothing in this title [Title 9] shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

Mr. Chairman, attorneys for proabortion organizations have for some years been engaged in attempting to forge a legal link between the growing body of State and Federal laws which prohibit discrimination "on the basis of sex," and so-called abortion rights.

In adopting the Danforth amendment, Congress is for the first time speaking to—and very explicitly repudiating—the legal doctrine that sanctions against abortion, or the failure to provide "abortion services," constitute a form of discrimination "on the basis of sex."

Understood in this light, Members will understand why the executive director of the National Abortion Rights Action League, Kate Michelman, called the Senate's adoption of the Danforth amendment "a grave loss for us. It was a big defeat" (Associated Press, Jan. 28, 1988).

It is also understandable that Marcia Greenberger of the National Women's Law Center, called the Danforth amendment "a bold-faced repeal of all of the protections that women have relied upon" concerning abortion rights (United Press International, June 28).

We who support the Danforth amendment have referred to it as an "abortion neutral" amendment, and that is in one respect a very accurate label, because the amendment renders title IX neutral with respect to abortion.

But the Danforth amendment is not at all neutral on the legal linkage between abortion rights and a prohibition on sex discrimination—it completely severs any such linkage. Even Molly Yard, the president of the National

Organization for Women, states in the January 1988 issue of National N.O.W. Times that the Danforth amendment is not neutral, because "it in fact puts abortion language into civil rights law for the first time and, by making a substantive change in law, limits a woman's constitutional right to abortion."

It is important to understand the attorneys for these proabortion groups have long recognized that the so-called right to abortion which the Supreme Court manufactured in Roe versus Wade rests on no real footing in the Constitution. They have recognized the possibility, or even the likelihood, that there will come a day when a majority of Supreme Court Justices can no longer bring themselves to uphold such a constitutionally indefensible ruling as Roe versus Wade.

Thus, these proabortion attorneys have searched for some alternative legal theory which would provide a separate and distinct basis for legal abortion, some legal foundation which would survive a future Supreme Court decision that the "right to privacy" does not include a "right to abortion."

Many of these proabortion attorneys regard a "right to abortion" based on sex-discrimination analysis as the most promising alternative to the shaky "right to privacy."

Their basic legal argument goes something like this: since only women procure abortions, any law which treats abortion differently from other medical procedures is a form of discrimination on the basis of sex.

Any Member who thinks that this is a far-fetched legal argument should study an article by Judge Ruth Bader Ginsburg of the U.S. Court of Appeals for the District of Columbia, titled "Some Thoughts on Autonomy and Equality in Relation to Roe versus Wade," which appeared in the January 1985 North Carolina Law Review. As I read the article, Judge Ginsburg regrets that the Supreme Court did not ground Roe versus Wade in sex-discrimination analysis instead of "privacy." She seems to feel that the sex-discrimination approach would have been more secure. She also appears to argue that if the Supreme Court had originally employed the sex-discrimination approach, the Supreme Court might not have struck down the Hyde amendment when that issue came before the Court in 1980.

Judge Ginsburg is by no means alone in these views. Indeed, certain proabortion groups have aggressively employed anti-sex-discrimination laws as proabortion legal weapons.

For example, in at least four States, the American Civil Liberties Union has urged courts to rule that State equal rights amendments require State funding of elective abortions. In 1986, the ACLU persuaded the Connecticut courts that the Connecticut ERA requires that State to pay for elective abortions. In other words, the Connecticut courts ruled that the State was engaged in discrimination "on the basis of sex," in violation of the ERA, by refusing to fund elective abortions.

To date, only one important Federal anti-sex-discrimination law—title IX of the Education Amendments of 1972—has been construed to protect abortion rights. In passing S. 557 and the Danforth amendment today, the House of Representatives follows the Senate in explicitly repudiating that construction of title IX.

Of course, Congress did not originally intend title IX to have anything to do with abortion rights. When Congress enacted title IX of the Education Amendments of 1972, it was still a felony to perform an abortion in most States.

Nevertheless, the administrative agency responsible for enforcing title IX issued, in 1975, regulations which required federally funded programs of higher education to provide abortion on the same basis as other medical benefits in student and faculty health plans.

Sponsors of S. 557 concede that the bill will extend title IX coverage to any hospital which has even one medical student or nursing student. If the Danforth amendment had not been added to this bill, with this title IX coverage would have come the requirement that these thousands of hospitals provide abortion on the same basis as other medical procedures.

Now, when this effect was initially pointed out by pro-life organizations, certain supporters of the Civil Rights Restoration Act responded that the title IX regulations make no reference to hospitals. But that is because the regulations were written back when IX was considered to cover basically institutions of higher education—colleges, for the most part.

But this bill extends coverage to all of the operations of any hospital which has any teaching program—even a single medical student or nursing student. And, but for the Danforth amendment, these thousands of hospitals would for the first time have been exposed to lawsuits if they failed to provide abortions on the same basis as other medical procedures.

Let me be very clear on this: the root of the problems is not the title IX regulations, but the underlying legal doctrine that one is engaged in discrimination "on the basis of sex" if one treats abortion differently from other medical procedures. That legal doctrine had to be read into title IX, before the proabortion regulations could be written.

So, Mr. Chairman, all Members should clearly note that the Danforth amendment does not refer directly to the regulations. Rather, the Danforth amendment goes straight to the root of the problem—title IX itself—and amends title IX to explicitly renounce the notion that title IX provides any basis for abortion rights. That nullifies the regulations, of course, but it also has broader legal implications.

The Danforth amendment states that title IX does not "require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion." That is very sweeping language. It amounts to a wholesale rejection of any equation between discrimination on the basis of sex and abortion rights.

This emphatic rejection of the sex discrimination-abortion rights linkage is not diluted by the second sentence of the Danforth amendment, which simply states that "Nothing in this section"—that is, the Danforth amendment itself—"shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion."

The second sentence does no more than state that the amendment, in and of itself, does not create a new legal authorization for, say, colleges to impose penalties on women who procure lawful abortions on their own.

But the second sentence of the Danforth amendment does not say that title IX provides any rights relating to abortion in the first place. If, as I believe, Congress never intended title IX to confer any abortion rights whatever, then nothing in the second sentence of the Danforth amendment creates new legal remedies for employees or students who think they have grievances relating to abortion.

To summarize, then, the Danforth amendment explicitly repudiates the notion that institutions which receive Federal funds are thereby obligated to provide any abortion-related benefits whatsoever. And with respect to "penalties," the Danforth amendment simply preserves the status quo prior to the passage of this bill—whatever that is.

Mr. Chairman, I believe that adption of the Danforth amendment is the first time that Congress has explicitly addressed itself to the legal doctrine that sanctions against abortion constitute sex discrimination. I think that it is highly significant that the Senate repudiated the equation between sex discrimination law and abortion by a decisive margin of 56 to 39. It is more significant still that proabortion organizations have publicly conceded that the House would ratify the Danforth language by an even more lopsided margin—which is why we are considering this bill under a rule which allows the Danforth amendment to stand without challenge.

I hope that the action of Congress on this bill will provide guidance to the courts, not only on title IX, but on how they should construe other statutes which employ similar language—"on the basis of sex," "on account of sex," and the like.

I also hope that we will remember our experience with title IX when we consider other sex discrimination bills in the future, such as the proposed Federal equal rights amendment. The only way to ensure that such measures will not be misinterpreted—as title IX was misinterpreted—is to adopt specific language to exclude abortion rights, as we are doing on this bill today.

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

Mr. Chairman, 2 days ago we passed a landmark date. It was 4 years ago that the Supreme Court handed down its Grove City decision. The past two Congresses both tried to pass a bill that would overturn the decision. Fortunately, it looks like on this, our third try, our efforts might be successful.

Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any education "program or activity" receiving Federal financial assistance. In Grove City the Court concluded that the phrase "program or activity" should be given a narrow meaning. The Court held that the term did not refer to the institution as a whole. Rather, it referred only to those parts of a college or university which directly benefited from the receipt of Federal funds. This program-specific decision has left colleges and universities free to discriminate against women, as long as the discrimination takes place in areas that do not receive Federal money.

Title IX's "program or activity" language was modeled after similar language in title VI of the Civil Rights Act of 1964, forbidding discrimination on the basis of race. Similar "program or activity" language appears in the Age Discrimination Act of 1975 and the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap. Because the Court's program-specific rationale would appear to apply to these statutes as well as title IX, the bill under consideration today will define the term "program or activity" in all four statutes.

The Grove City decision has meant in some instances that the Federal Government can provide no protection at all against discrimination by institutions receiving Federal funds. The results have been disheartening. In Alabama, for example, a massive discrimination suit against the State's system of higher education was dismissed because a court of appeals concluded that the plaintiffs would have to show that Federal money flowed to virtually every program and department at the State colleges. In California black students at a proprietary school of cosmetology alleged that in the practical training course white customers were referred to white students and black customers were referred to black students. They also alleged that black students were given extra cleanup responsibilities. Even though the school accepted Federal money in the form of Pell grants and guaranteed student loans, the Department of Education was precluded from even considering the complaint, as no Federal funds could be traced to the practical training course. Another school system receiving Federal money was able to avoid providing interpreters for the deaf in its adult education program because no Federal funds could be traced to that activity. Had these classes been held in a building funded with Federal assistance, however, the school system would not have been relieved of its duty to accommodate qualified handicapped students.

S. 557 provides for institution-wide coverage under the four civil rights laws for institutions receiving Federal funds. The protections of Federal civil rights laws will not be based on bookkeeping or accounting. Tracing Federal money into individual accounts to determine whether a particular part of a college is covered will no longer be necessary. The simple message of this bill is:

If you receive Federal money, you cannot discriminate. And if you are going to discriminate, don't expect Federal money.

I am an original cosponsor of the version of S. 557 that was introduced in the House. I was also an original cosponsor in the 98th and 99th Congresses of bills that would have overturned the Grove City decision. The version of S. 557 we consider today is, in most instances, identical to a substitute bill I introduced at the Education and Labor Committee markup during the 99th Congress. Basically, the bill is simple: it adds a new section to each of the four affected civil rights laws defining the term "program or activity." It is this term that establishes the scope of coverage under each of the statutes.

In the case of educational institutions, "program or activity" refers to all of the operations of a college or university if any part of the institution receives Federal money. Similarly, entire elementary or secondary systems are covered if any part receives Federal funds. State and local governments are covered only in the department or agency receiving Federal funds. If, however, one agency receives Federal funds and disburses them to another agency, both agencies are covered.

The general rule for private corporations or organizations is that only the plant or geographically separate facility receiving aid is covered. If aid is extended to the corporation as a whole, however, or if the corporation is principally engaged in providing social services, education, housing, health care, or parks and recreation, a different rule applies: the entire corporation is covered by the civil rights laws.

Two provisions in S. 557 that were added to the bill in the 99th Congress incorporate the terms of longstanding regulations and specifically address concerns raised when a Grove City bill was first introduced in 1984. The first of these clarifies that "ultimate beneficiaries" of Federal programs are not covered. Thus, for example, the rental activities of a Social Security benefits recipient who owns a rental duplex will not be covered under the civil rights laws because of participation in the Social Security Program. Similarly, farmers who participate in crop subsidy and disaster loan programs are likewise ultimate beneficiaries of those programs and will not be covered under the new program or activity language.

The second provision added to the bill provides that small providers of services to the handicapped need not make significant structural alterations to their facilities if there are alternative means of providing the services. This section also incorporates into statutory language the terms of longstanding Rehabilitation Act regulations, assuring that S. 557 does not embody any new requirements of architectural modification to accommodate the handicapped. Therefore, no new requirements are placed on "mom and pop" grocery stores participating in the Food Stamp Program or pharmacies participating in Medicare.

During Senate consideration of the bill, a third clarifying amendment was added to the bill. With regard to persons with contagious diseases or infections, the Harkin-Humphrey amendment places within the terms of the Rehabilitation Act the otherwise qualified standard now set forth in regulations and case law. In brief, the Harkin-Humphrey amendment adopts the approach and standards of the Supreme Court's Arline decision. It provides that persons with contagious diseases and infections remain protected in their jobs under the Rehabilitation Act if they do not pose a direct threat to the health or safety of others and are able to perform the essential duties of their jobs. This determination would require a case-by-case analysis based on reasonable medical judgments. In other words, there would have to be a determination that there is a significant risk of transmission of the disease or infection to others in the work place, a risk which could not be eliminated by reasonable accommodation. With respect to persons with contagious diseases and infections, this amendment adopts an approach consistent with that taken in 1978, when Congress addressed the concerns of employers regarding the Rehabilitation Act's coverage of alcohol and drug abusers.

Finally, the Senate bill contains an amendment offered by Senator DANFORTH which overturns certain title IX regulations relating to abortion. Under this amendment, title IX could not be read to require or prohibit a college or university to provide or pay for an abortion. Thus, an institution subject to title IX would not have to include the costs of an abortion procedure in insurance for its students or employees. This limitation does not mean, however, that medical complications related to an abortion could be excluded.

During consideration by the Education and Labor Committee of the Civil Rights Restoration Act offered in the 99th Congress, I voted against a similar amendment because I felt that it violated the principle of restoration—of merely returning the civil rights laws to their pre-Grove City scope of coverage. I suspect, though, that the amendment we now have will make the bill more palatable to many Members of the House. For that reason, I will support the bill, including the amendment. Crucial to my support, however, is the assurance that a college is prohibited from discriminating against those who have had or who are seeking abortions. The second sentence of the amendment will ensure that a woman is not denied scholarships, promotions, extracurricular activities, student employment or any other benefits because she has received or is seeking an abortion.

Last, I want to focus briefly on an issue of great importance to me—the interpretation and enforcement of the title IX religious tenets exemption. Because this bill will restore broad title IX coverage for colleges and universities, I believe it is important to clarify and confirm our understanding of the religious tenets exemption and the Department of Education's responsibilities in this area.

No other antidiscriminatory statute dealing with race, sex, national origin, age or disability allows for an exception to accommodate an organization's religious tenets. When title IX was originally enacted, however, the religious tenets exception was adopted for institutions "controlled" by a religious organization in recognition of the unique role played by religious organizations in the establishment of many of this country's colleges and universities. The exemption is not a blanket exemption. Rather, it is a narrow one, allowed only for those title IX regulations in conflict with a specific religious tenet. This exemption assures colleges and universities of the full exercise of religious liberty.

Federal inquiries into the doctrine and beliefs of religious organizations raise delicate and difficult first amendment issues. Thus I believe it is important that the Department exercises deference in considering these requests. Further, I believe that it is important that the Department of Education should continue, as in the past, to avoid the role of determining the meaning and judging the validity of religious beliefs. Doubts about the meaning of religious tenets should be resolved in favor of the educational institution and religious liberty.

During the first 10 years after promulgation of the title IX regulations, the Department of Education took virtually no action with respect to the vast majority of requests for exemption. This administrative inaction may well have had a chilling effect on the exercise of religion at educational institutions. I believe it is extremely important for the Department of Education to act expeditiously on requests for exemption.

Last, there has been a great deal of discussion about modifying the "control" standard. Despite its alleged deficiencies, no applicant has ever been denied a properly completed request for a title IX exemption under the current religious tenets exemption. I believe, therefore, that the recent record of implementation in this area demonstrates that the current standards can be applied in a sufficiently flexible manner to avoid significant problems.

Mr. Chairman, it is indeed fitting that we should take up consideration of this bill at this time. During the past 2 weeks we had the pleasure of watching the winter Olympics. We saw Bonnie Blair break a world record and Debi Thomas break down yet another color barrier. We saw Bonnie Warner's sixth-place finish in luge, the best finish ever by an American. All of the women representing the United States—medal winners or not—made us proud. In fact, American women brought home more medals than American men.

Initially, women's athletics was one of the primary beneficiaries of title IX. Prior to enactment of the statute in 1972, there were in this country virtually no athletic scholarships offered to women. After Donna DeVerona won her two gold medals in swimming at the 1964 Tokyo Olympics, she was offered no college scholarships. Her swimming career ended while she was still a teenager. Her colleague, gold medalist Don Schollander, went on to participate in swimming for 4 more years during colleage, while on an athletic scholarship.

Before Grove City title IX had resulted in some positive gains in women's sports. In the 10 years following passage of title IX, the number of women participating in college sports grew 100 percent, and the number of high school girls participating in sports increased 500 percent. By 1984, the number of athletic scholarships available for women had increased from zero to 10,000. Many of the women who participated in the 1984 summer Olympics in Los Angeles said they would never have had the opportunity to train and compete had it not been for title IX's infusion of money into women's colleagiate sports.

Women's athletics, however, is one of the areas where the Grove City decision has had its most devastating impact. Virtually no Federal money is traceable to women's sports. The Office of Civil Rights at the Department of Education has been unable to investigate charges of discrimination in women's athletics on college campuses. And cases alleging discrimination in women's sports that commenced prior to Grove City were abandoned. Passage of this bill, with its restoration of broad coverage, will serve as a well deserved tribute to those women who served our Nation so well in Calgary and to all those other women who have broken new ground in what were formerly fields for men only.

□ 1730

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

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

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding time, and I rise in strong support of the Civil Rights Restoration Act.

Mr. Chairman, it has been 4 years since the Supreme Court ruled in Grove City College versus Bell that Federal antidiscrimination laws apply only narrowly to particular federally supported programs, and not to recipient institutions as a whole. While the Grove City case specifically applied to title IX of the Education Amendments of 1972, the ruling has been interpreted to include section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964. As the result, women, minorities, the disabled, and the elderly have been denied the protection which Congress specifically intended them to receive.

Clearly, the Court misinterpreted the intent of Congress, and we have been working ever since to clarify the coverage of those laws.

In June 1984, the House voted overwhelmingly in favor of legislation overturning the Grove City decision. Unfortunately, the Reagan administration launched a full-scale attack against the bill, and it was never brought up in the Senate.

The real turning point occurred in 1985, when the U.S. Catholic Conference issued a memo suggesting that the new proposal could force Catholic teaching hospitals receiving Federal assistance to perform abortions. Since then, the Civil Rights Restoration Act has been tangled up, as so many bills have been in the last few years, over the abortion question.

When the Senate considered the Restoration Act last month, antiabortion Senators were prepared to defeat the bill if restrictive language was not included. And when the bill was finally adopted by that body, that victory was tempered by the approved abortion language.

The Danforth amendment specifies that institutions receiving Federal aid are not required to provide or pay for abortions. This language effectively supersedes existing regulations dating from 1972 that require educational institutions receiving Federal aid to "treat pregnancy, childbirth, and termination of pregnancy and recovery therefrom in the same manner and under the same policies as any other temporary disability" where leave, health services, or insurance are concerned.

I am very disappointed that this Congress, in its effort to clarify and extend antidiscrimination laws, must allow restricted access to legally protected medical care. In permitting hospitals receiving Federal funds to deny provision of abortion services, the Congress is actually sanctioning another form of discrimination. This is a very regretful act; but one, it seems, that is unavoidable at this time.

While I feel very strongly that a woman's right to abortion includes the pilot of access to abortion services, it is imperative that passage of the Civil Rights Restoration Act not be delayed any longer.

In these last few years during which Congress has been divided over the scope of coverage under the law, the rights of women, minorities, and disabled and elderly Americans have been put on hold.

In the Grove City case, the Supreme Court unanimously held that financial aid dollars reaching a college through its students constituted Federal financial assistance to the school. The scope of duty not to discriminate, however, was defined narrowly by the court. The court determined that student financial aid money only reached the school's financial aid office; therefore, only that office had to comply with Federal anti-discrimination law.

As the result, hundreds of discrimination cases have been dropped because the offending office or activity was deemed not in direct receipt of Federal funds. The Office for Civil Rights in the Department of Education, one of the primary agencies responsible for enforcement of these basic civil rights laws, has closed title IX, title VI, section 504, and age discrimination cases of lack of jurisdiction. In all, the Office of Civil Rights has closed or scaled back the investigation of 674 sex discrimination cases since the Grove City ruling.

Court mandated desegregation efforts have also come to a halt. The Subcommittee on Human Resources and Intergovernmental Relations, which I chair, recently held hearings on illegal racial discrimination at a number of southern universities and colleges. As a result of that investigation, the Government Operations Committee issued a report entitled "Failure and Fraud in Civil Rights Enforcement by the Department of Education." The committee concluded that 10 southern and border States are in violation of title VI of the Civil Rights Act because they have not completely eliminated the remnants of previously illegal systems of higher education that separated students by race.

Unfortunately, under Grove City, the victims of racial discrimination have little form of redress. Late last year, a title VI discrimination suit brought by the Justice Department against the University of Alabama was blocked by a Federal court of appeals which applied Grove City versus Bell to it. As the result of this and similar rulings, the effort to desegregate our Nations's schools, which began in 1954, has come to a screeching halt.

Enforcement efforts have also been gutted at other Federal agencies. The Office of Civil Rights at the Department of Health and Human Services and the Department of Housing and Urban Development's Office for Fair Housing and Equal Opportunity report that they too have severely cut back investigation of compliants.

By returning for four financial assistance civil rights statutes to their pre-Grove City status, the Congress will be renewing its commitment to fairness and equality. At the same time, we will be making certain that the next administration does not have an excuse to ignore its responsibility to enforce vital antidiscrimination laws.

I was very pleased that, with the exception of the Danforth amendment, all of the weakening amendments proposed in the Senate were defeated by large margins. I am hopeful that the House will follow with passage of an equally strong bill and that it will be received favorably by the President.

At this time, I would like to address specifically an amendment added by the Senate regarding coverage of individuals with contagious diseases and infections under section 504 of the Rehabilitation Act of 1973. It is important to note that this amendment was added to clarify—and not modify—the current section 504 requirements applicable to such individuals.

The need for a clarification arises from a misplaced response by some employers to the recent Supreme Court decision in School Board of Nassau County versus Arline. Although often misunderstood, the Supreme Court's recent decision interpreting and applying section 504 does not require that entities covered under the section take unwarranted risks in hiring and retaining individuals with contagious diseases who pose a direct threat to the health and safety of others or who cannot perform the essential functions of a job. The Supreme Court made that point very clearly in the Arline decision. See *School Board of Nassau County* v. *Arline,* 107 S.Ct. 1123, n. 16 (1987). ("A person who poses a significant risk of communicating an infectious disease to others in the workplace will not be otherwise qualified if reasonable accommodation will not eliminate that risk.")

Nevertheless, some employers have reacted to the Supreme Court decision by expressing the unfounded concern that they could be required to hire or retain an individual who has a contagious disease or infection and for whom no reasonable accommodation could eliminate the significant risk of such an individual transmitting the disease to others. In response, the Senate amendment clearly sets forth the basic standard of section 504 that effectively precludes imposing such a requirement on employers.

The language of the amendment is purposely patterned after a similar amendment adopted by Congress in 1978. At that time, many employers had similar unjustified concerns that they could be forced to hire or retain individuals who were alcohol or drug users and who could not perform the essential functions of a job or who posed a threat to others. The 1978 amendment provided that the term "handicapped individual" did not include "any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others."

During the legislative debate on the 1978 amendment, many Members of Congress pointed out that the "otherwise qualified" standard of section 504 already ensured that no such requirement could be placed on employers. Nevertheless, Congress enacted the amendment to reassure employers regarding the existing section 504 protections, thereby avoiding a categorical exclusion of alcohol and drug users from the protections of the statute.

The Senate amendment included in the Civil Rights Restortation Act, which is patterned after the 1978 amendment, thus specifies that, for purposes of sections 503 and 504 of the Rehabilitation Act of 1973, as such sections relate to employment, the term "individual with handicaps" does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.

The basic manner in which individuals with contagious diseases and infections can present a direct threat to the health or safety of others in the workplace is if there is a significant risk that the individual could transmit the contagious disease or infection to other individuals. In such circumstances, the individual is not "otherwise qualified" to remain in that particular position. The Supreme Court in Arline explicitly recognized this necessary limitation in the protections of section 504. The Senate amendment places that standard in statutory language—thereby hopefully allaying any misplaced concerns on the part of employers.

It is important to note the aspects that this amendment does not change. First, the amendment does nothing to change the requirements in the regulations and caselaw regarding providing reasonable accommodations for persons with contagious diseases or infections. Thus, if a reasonable accommodation would eliminate the existence of a direct threat or an individual's inability to perform the essential duties of a job, the individual is qualified to remain in his or her position.

Second, the two-step process of section 504 should continue to apply in cases involving individuals with contagious diseases and infections. That is, a court must first determine whether a plaintiff is protected under the statute under the traditional three-part definition of "individual with handicaps" under the statute. The court must then determine whether the individual is "otherwise qualified" to hold the particular position at issue in the case before it.

In his dissent in the Arline case, Justice Rehnquist stated that Congress should have stated explicitly that individuals with contagious diseases were intended to be covered under section 504. Congress has done so now with this amendment, stating clearly that individuals with contagious diseases or infections are protected under the statute as long as they meet the "otherwise qualified" standard. This clarity is particularly important with regard to infections because individuals who are suffering from a contagious infection—such as carriers of the AIDS virus or carriers of the hepatitis B virus—can also be discriminated against on the basis of their infection and are also individuals with handicaps under the statute. See, e.g., *Local 1812, American Federation of Government Employees* v. *U.S. Department of State,* 662 F.Supp. 50 (D.D.C. 1987) (HIV-infection); *Ray* v. *School District of DeSoto County,* 666 F.Supp. 1524 (M.D. Fla. 1987) (HIV-infection); *New York State Association for Retarded Children* v. *Carey,* 612 F. 2d 644 (CA2 1979) (hepatitis B carrier). As the Senate amendment now restates in statutory terms, such individuals are also not otherwise qualified if, without reasonable accommodation, they would pose a direct threat to the health or safety of others or could not perform the essential functions of a job.

Because of the importance of these protections, public health leaders have called for vigorous enforcement of section 504 with regard to cases involving AIDS and infection with the AIDS virus. The National Academy of Sciences, in its authoritative report, "Confronting AIDS," specifically pointed out the importance of section 504 as a means to fight medically unjustified discrimination:

> The committee believes that discrimination against persons who have AIDS or who are infected by HIV is not justified, and it encourages and supports laws prohibiting discrimination in employment and housing as formal expressions of public policy. The committee also supports a federal policy to include AIDS as a handicapping condition under the federal law prohibiting improper discrimination against the handicapped.

The Congress noted in 1978, with regard to alcohol and drug users, that the addition of an amendment was unnecessary in light of current law. Nevertheless, rather than exclude categorically a group of individuals, we added a provision to reassure employers regarding the requirements that currently existed in law to protect public health and safety. That same purpose motivates the inclusion of this amendment. I support the Civil Rights Restoration Act with this amendment because it continues to maintain the proper balance that currently exists between protecting the public health and private rights.

I urge adoption of the bill.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

(Mr. OWENS of New York asked and was given permission to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of this measure.

Mr. Chairman, as chairman of the House subcommittee of jurisdiction over the Rehabilitation Act, the Subcommittee on Select Education, I wish to address one aspect of this bill, which is amendment 1396 added by the Senate.

In some respects, amendment number 1396 is not really necessary. It simply clarifies that persons with contagious diseases and infections are covered by the Rehabilitation Act unless their condition constitutes a direct threat to the health or safety of others or renders them unable to perform the functions of the job. With or without this statutory amendment, under current law, as interpreted by the Supreme Court last year in School Board of Nassau County versus Arline, the standards applied in any given case would be the same. If the plaintiff had a contagious disease which was likely to be transmitted to coworkers, and no reasonable accommodation by the employer could eliminate that risk of transmission, the law would not force the hiring of that plaintiff. If, on the other hand, the plaintiff's disease was not transmissable by normal workplace contact, so that in fact coworkers were not endangered by it, then the law would grant relief to that plaintiff. This is precisely the balance between public health and civil rights which the law should embody.

Although this statutory amendment is not necessary, it may serve some useful practical purposes. Our Nation is now grappling with the multiple consequences of AIDS. One of those consequences is an epidemic of discrimination and hysteria. In many cases, persons who have AIDS or are infected with the AIDS virus have lost their jobs and their ability to support themselves and their families because others irrationally fear the disease. The disease has disproportionately affected black and Hispanic Americans. In communities like my own, the effects of AIDS have been devastating—medically, socially, and economically. We in Congress can help eliminate this discrimination and hysteria by reaffirming that the law will not allow the firing of persons affected with AIDS who do not pose a direct threat to others and who are, in fact, able to work.

The U.S. Centers for Disease Control estimates that more than 1 million Americans today are infected with the virus believed to cause AIDS. The great majority of these Americans are asymptomatic and fully capable of working. Many have family members dependent on them. Their infection is not transmissable by ordinary interaction with those around them, whether at work or at home. In short, there is no sound medical or public health reason why they should be excluded from employment. In that regard, I am glad to see that amendment 1396 refers to individuals with contagious infections, thus clarifying that such infections can constitute a handicapping condition under the act.

In sum, amendment 1396 adds directly to the statutory language the standard for assessing the appropriateness of relief under the Rehabilitation Act when the handicapping condition involved is a contagious disease or infection. It follows the principles outlined by the Supreme Court in the Arline case and it will convey unambiguously to the courts our intent that contagious diseases and infections not be excluded per se from coverage under the act.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to our foremost champion of civil rights, the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

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

Mr. RODINO. Mr. Chairman, I thank the gentleman very much for yielding these 3 minutes to me.

Mr. Chairman, there were several key provisions in the landmark Civil Rights Act of 1964. One of the provisions, title VI, is being amended today in the bill before us. Title VI established the principle that federal funds would no longer be used to subsidize racial discrimination.

This prohibition of Federal assistance to discriminatory programs became an effective tool in Federal civil rights enforcement. As each new group pressed its claim for Federal Antidiscrimination legislation, civil rights advocates demanded a title VI-like provision as well. By 1975, the four civil rights laws amended by S. 557 were in place—title VI, title IX of the 1972 Education Amendments (prohibiting sex discrimination in any education progam receiving federal financial assistance), Section 504 of the 1973 Rehabilitation Act (prohibiting handicap discrimination in any federally funded program) and the 1975 Age Discrimination Act (prohibiting discrimination against the elderly in any federally funded program). The carrot and stick approach set forth in these laws has helped to speed up the process of eliminating barriers to equal opportunity for minorities, women, the handicapped and the elderly.

The Congress had seen the promise of Brown versus Board of Education frustrated by States unwilling to comply with the Court's order to desegregate with all deliberate speed. It was Federal enforcement of title VI which turned massive resistance to public school integration into meaningful desegregation. Soon recalcitrant school districts determined that Federal financial assistance was more important than adherence to a bankrupt, racist philosophy.

In enacting title VI and its progeny, the Congress understood these laws to have broad coverage. Supporters of these laws believed all the operations of a recipient were required to comply with the nondiscrimination duty when any part of the recipient's operations was extended Federal financial assistance. The Supreme Court's 1984 decision in *Grove City College* v. *Bell*, 465 US 555, narrowly construed title IX of the 1972 Education Amendments. The Court determined that the college was a recipient of Federal financial assistance but because student aid was the only form of assistance extended to the school the Court reasoned that only the financial aid office was obligated to comply with the nondiscrimination duty. This program-specific analysis turned 20 years of executive branch enforcement of title VI and its progeny on its head. On that same day the Court applied the same narrow interpretation to section 504 in *Consolidated Rail Corporation* v. *Darrone*, 465 US 624. The Supreme Court's program-specific analysis, first hinted at in *North Haven* v. *Bell*, 456 US 511 (1982), has brought Government and private enforcement efforts of the four civil rights laws amended by S. 557 to a virtual standstill.

The bill before us today, S. 557, will restore the broad coverage of these four civil rights laws by defining the terms program and program or activity where they appear in each statute. For State and local governments coverage will be the entire agency or department when any part of the agency or department is extended Federal financial assistance. If assistance is extended to a unit of Government which then distributes the assistance to other departments or agencies, then all the operations of the distributing entity are covered as well as the agency or department to which the assistance is extended. For post-secondary institutions or public school systems coverage is college-wide, university-wide, or other post-secondary institution-wide, or public school system-wide. For elementary, secondary and vocational systems coverage is system-wide. Two or more schools are a system if there is significant linkage between them. An individual elementary, secondary or vocational school which is not part of a system is covered in its entirety under the corporate coverage section of the bill. A corporation, partnership, other private organization, or sole proprietorship is covered in its entirety if the assistance is extended to the corporation as a whole, or if the corporation, partnership, other private organization or sole proprietorship is principally engaged in the business of providing education, health care, housing, social services or parks or recreation; in all other instances, coverage is plant-wide or other comparable, geographically separate facility-wide. A geographically separate facility refers to facilities located in different localities or regions. Two facilities that are part of a complex or that are proximate to each other in the same city would not be considered geographically separate.

The bill makes clear that ultimate beneficiaries of Federal financial assistance are not obligated to comply with the nondiscrimination provisions in each of these laws. Ultimate beneficiaries include farmers receiving crop

subsidies, as well as food stamp and social security recipients. Under the bill, there is also a small provider exception, which recognizes that small providers, such as pharmacies and Ma and Pa grocery stores have more flexibility in making their facilities accessible to handicapped persons. Under the 504 regulations, small providers—15 or fewer employees—are allowed a more flexible approach in meeting the accessibility requirements. Thus Ma and Pa grocers may satisfy the requirement by referring the handicapped person to a nearby accessible grocery store or by making home deliveries. The title IX religious tenet exemption is not changed; that is, it is available to education programs controlled by a religious organization; however, it clarifies that the exemption is as broad as the coverage now defined by this bill. The fund termination provision found in each of these statutes will remain in effect. In the case of Grove City College, for example, if there is discrimination in the math department, a fund termination remedy would be available because the funds from BEOG's flow throughout the institution and support all of its programs.

Mr. Chairman, the protection of civil rights is a fundamental test of justice and fairness in our Nation. Through the enactment and enforcement of our civil rights laws, we have made much progress toward eliminating many forms of discrimination. These laws are the cornerstone of the promise of equality under law—equality for all citizens, regardless of race, sex, national origin, age, or physical handicap. That promise is embodied in the Civil Rights Act of 1964, the Education Amendments of 1972, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. In passing these laws, Congress sent a message—loud and clear—that the law of the land would not tolerate discrimination, and that those practicing discrimination should be held accountable for their actions, not rewarded with Federal funds.

Unfortunately, in 1984, in Grove City versus Bell, the Supreme Court narrowed the application of these civil rights laws by ruling that only the program or activity receiving Federal funds—not the entire institution—must comply with civil rights laws. This was not Congress' intent. This bill would restore the law to where it was before the Grove City decision.

The House in June 1984 passed legislation overturning the Grove City decision by a vote of 375 to 32. The Senate, however, did not act on the measure. Mr. Chairman, there has already been too much delay by the Congress. It is time to set the record straight.

Federal dollars collected for all of the people should not be used to discriminate against some of the people. It is important to make clear that Federal tax dollars will not be used to subsidize discrimination.

I urge my colleagues to support S. 557, the Civil Rights Restoration Act of 1987.

Mr. EDWARDS of California. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. WAXMAN].

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

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of the Civil Rights Restoration Act. I urge my colleagues to support it.

Mr. Chairman, I rise in support of the Civil Rights Restoration Act and urge my colleagues to vote for it.

I want to call special attention to the provisions regarding discrimination against the handicapped under section 504 of the Rehabilitation Act. While this legislation does not make substantive change in the law as it has been interpreted by both the Supreme Court and lower courts, it does add some clarity to those holdings.

The provision essentially restates the holding in the recent Supreme Court case, School Board of Nassau County against Arline. In that case the Court said clearly that persons with contagious diseases are covered by the protections of the statute. Having said that, however, the Court went on to say that if they pose a significant risk of transmitting their diseases in the workplace, and if that risk cannot be eliminated by reasonable accommodation, then they cannot be considered to be "otherwise qualified" for the job. The amendment added by the Senate to this bill places that standard in law.

I do not believe that it is necessary to make this addition to the statute; the Court's holding is easily understood and reasonable on its face, and certainly supported by the entire legislative and regulatory history of 504. This legislation does not lay out new limitations on eligibility or different standards of accommodation from those already applied. It does not change the traditional two-step analysis in which it is first determined that a person is handicapped and then that he is otherwise qualified. It appears, however, that some Members want the holding codified in statute, and I will not oppose doing so.

I would note that an amendment to limit the protections for people with infectious diseases was offered and defeated in the Senate committee. If any such limitations were offered in the House, I would fight to defeat them. Inasmuch as this provision does not limit the reach of 504 for those people infected or ill, I have no objection to it.

I want to say, however, that this does not mean that I am satisfied that discrimination protections for people with HIV infections or related illnesses are adequate, especially if we are to advance the public health agenda of counseling, testing, and medical care. While section 504 and the decisions that have addressed infectious diseases—such as Arline, AFGE versus State, Thomas versus Atascadero, and Ray versus Desoto—have made it clear that people with AIDS and HIV infections are protected if they work for an employer assisted with Federal funds, there are still no general protections for people who do not work for such employers.

This is certainly unfair, but, as important, it creates bad public health policy and bad medicine. If we want people at risk of HIV infection to volunteer for counseling, testing, and medical care, we must be able to guarantee to them that they will not lose their jobs as a result. If we do not, only those people who have nothing to fear from HIV—either because they are at the most minimal risk or because they are already sick and need the little public care that is available—will come forward. The very people that public health authorities most want to counsel, test, and provide care for will be the ones driven away by unwarranted discrimination.

I wish that it were possible in the context of this bill to expand the coverage of discrimination protections for the seropositive and ill beyond those who work for federally assisted employers. Within this bill, such a change is not possible, and I understand that. I am frustrated, however, that while the epidemic continues, killing productive citizens and draining our public health care system of dollars and staff, we must continue in the Congress and the administration to debate whether to blame people who are ill for their illness.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to a distinguished member of the subcommittee, the gentleman from Michigan [Mr. CONYERS].

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

Mr. CONYERS. Mr. Chairman, today we consider the single most important civil rights legislation of the 100th Congress: the Civil Rights Restoration Act of 1988.

The bill amends four major civil rights statutes to prohibit all the operations of an institution, not just specific programs, that receive Federal funds from discriminating on the basis of race, age, gender, or disability.

We consider today a principle that I believe is fundamental to the American constitutional scheme, and to the role of Government: Government should never support or subsidize discriminatory practices in any way whatsoever, and should do everything it can to eliminate the unfair and un-American results of discrimination.

Presidents Kennedy, Johnson, Nixon, Ford, and Carter all also believed that. That is why their administrations followed broad based interpretation of the civil rights statutes that we today seek to codify. Both the House and Senate, after 4 years of hearings and debate have voted overwhelmingly in favor of broad coverage.

A recent Supreme Court Decision, Grove City versus Bell, interpreted the civil rights laws as they were written to apply only to recipient operations and not the entire institution. This legislation overturns that decision, and the opportunities for discrimination and unequal access that the decision created.

Consider the everyday importance of the law:

A black man could be denied hypertension medication in a large clinic receiving Federal funds if those funds were not earmarked for hypertension treatment.

A victim of sexual harassment in a classroom would not be protected if Federal construction funds received by the school were not used to construct the building in which the classroom is located.

A qualified disabled employee could be denied a promotion in a nursing home corporation if the specific department involved received no Federal money though the corporation was a recipient of such funds.

An older couple could be denied flu shots in a privately built city clinic which decides to reserve vaccine for the so-called working-age population, even if the city health department got Federal health funds.

Literally hundreds of discrimination suits before the courts and administrative agencies have been dropped already—even when discrimination was found—due to the Grove City decision. According to the Department of Education's Office of Civil Rights, 834 cases in the administrative enforcement process have been affected between 1984 and 1986. Consider the kinds of cases and instances of discrimination we are debating:

A black high school student ranked fifth in her class who sued her school's chapter of the National Honor Society for allegedly denying her admission into the program due to race. The Office of Civil Rights dropped the suit because the alleged discrimination did not occur in a program directly receiving Federal assistance.

A first year medical student's charge that she had been sexually harassed by a professor who offered her good grades in exchange for sexual favors and who threatened to have other professors manipulate her grades were dismissed because no Federal money was earmarked for first year students or the department in which the professor taught.

The Office of Civil Rights also dismissed a suit against a community college which offered insurance policies that discriminated on the basis of age and sex, and which did not treat pregnancy and related disabilities the same as any other temporary disability. The case was closed because the college office which generated the mailing labels for the insurance company and the dean who wrote the letter to the students to introduce the plan were not part of the program that benefitted from Federal funding.

Clearly the primary vehicles for attacking the specter of discrimination for the last 25 years have been eroded.

The effects of discrimination, race based, gender based, are clear and undeniable. Just look at statistics on employment, income, representation in professional communities. This measure stops short of affirmative measures to correct those wrongs, it simply helps prevent the potential for more discrimination, and their lasting effects.

For those of you who do not want to fight the old battles and reopen the healed wounds from the civil rights movement; for those of you who truly want Dr. King's vision of justice and equality to become a reality in American life, the Civil Rights Restoration Act is an essential piece of legislation. I therefore urge you to vote in favor of this bill, and to oppose any substitutes or weakening amendments.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

(Ms. OAKAR asked and was given permission to revise and extend her remarks.)

Ms. OAKAR. Mr. Chairman, we have the opportunity today to restore simple justice to thousands of Americans. For years, the rules were simple: Any system that received Federal funds could not discriminate. Period. But the Grove City versus Bell decision in 1984 significantly narrowed the scope of the civil rights statutes. In ruling that those statutes only applied to the specific program or activity that received Federal aid, and not the entire institution or system, the Supreme Court misinterpreted the intent of Congress. Consequently, the civil rights of women, minorities, the elderly and the handicapped have been endangered.

For 4 years, we have been working to reinstate the original intent of the civil rights statutes and to restore basic rights to these individuals. Four months after the Grove City decision was reached, this body voted overwhelmingly, 375 to 32, to overturn the Supreme Court's ruling.

In 1985, the Education and Labor Committee and the Judiciary Committee again considered, and reported out, the Civil Rights Restoration Act. Mr. Speaker, for 4 years, we have worked to pass this legislation and restore civil rights to their full strength. There have been a number of worthwhile compromises during that time, and I believe that we have a better bill because of them.

But we should never forget that hundreds of lives continue to be affected by Grove City every day. The Department of Education alone has closed, narrowed or suspended over 500 complaints and compliance reviews over the past 4 years. Opportunities have been closed, horizons have been narrowed, and lives have been put on hold because of these denials of basic civil rights.

The individual cases speak for themselves:

A worker alleged that he was discriminated against by the Massachusetts Department of Youth Services. Although he passed the exam for a "supervising group worker" and was ranked first on the list for such a position, he was not given a supervisory position accommodating his disability. Although the Department of Youth Services receives Federal funds through the chapter 1 program, no action was taken because the department's program where the complainant applied for the position was deemed not to have received Federal funds.

A maintenance worker at a university filed a complaint with the Office of Civil Rights in the Department of Education, alleging disability discrimination. The university's lawyers said that it received no Federal funds for maintenance and therefore the Government had no authority to investigate. Since 1979, that university had received approximately $3,376,182 in Federal funds from the Department of Education, but the complaint was placed has been put on hold because the Office of Civil Rights could not link the allegation of discrimination to a specific federally funded program.

A first-year medical student at a university in California alleged that she had been sexually harassed by a professor who made explicit sexual remarks to her, offered to give her better grades in exchange for sexual favors, and finally threatened to use his alliances with other professors to manipulate her grades. Although the medical school received Federal funding through the Department of Education, no money was earmarked for the educational program for first year students or the professor's department of surgery. OCR closed the case because it decided the Grove City "program or activity" requirement could not be satisfied.

The cases go on and on: A black high school student is denied admission to her school's national Honor Society, a hospital adopts a policy of refusing to perform heart transplants on persons over the age of 55—even if the older patient is otherwise healthy, a teacher is permitted to call an emotionally-disturbed student "stupid" and "retard," a school system is permitted to place minority students in segregated students that deny them educational opportunity.

These real-life examples represent only a small sampling of the hundreds of discrimination cases in the Department of Education, the Department of Health and Human Services, and in the Department of Housing and Urban Development that have been frustrated, or essentially ignored, in the time since the Grove City decision.

Our efforts to restore these civil rights has tremendous support from all facets of our citizenry. The NAACP, the AFL-CIO, the League of Women Voters, the American Association of Retired Persons, the United States Catholic Conference, the Disability Rights Education and Defense Fund, the Paralyzed Veterans of America, Business and Professional Women, the United Auto Workers have all endorsed this bill. The American Baptist Churches, the National

Education Association, the American Jewish Congress, the National Association of Independent Colleges and Universities: The list goes on and on.

Mr. Chairman, opponents of this bill are resorting to blatant distortions of the intents of this legislation. The fact remains that under the false logic of Grove City, our Federal tax dollars are being used to fund discrimination, something that Congress never intended to allow. This legislation clarifies our original intent. We, and all of the individuals whose lives are being affected by this discrimination, have waited 4 long years for this day. The time has come to restore simple justice.

Mr. SENSENBRENNER. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. FISH].

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

Mr. FISH. Mr. Chairman, as an original cosponsor of the Civil Rights Restoration Act, I am very pleased and proud to stand here today. For 4 years, I have supported legislative action to return four pivotal civil rights laws to their rightful status prior to two Supreme Court decisions which occurred on February 28, 1984. These decisions were: *Grove City College* v. *Bell, Secretary of Education* 104 S.Ct. 1211 (1984), and *Consolidated Rail Corporation* v. *Darrone*, 104 S. Ct. 1248 (1984).

The Civil Rights Restoration Act is intended to reestablish the fundamental principle that when any part of an organizational entity receives Federal financial assistance, then all of the operations of that entity are subject to the antidiscrimination requirements contained in four civil rights statutes. The four laws to which I refer are: First, title IX of the Education Amendments of 1972; second, title VI of the Civil Rights Act of 1964; third, the Rehabilitation Act of 1973; and fourth, the Age Discrimination Act.

Each of these laws prohibits discrimination in any program or activity receiving Federal financial assistance. Title IX prohibits discrimination based upon sex. Title VI prohibits discrimination based upon race, color, or national origin. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based upon a person's disability. The Age Discrimination Act prohibits discrimination based upon an individual's age.

So, if you choose to participate in Federal programs and receive Federal financial aid, you must comply with the antidiscrimination requirements of all four of these laws. This seems to me a patently logical and fundamentally fair result. The Federal Government should not be in the business of subsidizing discrimination—inadertently or otherwise. If you choose to discriminate or ignore discriminatory activities within the realm of your organizational control, then you will not be aided and abetted in doing so through the use of taxpayer moneys.

Allow me to briefly review the problems presented by the Supreme Court decisions in Grove City and Darrone, and to explain further why I believe remedial legislation is necessary.

Grove City College, a private, coeducational liberal arts college, refused to sign the "Assurance of Compliance" certification under title IX. Grove City College asserted that it received no Federal financial assistance—that is, that it was not a recipient under title IX and, consequently, was not subject to the discrimination prohibitions of that statute. The facts in the case were that no direct Federal assistance went to the college, but that some of the students attending Grove City College received Federal basic educational opportunity grants [BEOG's].

The Supreme Court held, first, that Grove City was a recipient under title IX, because "receiving Federal financial assistance" includes Federal aid to a student who uses the funds at a particular institution. But, the Supreme Court went on to construe "program or activity" as not meaning the operations of the entire college, but only the student financial aid office, that is where the BEOG money, in fact, ultimately went. On virtually the same day, in the Darrone case, the Supreme Court also gave the same restrictive interpretation to "program or activity" in section 504 of the Rehabilitation Act of 1973.

Immediately, there was a critical reaction to the narrow and potentially damaging interpretation given to "program or activity" in both of these decisions. In an education context, the Supreme Court interpretation means, for example, that if sex discrimination occurs in the history department of a college but no Federal funds expressly go to that particularly department, then the college could continue to receive Federal assistance despite this discrimination. Importantly, since the phrase "program or activity" is also present in title VI and the Age Discrination Act, that same program-specific construction could be applied in cases under those laws.

Soon after the Supreme Court action, legislation was introduced both in the Senate and in the House of Representative to respond to the Grove City problem. These bills were intended to restore the four relevant laws to their status prior to the Grove City decision. The House bill (H.R. 5490) in the 98th Congress was favorably reported by both the Education and Labor Committee and the Judiciary Committee. This legislation passed the House of Representatives on June 26, 1984, by a vote of 375 to 32. However, disagreement over the intended and actual scope of the bill's language resulted, time ran out, and the Senate did not take final action.

That bill ran into difficulty principally because it contained a broad and arguably ambiguous definition of "recipient." The bill's definition differed in certain respects from the existing regulatory definitions of recipient for each of the four laws. Concern was expressed that this legislation was, in fact, being used to expand the coverage of these four laws to entirely new categories or classes of recipients.

Subsequent versions reflect a sincere attempt to respond to those early criticism. S. 557, the bill we consider today, is based upon a substitute developed from weeks of bipartisan negotiations in the spring of 1985. Those negotiations—involving Democrats and Republicans from from both the Judiciary Committee and the Education and Labor Committee—brought about important improvements in the bill. Under this revised and still relevant format, the existing regulatory definitions of "recipient" are left unchanged and, importantly, the exclusions for "ultimate beneficiaries"—farmers, students, medicare and medicaid recipients, food stamp recipients and Social Security beneficiaries—which are contained in three out of four regulatory definitions are retained. So, for example, entities or persons such as farmers, that are not recipients under the law now, because they are "ultimate beneficiaries," would not have their status changed.

Furthermore, S. 557 defines the phrase "program or activity" and attempts to bring that definition in line with executive branch enforcement policy as it existed prior to Grove City and Darrone. This makes good sense in that it was the Supreme Court's restrictive interpretation of that phrase which prompts our legislative reaction.

Under S. 557, coverage under the four antidiscrimination laws would extend to: First, departments or agencies of a State or a local government; second, colleges, universities or public systems of higher education; third, local education agencies or other elementary or secondary systems; fourth, corporations, partnerships, or other private or nonprofit organizations; and fifth, any other entity established by two or more of those previous entities. In the case of this last category "other entity", coverage presumably would occur depending upon whether or not the resulting entity is analogous in structure and purpose to the previous categories in the specified list.

S. 557 also intends to leave the so-called pinpointing doctrine on fund termination unchanged. See: Senate Report No. 100-64, p. 20. The landmark case on pinpointing is *Taylor* v. *Finch*, 414 F.2d 1068 (1969). That doctrine holds that once a "program or activity" is receiving Federal financial assistance, and discrimination is found to exist, then only those funds which actually support the discrimination would be cut off. So, for example, if a municipal housing authority is found to be discriminating on the basis of race, or sex, or age, or handicap, only

housing moneys are potentially terminated by not transportaion moneys or education moneys. While as a practical matter fund termination is a negotiation tool and is utilized only as a last resort, the intent of this legislation is to limit the potential scope of fund termination to those funds which actually have a specific nexus to the discrimination that is found.

As the Members of this House know, progress on the Civil Rights Restoration Act has been stalled since early 1985 because of a dispute over the possible abortion implications of this legislation. Now, with adoption of the Danforth amendment in the Senate and the inclusion of that "abortion neutral" language in the bill before us today, that 3-year impasse is over. For many of us, a compromise on the abortion issue was a necessary prerequisite to the enactment of this legislation. While that debate was understandable and important, its unfortunate side effect was to distract many Members from focusing on the very valid and fundamental policy reasons justifying the remaining portions of the bill. But now that this issue has been satisfactorily resolved, let us not be further distracted.

With passage, colleges and universities will not be able to receive Federal aid and discriminate against women or blacks or the handicapped in their admissions policies or hiring practices. State and local governments, similarly, cannot continue to receive financial aid without assuring Federal enforcement officials about equal opportunity in employment and nondiscriminatory disposition of those funds. Components of corporations will also have to comply with the basic elements of the four applicable civil rights laws.

Today, the House of Representatives is faced with a policy choice that should not and cannot ignore the original rationale that prompted the enactment of these four laws. These statutes were intended as deterrents to institutional discrimination and that fact ought not be overlooked or abandoned in this debate. Ultimately, the question for us to answer is whether or not we want these laws to be enforced in a comprehensive and effective manner.

□ 1745

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

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

Mr. GILMAN. Mr. Chairman, I rise in strong support of S. 557, the Civil Rights Restoration Act. I would like to commend the House sponsor of its companion bill, the gentleman from California, Mr. HAWKINS, the chairman of the House Civil Liberties and Constitutional Rights Subcommittee, Mr. EDWARDS, and the ranking minority members of the committees of jurisdiction, the gentleman from Vermont, Mr. JEFFORDS, and my fellow colleague from New York, Mr. FISH, for their leadership in restoring civil rights to the many discriminated sectors of our society, and for allowing for the expeditious consideration of this important legislation.

Its been almost 4 years since the Supreme Court laid down its landmark decision in Grove City College versus Bell that antidiscrimination provisions did not apply to an entire institution receiving Federal aid, only to the specific program getting the money. Clearly, this was not the intent of Congress. Discrimination must not be tolerated in any degree, shape, or form. Discrimination within an institution or organization cannot be justified simply because that institution's programs which receive Federal funds are in compliance with antidiscrimination statutes.

S. 557 amends title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964 to deny Federal funds to institutions or organizations that discriminate against minorities, women, older Americans, and the handicapped. The new language redefines program or activity, broadening the scope of interpretation to include institutionwide coverage of antidiscrimination statutes.

This bill has received the support of a broad coalition of groups and organizations, including the American Association of Retired Persons, League of Women Voters, U.S. Catholic Conference, National Education Association, and the American Bar Association. I share their belief that this legislation would reestablish the basic principle that in order to benefit from Federal funding, an institution must agree to operate its programs free from discrimination. Our democratic Government must not stand idle while our Southern colleges remain segregated or our women continue to be denied jobs and scholarships because of their sex.

We are not considering a new issue here today. Many of us voted for identical legislation during the 98th Congress when we adopted the Civil Rights Act of 1984 by an overwhelming 375 to 32 margin. Hearings and committee markups were held during the 99th Congress. We can no longer delay enactment of this vital legislation. Accordingly, I urge my colleagues to join today in supporting S. 557, the Civil Rights Restoration Act.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to a distinguished member of the Committee on the Judiciary, the gentlewoman from Colorado [Mrs. SCHROEDER].

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from California for yielding this time.

I must say as I stand here, this is not a day that I hoped it would be.

First of all, I have been a primary sponsor of the Civil Rights Restoration Act since it was first introduced in 1984. I have been impressed and proud of the civil rights community in its persistence that we have a clean civil rights restoration bill—with no substantive amendments. We have stood tall and together to make sure that no rights will be sacrificed.

That's why I have trouble with the bill before us today. While we are moving to restore rights for blacks, Hispanics, the handicapped, women, and the elderly, we are cutting back on the rights of a subsection of that group—young women of childbearing age.

We are abandoning young women when they are at the most vulnerable and crucial time of their lives. College is a time for our young women to learn, expand, and create the opportunities for their future. With the Senate language we are considering today, we may be cutting off any option they have to decide the course of their future.

I have problems with repealing longstanding title IX regulations requiring colleges and universities that choose to offer comprehensive health plans for students and employees to also provide coverage of abortion services.

Last week I talked to pregnant teens in St. Petersberg, FL, and Little Rock, AR. I want to share with you some of their comments that I find particularly relevant to today's debate. First, they saw a college education as the key to a better, more economically secure life. Second, they didn't realize the responsibility involved in having a child and that responsibility affected the choices in their lives.

As I try to decide on my vote here today, the images of those girls stick with me. I also think of my daughter who is graduating from high school this year and the girls in her graduating class.

Do we leave young women and their civil rights unprotected?

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 4 minutes.

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

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the bill and in support of the substitute which I shall offer at the proper time.

Let us make it perfectly clear. The bill as sent over to us by the Senate is more than a mere restorative bill. This is particularly true in the area of corporate coverage. The Senate-passed bill provides for corporationwide coverage, rather than plantwide coverage in five specifically enumerated areas. That was never anybody's idea of the law prior to the Grove City decision, so it does expand the coverage of the civil rights laws and the bill being labeled as the Civil Rights Restoration

Act is a completely fallacious and misleading application of the term "restoration."

Second, it is vitally important that the religious tenets of church-affiliated schools be protected. Times have changed since title IX was passed in 1972. At that time most of the church schools were controlled by policy boards consisting of the clergy. During the 16 years that have elapsed since title IX was passed the control has shifted from clergy-dominated boards to lay boards. There is a very significant legal distinction, as it has been interpreted by the courts.

Many of the supporters of this legislation say that, well, the Department of Education will be eager to grant exemptions when it is demonstrated that an exemption is in order, and yet between 1972 and May 1, 1983 the Department of Education only exempted three colleges and universities based upon religious tenets: Brigham Young in Utah, the St. Charles Borromeo Seminary in Pennsylvania, and Harding College and University in Arkansas. The remaining exemptions for religious tenets were done during the Reagan administration, and that can easily be repealed by a succeeding administration and a succeeding Secretary of Education. That is why religious tenets have got to be statutorily protected.

Now, I do not think that we should be using Federal money to discriminate. I certainly agree with the people on the other side of the aisle that there should be strong antidiscrimination laws to protect against that, but nobody who has supported this bill has stated one instance of all of the discrimination that has occurred that would be sanctioned with the religious tenets and the corporate coverage amendment adopted in this bill, which is what my amendment proposes.

Therefore, all of the arguments that my amendment is a killer amendment are completely fallacious. The same protections will be there, but the unintended consequences will be gone and I am more confident that the President of the United States will sign this piece of legislation with my two amendments adopted than he will in passing the bill without an amendment.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. TAUKE].

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

Mr. TAUKE. Mr. Chairman, the Civil Rights Restoration Act is an important and far-reaching measure. Its primary intent is to restore the institutionwide coverage of our civil rights laws, a goal that I fully endorse. Institutions receiving Federal funds should not discriminate. However, as the bill has been considered over the last few years, other ramifications of the bill have been identified and need to be addressed.

Perhaps the most critical of these ramifications relates to abortion. The other body adopted an amendment to the Civil Rights Restoration Act that made title IX neutral on the question of abortion. As the sponsor of this abortion-neutral amendment in the House Education and Labor Committee in 1985, I am pleased that this amendment has been adopted and is part of the bill we are considering today.

The abortion amendment states that "nothing in this Title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to abortion * * *." This provision removes any legal connection between sex discrimination and abortion rights. This is a critical provision, and I am pleased that the legislation now removes any Government mandate for abortion or abortion-related services in the name of civil rights.

Also in 1985, an amendment was agreed to by the Education and Labor Committee to clarify the religious tenet exemption in title IX. This amendment was not adopted by the other body, but I believe it is also a critical issue that should be addressed by a change in the statute. The colloquy I had earlier with the distinguished chairman of the Education and Labor Committee has served to clarify current law and to provide guidance to the Department on exemption requests.

The significance of the religious tenets provision is fundamental—it is a question of whether or not we will force education institutions with strong ties to religious organizations to compromise their religious beliefs as a condition of receiving Federal financial aid. The fact is, because of the evolution since 1972 of the administrative control of private education institutions, relying on the current law exemption for religious tenets jeopardizes the first amendment rights of these institutions.

For this reason, I will support the substitute this afternoon. It seems to me to be ironic that in a bill by which we will expand civil rights, we will jeopardize religious freedom and first amendment rights.

I am hopeful that the current practice of deference to institutions requesting exemption on the basis of conflict between title IX and religious tenets, regardless of the outcome of the substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

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

Mr. DANNEMEYER. Mr. Chairman, in 1973 Congress adopted the Handicapped Act that became a basic part of our law relating to handicapped people. During the Carter administration, around 1976, the Attorney General rendered an opinion that the definition of a handicapped person included somebody who was a drug addict or an alcoholic. In 1978, Congress corrected this aberration by saying as a matter of policy that the definition of a handicapped person did not extend to a drug addict or an alcoholic.

In 1987, the U.S. Supreme Court in the Arline decision extended the definition of a handicapped person to include someone with a communicable disease, a remarkable decision, to say the least.

This issue of whether or not the definition of a handicapped person extends to someone with a communicable disease deserves to be debated on the floor of this House for an extended period of time. This cannot be done under this restrictive rule. We need to debate the issue because we may have between 1½ to 5 million Americans with the virus for AIDS coursing through their veins, and if this bill is passed in the form that it is being presented, claims will be made around this country that persons so infected can go to court for the purpose of asserting that they come within the purview of the definition of a handicapped person, and that is not any way to run the public health policy of this country.

The data is coming in slowly, but it is coming in clearly that a person with the virus for AIDS, even through assertedly asymptomatic, 30 to 44 percent of those people in one study, over half of them in another study, are evidencing dementia, and we are supposed to adopt as a policy statement or permit to stand a Supreme Court decision that an individual with such a communicable disease is entitled to affirmative action protection. It does not make any sense at all.

As a result of the logic of the Supreme Court ruling in the case of *School Board of Nassau County* v. *Arline* (U.S. Sup. Ct, 1987), persons with a communicable disease were determined to be "handicapped" within the meaning of that term in section 504 of the Rehabilitation Act. The Court ruled that persons with such a handicap may not be discriminated against in employment. While the specific case dealt with a teacher who had tuberculosis, the principle the Court invoked would presumably apply to persons with AIDS and the Court affirmed that conclusion in dicta. In States with handicap provisions comparable to section 504, there has been a decided tendency for courts and administrative agencies to extend the law to prohibit discrimination against AIDS patients. Although most cases of AIDS in the United States have been attributed to the transmission of bodily fluids through sexual intercourse, the sharing of needles by intravenous drug users and the like, scientific knowledge of mechanisms for transmitting the disease is hardly com-

plete enough to make us sanguine about the prospect of federally forced hiring of AIDS patients by university cafeterias and hospitals.

This clarification is especially important in light of the AIDS epidemic this Nation now faces. At present there are over 52,000 cases of AIDS of which 28,000 are already dead and a projected 1.5 million cases of AIDS infection in our population. If this bill is passed as presently written, employers will be required to accommodate victims of this fatal disease despite potential health threats to other employees.

The major threat posed by AIDS patients at this time is that they may pass on a host of opportunistic diseases which plague AIDS patients due to their compromised immune system. Many of these diseases are highly contagious and easily transferred to others. They include a deadly version of pneumonia called pneumocystis carinii, tuberculosis, cytomegolovirus, and others. In Urbana, IL, 12 nurses who were caring for AIDS patients were infected with a drug resistant strain of tuberculosis which was detected after testing.

In addition, recent evidence indicates that 30 to 44 percent of asymptomatic carriers show signs of neurological impairment. This impairment ranges anywhere from slight memory loss to schizophrenia and poses serious safety questions about the ability of these persons to function in society. In recognition of this grave threat, the Department of Defense is removing HIV-positive individuals from employment situations, such as flying certain types of aircraft, which could pose a risk to the health and safety of others. In light of the uncertain status of medical knowledge on this and other aspects of the AIDS virus, it is unwise to enact sweeping provisions that would result in federally forced hiring of these individuals.

In addition, the legislative history of the Rehabilitation Act does not contemplate inclusion of persons with contagious diseases within the antidiscrimination protections of the Rehabilitation Act. The lack of reference to contagious diseases in the legislative history of the Rehabilitation Act is conspicuous by its absence. The House and Senate both exhibited strong concern about the need to retain health and safety protections during floor debate on the 1978 amendment to exclude drug and alcohol abusers from the definition of "handicapped." These same concerns are tantamount to consideration of defining contagious diseases as a "handicap." It is clear that Congress did not intend the act to require this result. Unless this amendment is adopted, schools, hospitals, health clinics, and other entities will have to surrender their authority to deal with these problems to the dictates of Federal judges interpreting the Rehabilitation Act. My amendment will enable institutions to use their sound judgment to implement State or local policy dealing with the problems of contagious disease.

It is undeniable that the problem posed by the condition of persons with contagious diseases is fundamentally different than that posed by the normal meaning of handicapped. Historically, individuals with contagious disease have been isolated while persons with physical or mental impairments have maintained essential freedoms but relegated to unproductive societal roles. Even today, a stark distinction exists. Persons with contagious disease, or those who abuse alcohol or drugs are legally excluded from this country under our immigration laws while persons with physical defects are only excluded if "the disability is determined to be of such a nature that it may affect the ability of the alien to earn a living." The apparent irony of permitting the implications of the Arline decision to stand is that we will be extending affirmative action rights to individuals currently barred from this country. It is imperative that this body be permitted to debate the merits of such a distinction.

Mr. Chairman, we should reject this bill without the opportunity to debate this issue.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT. Mr. Chairman, I rise to make two comments briefly on what the bill does and does not do that has not been discussed.

First of all, the bill does make a major improvement over current law. It repeals those 1975 regulations under title IX which should never have been passed in the first place, so with the passage of this bill title IX will no longer require student health centers on college campuses and universities to preform abortions if they choose not to.

No. 2, this legislation does not include, to the long-term shame of this House and of the sponsors of the bill, coverage of Congress as an institution under the antidiscrimination laws of this country.

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With the passage of this bill the Congress of the United States continues to be exempt from the laws that prohibit discrimination based on race, age, sex, or handicap. That is a significant omission in this legislation. This is an opportunity for the bill's sponsors and the committees and the Senate and this Congress to make the changes that should have been included.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Rhode Island [Miss SCHNEIDER].

(Miss SCHNEIDER asked and was given permission to revise and extend her remarks.)

Miss SCHNEIDER. Mr. Chairman, I rise in strong support of this bill, but I would like to ask my colleague from California for a clarification.

Is it your understanding that the purpose of the Danforth amendment is to ensure that there could not be discrimination against women who either are seeking or who have received abortion-related services?

Mr. EDWARDS of California. Mr. Chairman, will the gentlewoman yield?

Miss SCHNEIDER. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I certainly agree with the gentlewoman from Rhode Island [Miss SCHNEIDER] has said. Indeed, without that assurance I would not be able to support this bill. I believe this is the intent of the chief sponsors of the amendment in the other body.

Mr. JEFFORDS. Mr. Chairman, will the gentlewoman from Rhode Island [Miss SCHNEIDER] yield?

Miss SCHNEIDER. Mr. Chairman, I am happy to yeild to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would like my colleagues to know that I also agree with the definition as it has been explained by the gentlewoman from Rhode Island [Miss SCHNEIDER].

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

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

Mr. PANETTA. Mr. Chairman, I rise in strong support of this bill. I do it largely out of my own personal experience as director of the Office for Civil Rights at the Department of Health, Education, and Welfare in the enforcement of civil rights laws under title VI that involved in particular discrimination in education.

We have adopted a number of civil rights laws in this country including title VI, title IX, section 504 of the Rehabilitation Act, as well as laws relating to age discrimination. The fact is that the key to enforcement of these civil rights laws largely rests with our ability to terminate Federal funding if in fact it supports the discrimination which is occurring in these various institutions. Indeed, with regard to title VI, title VI was a law that could not be enforced very strongly until the Elementary and Secondary Education Act came along, and the Higher Education Act which in effect provided the funding for education throughout the country and thereby gave the Office for Civil rights the leverage to begin to enforce the antidiscrimination requirements of that law.

The bottom line is that there are no rights in this country unless there are remedies, and there are no remedies here unless this bill is adopted. The

only effective leverage we have in enforcement is Federal funding. There is an administrative process that is available, allegations need to be made, they are proven through an administrative process, and they can ultimately result in termination.

The decision in Grove City essentially has stopped enforcement by allowing schools and allowing other institutions to isolate discrimination, to cubbyhole it, so that enforcement of these laws is virtually at a standstill.

Mr. Chairman, I think the point is this, if we are for civil rights we have to be for the enforcement of these rights and therefore have to be for this bill.

Mr. Chairman, I rise today to voice my support for the Civil Rights Restoration Act. This legislation was introduced in response to the Supreme Court's 1984 decision the case of Grove City College versus Bell. The Court reversed a long-standing position of the law as it relates to discrimination. Title IX, which prohibits sex discrimination by federally assisted educational institutions can be enforced by the ability to terminate Federal aid to institutions when deliberate discrimination is proven. This is based on the legally supported premise that any institution that accepts or tolerates discrimination in any of its programs should be subject to the loss of all Federal funds. This Court, however, has severely limited that enforcement power.

Passage of this legislation today will ensure that those institutions found to discriminate on the basis of race, color, national origin, sex, handicap, or age do not receive Federal financial assistance. As former head of the Office of Civil Rights at the Department of Health, Education and Welfare, I have firsthand knowledge of the leverage the Federal Government can bring to bear against discrimination by using the tool of funding termination. Strong and effective civil rights enforcement is essential if our shared commitment to equal rights and equal opportunity for all our citizens is to have any meaning.

My main concern is that the original intent of the law be restored and in the process that full civil rights enforcement become possible. We cannot allow institutions which receive Federal funding to use the Grover City decision as a means to discriminate. Our country is built on the premise that all individuals are created equal. By allowing the 1984 Supreme Court decision to stand we are condoning discrimination at a national level. This is totally inconsistent with the efforts our country has made to insure that civil rights are enjoyed by all. We have just finished celebrating Black History Month and the Bicentennial of our Constitution. This is the ideal time to pass the civil rights restoration as a signal to all Americans that the Federal Government will not permit discrimination on the basis of race, sex, age, or handicap.

What will be the result if we do not pass this legislation today? Will we allow black children to be denied access to the college of their choice? Will we allow a medical facility to deny care to a patient over the age of 55? Will we allow handicapped children to be denied access to social service programs? Will we allow our colleges and universities to discriminate against women athletes? I believe that we must take this opportunity to allow the Federal Government to exercise the power to enforce the antidiscrimination laws we have worked so hard to establish.

We cannot ignore the responsibility that we have to insure all the people of the United States have equal access to an education, health care, social services, and employment and are not denied these things because of their sex, age, race, or handicap. I urge my colleagues to vote "yes" on the Civil Rights Restoration Act today.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. AUCOIN].

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

Mr. AUCOIN. Mr. Chairman, I rise in strong support of the fundamental premise of the Civil Rights Restoration Act, but with deep concern and deep division about inclusion of the Danforth amendment in the Senate version of the bill we are voting on today.

I have been a sponsor of legislation to overturn the Grove City versus Bell decision for the last 4 years, and I regret very deeply that it has taken so long to do what should have been done the day after the Supreme Court erred so badly in interpreting congressional intent in its Grove City decision.

In the years that have passed, I've watched the destructive impact of this decision with great sorrow. What took us so long to build—equal opportunity for all citizens and an end to Government condoned discrimination—was mangled by the Grove City wrecking ball.

With the overhelming passage of this legislation by the Senate, and I predict by the House today, we will have finally corrected a 4-year-old mistake. And we will have stated unequivocally that the Federal Government will not be party to discrimination based on age, on sex, on race, or on physical ability.

I have heard the President wants to veto this bill. That, of course, is his right. But should he do so, we will override that decision. And that will be a good day, and a good outcome for so many of our people who depend on good government to open doors and promote individual opportunity.

But I cannot let this record stand without expressing my outrage, and my serious concern over the regrettable inclusion in this antidiscrimination bill, the discriminatory Danforth provision regarding reproductive rights for women in this country. Time and time again, the vagaries of the political process have presented a dilemma to supporters of civil rights who also are strong supporters of reproductive rights. We're forced to choose which of these principles is more important. In my mind they are the same. They are indivisable. Civil rights are very basic and very simple, and among them must be the right to reproductive freedom.

Instead of immediately rejecting the Grove City decision, the Congress has been tied up in knots, and civil rights have been held hostage, to the demands of some who would like to use the restoration legislation as an opportunity to further their goals of placing limits and restrictions on reproductive freedom.

We have watched a process for 4 years in which a powerful minority—not one which represents the majority opinion of the people of this great Nation—has stymied and hogtied the civil rights restoration legislation.

But today we have finally moved ahead, and because of the statements of authors of the Danforth amendment during consideration of S. 557, and only because of these statements and others which have been made by chief sponsors of the bill on the floor today, can I support this bill.

These statements have clarified what could have been a dangerous loophole in the Danforth provision. With regard to his amendment, the Senator from Missouri said, "The amendment says that * * * a college * * * is prohibited from discriminating against people who have had abortions or who are seeking abortions." And the Senator from California, a coauthor of the Danforth provision, also stated that the provision was drafted "to ensure that there could not be discrimination against women who either are seeking or have received abortion-related services."

These statements by the authors of the provision have precedence in setting the terms of legislative intent and history. And with their statements clarifying that this legislation before us today expressly prohibits, and does not in any way permit, discrimination against women who have had or are seeking abortions, I can support this bill. I regret, however, and do strongly oppose, the further diminishment in access to safe and legal abortion included in this bill.

With assurances from the authors of the Danforth amendment, and with the clarification provided by floor leaders today, it is now clear that this legislation prohibits discrimination based on a person's decision regarding abortion—in scholarships, in housing, in extracurricular activities, in student or faculty hire and tenure, and in other benefits offered to students or employees under title IX. Equally important is the fact that the bill clearly prohibits denial of provision of services related to complications arising from abortion under the terms of title IX.

I commend so many people here in Congress and outside Congress, who have struggled long and hard to restore basic civil rights to the people of this country. I salute all those individuals involved with the leadership conference on civil rights, with so many women's rights organizations, and the many religious entities which played a

constructive and important role in this vital effort to reverse the Grove City decision.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAIG].

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

Mr. CRAIG. Mr. Chairman, I rise in opposition to S. 557, the Civil Rights Restoration Act and support the substitute. Many of my colleagues are here this evening to voice their concern over various provisions of the bill. I would simply wish to emphasize one major theme that we all agree on: this is further Federal intrusion into the private sector. Is it really civil rights when the Federal Government trespasses on the rights of countless schools, churches, farms and businesses? Do we solve anything by forcing more sectors of American society to do more Federal paperwork? Or if we subject them to onsite compliance reviews by Federal agencies even in the absence of an allegation of discrimination?

Mr. Chairman, the House has not even had the opportunity to properly hear many issues in this bill; I do not see how we can bring this legislation to the floor today. This is a monumental change in civil rights enforcement policy, it makes drastic modifications, it has not been fully considered. For this and the other reasons you will hear today, I am opposing S. 557.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I urge my colleagues to join me in supporting S. 557, the Civil Rights Restoration Act of 1987. It is vital that we overturn the 1984 Supreme Court decision, Grove City versus Bell, and restore the coverage of Federal antidiscrimination laws to ensure that institutions receiving Federal aid are not allowed to discriminate in any aspect of their operations.

After 4 years of effort to develop an acceptance compromise, the Senate bill may be our only chance to overturn the Grove City case in the near future. It is imperative that we reaffirm our strong support for our civil rights laws and make it clear that institutions which accept Federal funding cannot discriminate on the basis of race, religion, age, gender, or disability.

Mr. Chairman, I urge my colleagues to support S. 557 and restore the scope of protection against discrimination intended under title IX and all of our civil rights laws.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

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

Mr. HENRY. Mr. Chairman, I support the purpose and intent of S. 557, the Civil Rights Restoration Act. Clarifying the coverage of these four civil rights laws which connect receipt of Federal funds to legal requirements not to discriminate on the basis of race, sex, age, and handicap is both necessary in light of the Supreme Court's decision in Grove City and subsequent administrative rulings, and vital to a strong Federal commitment against discrimination based on these factors.

We have found, of course, that in carrying out the fundamental purpose of the act, that there are certain specific areas that need special consideration. One such area is the issue of abortion, and I am pleased that the Tauke/Sensenbrenner, now the Danforth amendment, is included in both bills before us.

I believe very strongly that we need to address a second issue as well, the so-called "religious tenets" issue. Current law in title IX allows the Department of Education to grant an exemption for "religious tenets" to those educational institutions which are "controlled by a religious organization if the application of title IX would not be consistent with the religious tenets of such organization." The amendment which I proposed to S. 557, and which is included in identical form in the substitute bill, would simply add the words "or which is closely identified with the tenets of a particular religious organization" to that current test of "control."

It has been pointed out that one of the reasons why this amendment is necessary is that many private religious colleges and universities have changed their form of governance since 1972, so that they are no longer, strictly speaking, controlled by a church denomination or diocese. That is true, but there is a second reason, besides this "change in circumstances," why this amendment should be included in the Civil Rights Restoration Act. In 1972 and for many years thereafter, many small private religious schools whose only connection to Federal funds was through student financial aid programs, did not believe they were covered by title IX, since these were "student aid," not "college aid," programs. This was indeed the "other" issue decided by the Supreme Court in Grove City, and unlike the definition of "program or activity," on this issue the Court held against the college. But we are now clearly extending the reach of title IX to every school, and every aspect of every school, that takes in students who receive Federal financial aid. We need to be certain that the religious tenets exemption is similarly adequate to protect the right to hold and practice religious beliefs.

Let me point out here the irony of the current statutory test for an exemption: a school which for historical reasons is still formally part of a church denomination, but is not particularly "religious" in terms of outlook and teachings would nonetheless clearly qualify under the existing test, while another school which is independent but deeply religious would not. The proposed amendment corrects this discrimination.

Let me respond briefly to a few of the claims that opponents of the amendment have been raising:

First, opponents claim that the language of the amendment creates a huge loophole for a large number of colleges and universities to discriminate as they wish. In fact, schools would still have to apply for an exemption to the Department of Education, as is the case under current law. The amendment would in fact give better guidance to the Department in evaluating requests for waivers.

Second, opponents argue that the amendment is unnecessary because no application for exemption has been denied. In fact the history of the Department's administration of this provision has not been very reassuring. For 10 years, the Department did nothing with applications, it simply sat on them. Then suddenly in 1985, the Department approved all of them which did not have technical defects. While I appreciate the Department's recent broad and flexible application of this section, and hope it will continue, the experience of the previous decade cannot be ignored.

Third, opponents have also now agreed to "legislative history" language which will in effect say that the current language of title IX should continue to be broadly construed and applied by the Department in granting exemptions. I certainly hope the Department does follow this advice. Indeed, I would argue that the Department must do so in order not to violate the first amendment rights involved. And while I hope that this is the exception, we are all well aware of the "respect" accorded to "legislative history" by executive departments and courts which disagree with it. So I do not believe that this is an adequate substitute for doing our job, which is to shape the legislative language, not to depend on the Department of Education to do it for us.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE].

(Ms. SNOWE asked and was given permission to revise and extend her remarks.)

Ms. SNOWE. Mr. Chairman, in the two decades between passage of the Civil Rights Act of 1964 and the Grove City decision, this nation was finally making progress in exorcising discrimination from our society.

For racial minorities, for American women, for handicapped persons, passage and enforcement of antidiscrimination laws meant the doors of opportunity were no longer legally locked. Under title IX, as an example, girls

and women have been able to experience the growth in character and health from competitive sports that had previously been the almost exclusive domain of men.

And, of critical importance, enforcement of these laws was helping to challenge and change the limitations which society assumed existed for American women and others.

What, then, was the problem? I would suggest that there wasn't one. It was not a situation of unwarranted Federal intrusion, particularly since various institutions certainly welcomed the intrusion of Federal tax dollars. The Grove City decision solved a problem that didn't exist, yet in so doing created substantial ones in its wake.

Essentially, the Supreme Court rewrote the protections against discrimination in a manner that defied congressional intent. I find irony in the fact that those who oppose our efforts today to restore Congress' intent on discrimination are usually the ones who object most vehemently to the usurpation of our powers by the courts.

At heart, the Grove City decision eviscerated antidiscrimination efforts. In less then 2 years after the decision was issued, some 674 title IX complaints were either dropped or scaled back. Fighting discrimination became a bureaucratic nightmare, a matter for accountants who could trace the flow of Federal funds at an institution.

The Civil Rights Restoration Act only seeks to return to the pre-Grove City situation. It was not a situation, I will remind my colleague, that prompted an uprising in the Nation to limit the protections against discrimination. The Supreme Court did that.

In effect, opponents of this legislation are seeking to retain the narrowest possible protection against discrimination. They oppose discrimination when its unavoidable to do so, not whenever its possible. Even when the trumpets of celebration for our Constitution's bicentennial have scarcely grown silent, opponents of this bill would effectively limit the coverage of that Constitution.

They are reduced, again I note with some irony, to making the argument that this bill expands discrimination protections. Legislative intent, committee report language, and court precedent refute this red herring. The core of their argument is that discrimination is acceptable, except under very narrow circumstances.

I suggest that is a perversion of the Constitution itself and the will of the American people. We have a responsibility to do everything within our power to see that Federal funds do not in any form support discriminatory actions. If an institution permits discrimination to exist, why then should it receive tax dollars? An institution that refuses adherence to publicly define laws and values has no claim on publicly provided funds.

Mr. Chairman, can the Congress be in the position of knowingly and willingly condoning discrimination? Do we not attack discrimination, instead of accepting its existence? Opponents of this bill are using the Supreme Court decision to make discrimination easier. That is a shameful proposition, so I urge my colleagues to support this legislation.

Mr. EDWARDS of California. Mr. Chairman, I yield myself the balance of my time.

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Chairman, I join my distinguished chairman of the Judiciary Committee and my good friend and colleague, Chairman HAWKINS, in bringing S. 557, the Civil Rights Restoration Act of 1987 to the floor for a vote. Except for two amendments added during Senate debate on the legislation a few weeks ago, this bill is virtually identical to its companion in the House, H.R. 1214.

Let me remind my colleagues that this legislation was drafted with the cooperation of civil rights advocates and Republican and Democratic members and staff from the House and Senate over a period of several months in 1984 for introduction in the 99th Congress. Indeed, the scope of coverage outlined in this legislation—especially as it relates to corporate coverage—is a result of direct bipartisan negotiations over a period of months between the members of the Judiciary and Education and Labor Committees in 1985. Senate and House sponsors agreed to honor that compromise by introducing the Civil Rights Restoration Act of 1987 in the 100th Congress.

An extensive congressional record on the need for this legislation and a full description of its purpose and effect have been made in the 98th, 99th and 100th Congress. Twenty-one days of legislative and oversight hearings have been held on this bill since the Grove City decision was handed down in 1984. Thirteen met in a building constructed with Federal funds. In another case, a teacher is without a remedy of her discrimination complaint unless the computer software used in the computers purchased with Federal funds was also purchased with Federal aid.

The Grove City ruling is gutting executive branch enforcement of these laws; pending litigation is also being frustrated by the absurdities of the Court's analysis. For example, on October 6 of last year, the Fifth Circuit Court of Appeals cited Grove City in dismissing the Justice Department's race discrimination suit against the State of Alabama's higher education system. This complaint, which alleges racial discrimination in every aspect of the university system—employment, resources allocated to white and black schools, etc., has been winding its way through the Federal administrative process for many years. Private parties who had intervened in the case were also blocked in their effort to obtain relief. This bill applies to all pending cases. It is of great concern that it has taken this long to pass this legislation. I wish that no cases had been lost because of this delay. Of the 21 hearings were conducted by the Judiciary and Education and Labor Committees in joint hearings conducted in Washington, DC, and across the country. S. 557 is a product of these committees' labors.

This legislation must be passed. Preliminary findings by civil rights investigators of the Committee on Education and Labor show that the Department of Education's Office of Civil Rights [OCR] has closed 70 percent of its higher education cases because of the Supreme Court's ruling. The Senate report accompanying S. 557 finds OCR has closed or narrowed at least 674 of the civil rights complaints it had on file. In addition, 156 Department-initiated civil rights compliance reviews have been dropped or narrowed following the Grove City decision.

In the wake of Grove City, Federal civil rights specialists now spend their time tracing the flow of Federal dollars rather than investigating and remedying civil rights complaints. As the Senate report notes, Federal officials have encountered serious difficulty complying with the Grove City decision. Not only does the Government's available data system prevent it from tracing Federal funds—so that the Government must rely on the alleged discriminating institution's representations as to where the funds were spent—the results of this audit approach, when tried, is often absurd. For example, it was reported to Education and Labor Committee investigators this year that in a complaint involving university housing and student services, OCR had to determine if the university's Committee on Appeals of Residences

The bill before us is a simple restoration bill. The distinguished chairman of the Judiciary and Education and Labor Committees have carefully explained the scope of coverage of these four laws set forth in S. 557. Let me stress that the provisions in S. 557 do not become operative unless there is a "recipient" of "Federal financial assistance"; these are terms of art defined in existing Federal regulations. The Civil Rights Restoration bill does not change the meaning of those terms of art; it broadly defines the scope of coverage of title VI of the 1964 Civil Rights Act, title IX of the 1972 Education Amendments, section 504 of the 1973 Rehabilitation Act, and the 1975 Age Discrimination Act by defining the terms "program" and "program or activity" wherever they appear in each of the four laws.

During Senate debate on S. 557, two amendments were adopted on the

floor. The Harkin-Humphrey amendment is a clarifying amendment with respect to employment under the 1973 Rehabilitation Act; the Danforth amendment is in a substantive change regarding insurance coverage for abortions.

The Senate amendment concerns coverage of individuals with contagious diseases and infections under section 504 of the Rehabilitation Act, insofar as that law covers employment. This amendment clarifies that Congress intends the Rehabilitation Act to apply to persons with that kind of handicap unless they pose a direct threat to the health or safety of others or are unable to perform the essential duties of the job. This amendment essentially places into the statute the standard and approach of the recent Supreme Court decision in School Board of Nassau County versus Arline. The colloquy in the Senate between the two cosponsors of the amendment clarifies that it is the intent of Congress that the amendment result in no change in the substantive law with regard to assessing whether persons with this kind of handicapping condition are "otherwise qualified" for the job in question or whether employers must provide "reasonable accommodations" for such individuals.

This amendment is necessary solely to allay the fears of some employers who have misinterpreted the Arline decision as requiring them to take unwarranted risks in hiring individuals with contagious diseases or infections. This amendment therefore places the requirements of current law into statute. It does so by codifying the "otherwise qualified" framework for courts to utilize in these cases. This is identical to what was done in 1978 when employers has similar unjustifiable concerns regarding employment of drug and alcohol users who were not qualified for employment positions.

The framework to be used was explained by the Supreme Court in School Board of Nassua County versus Arline. It requires a medical assessment of whether exclusion is necessitated by the degree of risk involved in the particular situation. A court's determination of whether a risk of transmissibility is significant, and thus poses a dirct threat to the health or safety of others, will be highly fact-specific. So, too, will be the determination of whether a reasonable accommodation by the employer can eliminate the risk. The outcome of each case will depend on the medical facts concerning the particular infectious condition, how that infection is transmitted, and the nature of the job in question. If a court were to find, based on medical evidence, that the employment of an individual with a contagious disease or infection did present a significant risk of transmitting that condition to others, and no reasonable accommodation could eliminate that risk, it would be proper to deny that individual relief under section 504. As I noted, this amendment is designed to place this framework into the statute. Thus, this amendment affirms—without modifying or changing—the current substantive protections for people with contagious diseases or infections.

I commend the Members of the Senate for fashonioning this amendment in such a way that the courts will continue to adjudicate cases involving AIDS, HIV infection and other communicable conditions on a case by case basis. I also wish to point out that the law under section 504 has long had to deal with situations other than contagious diseases or infections in which claims were made that the employment of a person with a handicap create a risk of harm to others in the workplace. Such cases have included, for example, school bus drivers with hearing impairments, *Strathie* v. *Department of Transportation*, 716 F.2d 227 (3d Cir. 1983), and machine operators with epilepsy, *Montolete* v. *Bolger*, 767 F.2d 1416 (19 Cir. 1985). In these and other cases, the courts have adopted a standard requiring that defendants show a significant or substantial risk of harm in order to prove that the plaintiffs were not otherwise qualified under section 504 for the job in question. These cases demonstrate that determining risk of harm in these situations is well within the capacity of the courts.

The amendment which we are enacting today concerning contagious diseases or infections thus logically and appropriately parallels current law governing the risk of harm from employing individuals with other kinds of handicaps. I am pleased that our desire to prohibit discriminatory employment policies which are medically unjustified is being preserve in such a way that the nature of the handicap does not lead to a greater leeway for discrimination. Although, as I have noted, this amendment is essentially unnecessary because it restates current law, I believe it can serve a useful clarifying function.

It is unfortunate in my view that the Senate failed to adopt an abortion-free bill. House sponsors of this legislation could have reported a bill with such an amendment in the 98th Congress. However, we knew that abortion was wrongly tied to this legislation, and therefore, we urged Senate sponsors to present us with a clean bill—something they were unable to do.

I do not believe that the Danforth amendment belongs on this bill. But I will support the bill, including the amendment, because of the critically important statements made by Senator DANFORTH in describing its purpose and effect. He said, and I quote:

> The amendment says that * * * a college is prohibited from discriminating against people who have had abortions or who are seeking abortions. (135 Cong. Rec. S. 163, Jan. 27, 1988)

Senator WILSON, who had a role in drafting the amendment, said that it was drafted:

> To ensure that there could not be discrimination against women who either are seeking or have received abortion-related services. (135 Cong. Rec. S. 227, Jan. 28, 1988)

Such assurance, that the Danforth amendment clearly prohibits any covered institution from discriminating against a woman who is seeking or has had an abortion, is critical to my support of this provision. Whether it be scholarships, promotions, extracurricular activities, student employment or any other benefits offered to students or employees, under title IX benefits cannot be withheld from a student or employee because she received or is seeking an abortion.

Finally, it is important to keep in mind not only what the Danforth amendment does, but what it does not do.

Under its provisions, a covered institution does not have to include the costs of an abortion procedure in insurance for its students or employees.

But does not mean that it can exclude, for example, medical complications related to an abortion. Under the Danforth Amendment, Title IX still requires those complications to be covered.

I do not take the loss of health insurance to cover the costs of an abortion procedure lightly. Nor do I approve of the Danforth amendment's exclusion of the performance or use of facilities for performance of an abortion. But at least we in the House have the assurance that is the limit to the damage that Danforth does. And it is only because of this assurance that I am supporting the bill.

THE RELIGIOUS TENET AMENDMENT

Title IX currently provides an exemption for educational institutions that are "controlled by a religious organization if the application. * * * [of title IX] would not be consistent with the religious tenets of such organizations." The religious tenet amendment would extend the exemption to schools that are "closely identified with the tenets of a religious organization." The National Center for Education Statistics reports that at least a quarter of the more than 3,000 institutions of higher education report a religious affiliation. Because of the loose wording of this amendment it would appear that even more educational institutions could qualify for an exemption as they would not have to be associated with any religious organization just with a religious tenet. In addition the amendment invites, if not requires, Federal officials to evaluate the religious beliefs and activities of an educational institution in order to determine whether the institution is "closely identified with the tenets of a religious organization." The proposed amendment thus raises serious 1st amendment problems.

Federal law does not generally grant immunity from antidiscrimination laws to religious organizations. Title VII of the Civil Rights Act of 1964, which outlaws employment discrimination, contains certain exemptions for religious organizations, including schools, but limits those exemptions to "religious discrimination," that is, favoring members of the same religion in employment, and has not generally been interpreted to permit race or sex discrimination on the grounds that religion requires it. In contrast, If the religious tenet amendment is approved, institutions with tenuous religious connections would be free to discriminate in the admission of students, in rules regarding the marital and parental status of students and employees, and in providing access to particular course offerings and extracurricular activities. For example, such an institution could with impunity invoke a religious tenet that it is unseemly for women to participate in athletic activities. Such a broadening of the exemption would tear a gaping hole in title IX protections. It is critical that the control test remain in effect, and enforced severely for that aspect of the test is the linchpin for assuring that only a limited number of institutions may discriminate with Federal funds.

Further, the amendment is unnecessary as the Department of Education has not denied any statement of exemption filed by a school under the current statutory language and rules.

The real question that must be asked is since resolving the abortion issue no longer hinges on religious tenet, the desire to be out from under title IX regulations via a broaden religious tenet exemption must mean that these schools wish to discriminate in some manner against women. It would be interesting to know what forms of discrimination this might be?

I reluctantly support this bill because for the first time there will be an antiabortion provision in a permanent civil rights law. The assurance from sponsors of the Danforth amendment that it is limited in scope moves me to support the bill at this time.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time, 2½ minutes, to the gentleman from Pennsylvania [Mr. WALKER].

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

(Mr. WALKER asked and was given permission to read from papers.)

Mr. WALKER. Mr. Chairman, we have heard this bill described as a civil rights bill. I would tell my colleagues that from what I can tell it is a civil wrongs bill because from what I see we are now going to have the Government intruding into places that Government ought never be. I refer specifically to groups in this country with uniquely religious heritages that could be dramatically undercut by this bill.

It just makes no sense to me at all that in the name of politics, and this is largely a political exercise, I am afraid, in the name of politics we would destroy religious liberty from uniquely religious groups that have survived in this country for 200 and 300 years.

But let me quote to my colleagues what is at least a portion of the problem from the preeminent authority in this country, Mr. William Ball, the man who has tried more cases on behalf of the Amish and the Mennonites than any other man. He testified in the Senate about this bill. He was not permitted, of course, to testify here because we had no hearings on the bill. But he has some devastating things to say, and he says:

Reference has been made to the "tenets" exception in the bill. We do not find this satisfactory; it never was satisfactory in Title IX, because it expresses a rather naive concept of religion. In a number of major religious liberty decisions by the Supreme Court of the United States, an established policy or practice was not found in the formal langauage of some black letter "tenet". In *Wisconsin* v. *Yoder*, the Amish case, a landmark religious liberty case decided by the Supreme Court, no "tenet" was found. Instead, at stake was the immemorial practice of a faith community, based upon its religious motivations, to respecting the lives of its young people.

He went on to say that in order for this bill to help the Amish, help the Mennonites preserve their religious heritage, what we would have to have is language in there referring to religious tenets, convictions, practices or ministries of such program or activity.

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

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am a little bit concerned about the colloquy that went on between the gentlewoman from Rhode Island and the gentleman from California relative to the Danforth amendment in section 3(b) of the bill. My understanding of the Danforth amendment is that there is no penalty for one who seeks an abortion imposed but there is no exception to the prohibition that nothing in the title should be construed to require or inhibit any person, public or private entity, to provide for, pay for any abortion or services related to abortion. Is that the gentleman's agreement?

Mr. WALKER. That is certainly my understanding of it, and it appears that that colloquy was designed to undermine it, and perhaps permit abortion referral services to be provided as a part of an educational exercise on the campuses that should never be.

Mr. SENSENBRENNER. Mr. Chairman, as one of the House authors of that amendment 2 years ago, I agree with the analysis of the gentleman from Pennsylvania.

Mr. JEFFORDS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ARMEY].

(Mr. ARMEY asked and was givern permission to revise and extend his remarks.)

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

Mr. Chairman, what we are witnessing her today is an effort by Members of this body to legislate sweeping changes in our society by what I call buzzword blackmail.

We're calling this bill by a name that makes most people think it is something good, something to restore important rights to those who have been abused. And, of course, who doesn't favor real civil rights in this country? We all do.

But the problem we have is that we've perverted the concept of civil rights and are using it as an excuse to bring the heavy hand of the Federal Government down on a wide range of schools, churches, farms, businesses, and other organizations.

Many members will feel good about themselves for voting for civil rights, but if they would take a minute to look at the consequences of this misnamed bill, they might reconsider.

One example will illustrate just how far-reaching this legislation will be, its effect on grocery stores. I'm not necessarily talking about huge, chain grocery stores like Safeway; I'm talking about a typical Mom and Pop small corner grocer.

These stores will be covered in their entirety by this legislation simply because they participate in Government's Food Stamp Program. A grocery store falls within the definition of an entity receiving assistance as a whole under section (3)(A), or under (3)(B) as a geographically separate facility.

Our former colleague, PAUL SIMON, admitted that grocery stores are intended to be subject to coverage under this type of bill. The small provider provision in the bill does not exempt grocery stores. It only relieves them of one burden under section 504, and only under very limited circumstances. Has anyone suggested that there are problems with discrimination in buying food?

The grocery store example only illustrates how extreme this legislation is. There is, of course, no exemption for churches and synagogues that may be required to enforce policies that go against the very nature of their faith. We would be using this civil rights bill to trample on the rights guaranteed in the first amendment.

Family farms that receive price supports could be subjected to the same grueling paperwork requirements to comply with this law.

All these devastating requirements could be put into effect even if the employer has never had a complaint registered for violating any civil rights statute. We are in effect violating their due process by passing this civil rights bill.

A better name for this bill would be The Comprehensive Federal Instrusion Act of 1988. If this bill becomes law, without doubt there will be an open floodgate of lawsuits, making it extremely difficult for small businesses to stay in business.

I strongly urge my colleagues to vote "no" on this bill.

Mr. JEFFORDS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. Chairman, I am not all sure what issues the gentleman from Pennsylvania was raising, but it is my belief with respect to the abortion provision no benefit or service is required or prohibited. Therefore, I do not think that it in any way would require abortion services to be offered.

Mr. Chairman, also I would point out that under the ultimate beneficiary language, and I am not sure whether this applies to the Mennonite situation, if the gentleman were asserting that being a conscientious objector somehow involved receipt of benefits under a Federal program it is my understanding that the recipient would be an ultimate beneficiary. Therefore, under this bill, with the modifications that we put in it this time, the gentleman's concerns would not apply.

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

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the Selective Service already issued the regulations under the present Civil Rights Act, so there is absolutely no doubt that it does apply under this and the modifications in this law do nothing to change that because the religious tenets do not go far enough, because tenets are not necessarily spelled out in black and white.

Mr. JEFFORDS. But the religious tenets exemption only applies to colleges under title IX.

Mr. WALKER. No; let me say to the gentleman if he will look at the bill it talks about school systems. The Amish run a school system, for example, and Mr. Ball, when he testified in the Senate, and I am sorry of course we did not have that testimony here, he pointed out that the language was so imprecise that it causes great damage. That is exactly what we are worried about, imprecise language in the case of these people who we are trying to protect who are religious minorities and it is exactly the wrong thing to be doing. This language throughout this bill is imprecise as to exactly what we mean when we are dealing with these areas.

Mr. JEFFORDS. I am sorry, but I just cannot follow the logic of this argument. The issue is one of "ultimate beneficiary" and in no way pertains to the operation of a school system. I do not follow the argument of the gentleman.

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

The CHAIRMAN. All time has expired.

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

The text of the Senate bill is as follows:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Rights Restoration Act of 1987".

FINDINGS OF CONGRESS

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. (a) Title IX of the Education Amendments of 1972 is amended by adding at the end the following new sections:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

"SEC. 908. For the purposes of this titie, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 901 to such operation would not be consistent with the religious tenets of such organization.".

(b) Notwithstanding any provision of this Act or any amendment adopted thereto:

"NEUTRALITY WITH RESPECT TO ABORTION

"SEC. 909. Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.".

REHABILITATION ACT AMENDMENT

SEC. 4. Section 504 of Rehabilitation Act of 1973 is amended—

(1) by inserting "(a)" after "SEC. 504."; and

(2) by adding at the end the following new subsections:

"(b) For the purposes of this section, the term 'program or activity' means all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

"(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.".

AGE DISCRIMINATION ACT AMENDMENT

SEC. 5. Section 309 of the Age Discrimination Act of 1975 is amended—

(1) by striking out "and" at the end of paragraph (2);

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

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'program or activity' means all of the operations of—

"(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(B)(i) a college, university, or other post-secondary institution, or a public system of higher education; or

"(ii) a local educational agency (as defined in section 198(a)(10)), of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(I) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(II) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(ii) the entire plant or other comparable geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C);

any part of which is extended Federal financial assistance.".

CIVIL RIGHTS ACT AMENDMENT

SEC. 6. Title VI of the Civil Rights Act of 1964 is amended by adding at the end the following new section:

"SEC. 606. For the purposes of this title, the term 'program or activity' and the term 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.".

RULE OF CONSTRUCTION

SEC. 7. Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act.

ABORTION NEUTRALITY

SEC. 8. No provision of this Act or any amendment made by this Act shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds to perform or pay for an abortion.

CLARIFICATION OF INDIVIDUALS WITH HANDICAPS IN THE EMPLOYMENT CONTEXT

SEC. 9. Section 7(8) of the Rehabilitation Act of 1973 is amended by adding after subparagraph (B) the following:

"(C) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job."

The CHAIRMAN. No amendments to the bill are in order except an amendment in the nature of a substitute printed in House Report 100-508 by, and if offered by, Representative MICHEL, or his designee. Said amendment is considered as having been read, is not subject to amendment, and is debatable for 60 minutes, equally divided and controlled by the proponent and a Member opposed thereto.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, by designation of the gentleman from Illinois [Mr. MICHEL], I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. SENSENBRENNER:

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Civil Rights Preservation Act of 1988".

FINDINGS OF CONGRESS

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and longstanding executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. (a) Title IX of the Education Amendments of 1972 is amended by adding at the end the following new sections:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

"SEC. 908. For the purposes of this title, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by, or which is closely identified with the tenets of, a religious organization if the application of section 901 to such operation would not be consistent with the religious tenets of such organization".

(b) Notwithstanding any provision of this Act or any amendment adopted thereto:

"NEUTRALITY WITH RESPECT TO ABORTION

"SEC. 909. Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion."

REHABILITATION ACT AMENDMENT

SEC. 4. Section 504 of the Rehabilitation Act of 1973 is amended—

(1) by inserting "(a)" after "Sec. 504", and

(2) by adding at the end the following new subsections:

"(b) For the purposes of this section, the term 'program or activity' means all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable, geographically separate single facil-

ity to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance,

"(c) Small providers are not required by subsection (a) to a significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection."

AGE DISCRIMINATION ACT AMENDMENT

SEC. 5. Section 309 of the Age Discrimination Act of 1975 is amended—

(1) by striking out "and" at the end of paragraph (2);

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

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term program or activity means all of the operations of—

"(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

"(ii) a local educational agency (as defined in section 198(a)(10), of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C); any part of which is extended Federal financial assistance."

CIVIL RIGHTS ACT AMENDMENT

SEC. 6. Title VI of the Civil Rights Act of 1964 is amended by adding at the end the following new section:

"SEC. 606. For the purposes of this title, the term 'program or activity' and the term 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State and local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(B) the entire single plant or other comparable, geographically separate single facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance."

RULE OF CONSTRUCTION

SEC. 7. Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act.

ABORTION NEUTRALITY

SEC. 8. No provision of this Act or any amendment made by this Act shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion.

CLARIFICATION OF INDIVIDUALS WITH HANDICAPS IN THE EMPLOYMENT CONTEXT

SEC. 9. (a) Section 7(8) of the Rehabilitation Act of 1973 is amended by adding after subparagraph (B) the following:

"(C) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job."

The CHAIRMAN. Under the rule, the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 8 minutes.

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

Mr. SENSENBRENNER. Mr. Chairman, the unfortunate fact is that some proponents of Grove City legislation are putting many fine people on both sides of the aisle and on the question in the uncomfortable position of confrontation. The rule deprives members of a fully informed view on the issues and simply pits a so-called Republican substitute against the Senate-passed bill, which I suppose by implication makes it a democratic bill. Confrontation and partisanship should not be part of civil rights law in America.

The substitute I offer is not a Republican substitute, but a bipartisan, moderate one. This substitute is offered in the spirit of reconciliation. It addresses two major problems. It avoids the unintended consequences of an unamended Senate-passed bill while still meeting the goal of restoring full coverage of civil rights laws.

I emphatically support overturning Grove City and support stronger enforcement of civil rights. I want to see a Grove City bill pass and I am prepared to do all I can to do so. But the Senate bill is not perfect and I have full confidence in my colleagues on both sides of the aisle that we can do just as good a job as the Senate in improving the bill.

I recognize that some proponents feel they made a huge concession by continuing to move this bill with an abortion neutral amendment. But it should also be recognized that this substitute represents a huge concession on my part. In 1987, I introduced H.R. 1881, the Administration Alternative to the Civil Rights Restoration Act. I have moved from that position and I am now prepared to accept coverage as it existed before Grove City in toto. However, I still support a religious tenets amendment and do not support coverage of the private sector that is beyond pre-Grove City scope.

My substitute is a compromise position. It is the Senate-passed bill with a religious tenets amendment similar in nature to the one offered by Congressman JEFFORDS in 1985 and a corporate coverage amendment similar in nature to the one offered by Congressman FISH and BARTLETT. This substitute builds more consensus and more reconciliation. With the ordeal we have had with this bill, we owe it to the people we are trying to help to proceed with this bill in a positive, conciliatory way.

This morning Secretary of Education sent Mr. MICHEL a letter endorsing my substitute. It is my feeling that if we pass this substitute the President is much more likely to sign the bill. We know he will veto the Senate-passed bill in its current form.

Anyone who doubts my motives on this substitute, let me say this:

If a religious tenets amendment and corporate coverge amendment are adopted, I will support the bill and vote for final passage. After 4 years we need to pass a bill, but we need to do it in a way that advances civil rights for all and not at the expense of some.

RELIGIOUS TENETS

An amendment needs to be made to expand the current religious tenet exception in title IX from an entity that is controlled by a religious organization to an entity which is closely identified with tenets of a religious organization when the religious tenets are an integral part of such operation. This is the same language adopted by Congress in the Higher Education Act of 1986. In 1985 an amendment to provide such relief was offered by Congressman JEFFORDS, the ranking minority member of the Education and Labor Committee and a cosponsor of the Grove City bill in the 99th Congress. It was adopted by a vote of 18 to 12.

Currently, section 901(A)(3) of title IX allows recipients "controlled by a

religious organization" relief from complying with provisions in title IX and its regulations if such regulations "would not be consistent with the religious tenets of such [religious] organizations". With an ever-increasing number of religious colleges and religiously affiliated institutions such as hospitals being controlled by lay boards or otherwise church organizations, this amendment is essential to prevent some bureaucrat of Federal judge from forcing church-affiliated entities from taking action they feel is morally repugnant. At its essence, this is an issue or religious freedom and liberty as expressed in the first amendment.

To see how out of date the religious tenet exception is, one need only look at the testimony from the House hearings in the 99th Congress. In 1985, Father William Byron, president of Catholic University, on behalf of church-related and/or independent colleage and university associations, testified that the "control" test is not an appropriate yardstick. He stated:

We believe that the conditions relating to the governing body and financial support are no longer appropriate. Over the years, as colleges and universities matured as educational institutions, colleges once tightly linked to churches began to expand the makeup of their governing bodies. They began to include members who could help promote and administer quality education but who were independent of the controlling religious group. This result, which we see as a positive trend, points to the conclusion that since may of these boards of directors are now independent and self-perpetuating, requiring the governing body to be appointed by the religious organization is no longer relevant or appropriate. * * *

The issue of an adequate or effective religious tenet exception is seen as essential to the U.S. Catholic Conference. In addressing Grove City, Father Hehir of that organization stated that the absence of a broader religious tenet exception was "a fundamental flaw in the legislation."

In the name of the first amendment, religious liberty and freedom, language to protect religiously affiliated entities is necessary. The language adopted by the House Committtee on Education and Labor must be kept in the bill. This language has the strong support of various associations of private schools, colleges and universities.

CORPORATE COVERAGE

There is a significant expansion of corporate regulation resulting from S. 557. One major new provision is the creation of a whole new regulatory category singling our certain businesses for ultra-comprehensive coverage of their business operations without restriction to the plant or geographically-separate facility receiving the Federal assistance. This category encompasses any company engaged in the business of providing "education, health care, housing, social services, or parks and recreation." This regulatory concept is entirely new, and is certainly no part of any "restoration" of pre-Grove City law.

Under this new provision, a corporation operating a nationwide chain of realty offices, nursing homes, or rehabilitation clinics would be subject to coast-to-coast regulatory coverage in all of its operations, even those unrelated to the divisions or plants receiving Federal assistance.

The justification for this especially expansive coverage set forth in the committee report is revealing. The report says that these private corporations are doing business in areas "traditionally regarded as within the public sector." Therefore, even though they are privately-owned businesses, they are to be regulated as though they are providing a "public service." This explanation reveals the underlying philosophy of this provision for what it really is: an attempt to obliterate the distinctions between the private and public aspects of society and the economy, and expand Federal civil rights regulation beyond any meaningful limits.

CONCLUSION

In sum, I urge my colleagues to support my substitute as a way to improve the Grove City bill, build more consensus, and let the House have some input rather than rubberstamp.

□ 1830

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

The CHAIRMAN. Does the gentleman from California [Mr. HAWKINS] oppose the amendment?

Mr. HAWKINS. I am opposed, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. HAWKINS] is recognized for 30 minutes.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH].

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

Mr. FISH. Mr. Chairman, the substitute offered by the gentleman from Wisconsin should be defeated. The religious tenet amendment contained in the substitute is unnecessary and unwise, and that will be the focus of my remarks.

Mr. Chairman, under title IX, an institution "controlled by a religious organization" may secure an exemption from title IX's prohibition of sex discrimination if the application of a provision of title IX "would not be consistent with the religious tenets of such organization." An amendment to broaden the religious tenet provision is not only unwarranted and unprecedented, but in thousands of private schools throughout the country would seriously undermine title IX's protection.

Such an amendment was defeated by a vote of 56 to 39 in the Senate. It is opposed by leaders of major religious organizations, including the United Methodist Church; the Presbyterian Church [USA]; the National Council of Churches; the American Baptist Churches, USA; and the American Jewish Congress. The U.S. Catholic Conference has expressly opposed the substitute, which includes the religious tenet amendment.

Under the proposed amendment, the exemption would be extended to institutions "closely identified with the tenets of a religious organization." This is a loose definition, which could be interpreted to allow many private institutions to qualify. This is so because an institution need only claim a close identification with a religious tenet of a religious organization in order to justify a discriminatory policy it wishes to pursue. I do not think the Congress wants to put its stamp of approval on such a license.

In contrast, the Civil Rights Restoration Act as passed this year by the Senate and as reported by the Judiciary Committee in 1985 makes an important clarification in the religious tenet provision. The religious tenet provision that has been in title IX since 1972 applies only to education institutions. Before us is a title IX that applies not just to educational institutions receiving Federal financial assistance but to educational programs operated by noneducational institutions such as nurses training in a hospital.

S. 557 provides that a religiously controlled education program or activity that is not part of an educational institute would still be within the protective scope of the religious tenet exception. That is as far as we should go.

The key in the religious tenet exemption is the control test. A Government inquiring into the nature of a religious tenet asserted by an institution is fraught with difficulties. Therefore, the assurance that an institution is actually controlled by the religious organization whose tenets it relies upon is essential to keep this exemption from becoming an escape hatch from title IX.

There has been no showing that any further changes are needed. No application to the Department of Education has ever been denied. No administration has ever required any institution seeking an exemption to change a practice it claimed conflicted with its religious tenets. The Department of Education has granted religious tenet exemptions to 150 institutions.

The National Center for Education Statistics reports that 786 of 3,301 higher education institutions consider that they are religiously affiliated. Even if the proposed loosening of the standard for this exemption applies only to these 786 schools, 559,053 full- and part-time women students will be affected. Not even counted in these figures are the employees in these schools, or the many students and employees in private elementary and secondary schools who would also be affected.

It has been argued by supporters of this amendment that it has been adopted in other legislation—particularly the Higher Education Act amendments. However, in fact no other Federal law has ever permitted sex discrimination under these circumstances. The Higher Education Act amendment deals only with allowing institutions to favor individuals of a particular religion—it has nothing to do with sex discrimination.

I reiterate my opposition to the substitute. Its potential for abuse is alarming—for it opens the door to discrimination against thousands of women and girls in our country, discrimination supported by our own tax dollars.

At this point I include the following letters:

U.S. CATHOLIC CONFERENCE,
Washington, DC, March 1, 1988.

DEAR REPRESENTATIVE: On behalf of the Catholic Bishop's Conference, I would like to share our views on the Civil Rights Restoration Act. We were deeply gratified that the Senate recently adopted by a wide margin an "abortion-neutral" amendment and then passed this important legislation overwhelmingly. We now hope that this vital civil rights legislation with the necessary improvements made in the Senate can also be quickly and overwhelmingly approved by the House of Representatives.

We wish to renew our consistent support for a Civil Rights Restoration Act, which strengthens our national commitment to combat discrimination without requiring any institution to violate deeply held convictions on human life. We believe government has the fundamental duty to protect the life, dignity and rights of the human person.

We support the Senate Bill for what it does to strengthen federal civil rights protections and for what it does in making clear that institutions are not required to provide abortion benefits and services as a condition of receiving federal funds. Therefore, we oppose the substitute since it could seriously jeopardize ultimate Congressional enactment of these critically important improvements in federal law and regulations.

Sincerely yours,
Rev. Msgr. DANIEL F. HOYE,
General Secretary.

FEBRUARY 29, 1988.

Members of the U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE: We are writing to ask you to support the Civil Rights Restoration Act without additional amendments.

However, we are deeply concerned about the need for clarifying language in the Danforth amendment regarding the possible discrimination against women who have had abortions. As presently worded, the Danforth amendment is vague and could be construed to permit such discrimination. While we believe that the amendment's sponsors intended to insure that no discrimination against women will occur, we believe it is imperative that a vehicle (such as a colloquy) be found to clarify that the amendment expressly prohibits discrimination.

We also are concerned that there would be no change in the existing understanding of religious tenets. Any amendment to expand religious institution exemptions goes beyond restoration and needs very serious debate before consideration.

We urge you to support the Civil Rights Restoration Act, oppose further amendments and find a way to clarify the language of the Danforth amendment to insure that there will be no discrimination against women who have had abortions.

Sincerely,

American Baptist Churches; American Ethical Union, Washington Ethical Action Office; The Christian Church (Disciples of Christ), Church in Society of the Division of Homeland Ministries; Church of the Brethren; Church Women United; Friends Committee on National Legislation; Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; National Council of Churches; NETWORK, A National Catholic Social Justice Lobby; Presbyterian Church USA, Washington Office; Union of American Hebrew Congregations, Religious Action Center; Office of Public Policy, Women's Division, United Methodist Church; General Board of Church and Society, United Methodist Church.

AMERICAN BAPTIST CHURCHES, USA,
Washington, DC, February 24, 1988.

DEAR REPRESENTATIVE: On behalf of American Baptist Churches USA, a Protestant denomination of one-and-a-half million members, I urge you to support the Civil Rights Restoration Act without any weakening amendments.

This legislation is needed in order to reverse the growing trend of discrimination against women, minorities and disabled persons that has been occurring in this country since the Grove City case decision.

It is important that you oppose attempts to expand the religious institution exemption or to alter substantially the religious tenets provisions of the bill.

One aspect of the Senate-passed bill needs some clarification: the "Danforth amendment" concerning abortion. We believe that the intent of the amendment is to prohibit discrimination against women, and hope that a clarifying colloquy on that point will occur on the House floor.

Sincerely,
ROBERT W. TILLER.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

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

Mr. BARTLETT. Mr. Chairman, I support the substitute by the gentleman from Wisconsin [Mr. SENSENBRENNER]. First, I do want to note to the House that the so-called substitute is not really a substitute. The gentleman is offering two amendments to the bill that had been considered and in at least one case had been passed by the Committee on Education and Labor and he is offering these two amendments to the main bill in the only form that he was given the opportunity to offer those.

So as members come to vote I think they need to understand that by voting for the Sensenbrenner so-called substitute they are really not voting for a substitute for the bill, they are voting for two amendments in the only way in which the rule was constructed that they could vote for those two amendments.

Now it is also important to note that in fact the Sensenbrenner substitute or the Sensenbrenner two amendments are closer to a restoration of pre-Grove City law than the main bill.

The main bill either with or without the substitute will not be a precise restoration of pre-Grove City. But the Sensenbrenner amendments brings us much closer to nearly restoring pre-Grove City law which on the surface is purported to be the purpose of this legislation.

So what do the two amendments do? First, the religious tenent amendment, that amendment was considered by the Committee on Education and Labor three years ago and was adopted by a 21-to-18 vote. The language of the bill presently tracks current law which says that an entity may get an exemption if it is controlled by a religious organization, if the application of the operation would not be consistent with the religious tenents of that organization. That was the original law passed in 1972.

What has happened, and the purpose of the Sensenbrenner religious tenent amendment, is that the world has changed. Since 1972 in order to achieve the intent of Congress, and that is to allow a religious college or university to have an exemption for their religious tenents from title IX, to have that exemption, in order to achieve that exemption we now have to change the law to meet the current practice among religious colleges and universities and that is to permit those colleges and universities that are affiliated with the religious organizations and not nearly or narrowly controlled.

Second, the second of the Sensenbrenner amendments adopts a more narrow corporate coverage that is much more consistent with pre-Grove City. In pre-Grove City the law, nowhere in the law were any industries or types of activities singled out for special or broad coverage. But that is what this bill does in a wholesale revision and expansion of the law, when the law provides for businesses that are engaged, and I quote the bill, "in providing education, health care, housing, social services or parks and recreation," to have one type of extremely broad test and everyone else to have a more narrow test that is more consistent with pre-Grove City. What the Sensenbrenner amendment does is it says that all business activities regardless of whether they fit in these five neat and narrow-sounding categories in fact will have only—the law will only apply to that facility that accepts those Federal funds.

I urge a "yes" vote for the Sensenbrenner amendments.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

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

Mr. DURBIN. I thank the gentleman for yielding.

I would like to say at the outset that although I oppose the amendment

being offered by the gentleman from Wisconsin, I want to salute his efforts on this issue, because I know he spent many, many hours dealing and grappling with very, very difficult issues and he offers this amendment in good faith in an attempt to try to resolve a very difficult choice which we face tonight on the floor of the House of Representatives: The choice between the diversity of religion which is guaranteed by our Constitution and the basic human freedoms guaranteed by that same document.

As I tried to assess this issue after working on it myself for some time I think what we are about this evening can be characterized as an attempt to make sure that as religion should not be a victim of our efforts to overturn Grove City, neither should it be a shield which exalts discrimination in the name of theology. It is virtually impossible for us to craft legislative language which guarantees this distinction, which makes certain that good faith religious tenets are not violated in the name of prohibiting sexual discrimination. What we have done instead is to require good faith proof to the Department of Education to qualify for an exemption. The track record of this Department of Education I think is clear and unequivocal. They have never denied an application for a religious tenet exemption. As a result of that track record I think we find that this legislation without the adornment of the Sensenbrenner amendment has attracted the support of virtually every religious group in the United States.

My colleague from New York, Mr. FISH, recounted in specific terms all of the religious groups that endorse the effort this evening without the Sensenbrenner amendment.

One group in particular, the United States Catholic Conference, has specifically by correspondence to Members to the House of Representatives stated that they are in opposition to the substitute being offered by Mr. SENSENBRENNER.

It is interesting to note that the Catholic Conference speaks for a religion which has universities which gave up direct control long ago.

If the Catholic Conference can speak so clearly and unequivocally against the Sensenbrenner amendment, representing institutions which gave up direct control by the Catholic Church years ago, I think it is a clear signal that the procedure we are putting in this bill is sufficient to satisfy their needs.

I would also question whether or not the gentleman wants to go so far as to take an exception from control by religious tenets and merely to open it up widely to organizations closely identified with.

I think that opens the door far too wide. It invites mischief. It may invite discrimination in the name of theology. And I hope that those of my colleagues who view this as a good compromise coming from the Senate will oppose the Sensenbrenner amendment and vote for the bill, the resolution as it is offered.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the Civil Rights Restoration Act of 1987 and support for the Sensenbrenner Amendment. I oppose this bill on two grounds: It deceives the American people into believing that it restores civil rights when in fact it jeopardizes them. Furthermore, it sets a bad legislative precedent for future civil rights legislation by side-stepping the House committee process. If we are to consider seriously civil rights legislation in this Chamber, let us allow the appropriate committees to review this bill. Let us hold the proper hearings on the House side. And let us legislate responsibly, adhereing to the procedural standards of the House.

Under the House and Senate bills, all beneficiaries of direct and indirect Federal assistance would be compelled to prove that they do not discriminate on the basis of sex, age, handicap, or race. Placing the burden of proof on the entities receiving Federal assistance contradicts our country's judicial tenent of innocent until proven guilty. On a more practical level, this bill would increase Federal paperwork as well as result in random Federal onsite inspections, even in the absence of a complaint.

Grove City trespasses upon the civil rights of our churches, schools, farms, and businesses, and it restricts much of the good many of these institutions are able to do in helping our Government attend to those in need. Imagine the ironies involved here: A church which accepts federally subsidized cheese for its soup kitchen is susceptible to a Federal investigation. Not only is this an intrusion, but it also wastes time that could be spent feeding people. The grocer who accepts food stamps for those customers who need them would also be susceptible to a Federal investigation.

This legislation which seeks to protect civil rights threatens them. I urge my colleagues to vote "no" on this bill.

□ 1845

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

(Mrs. SCHROEDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Chairman, I want thank the gentleman for yielding this time to me.

There are several things on which I want to set the record clear. First, we had heard that there had been no committee hearings, and I want to point out that the Subcommittee of the Committee on the Judiciary had 21 hearings on this issue. We not only had them in Washington, they did a road show and went all over America. We literally ran out of funds. We looked for everybody who wanted to talk.

I suppose we could duplicate that again, but I think what we would find is just more cases of discrimination. People may not like what we turned up in the hearings, but the hearings were very thorough and accurate. I believe 21 hearings is more than most people have on any bill. Second, let us not forget what we are talking about here. I hope Members vote against this substitute. We are talking about tax money collected equally in America. This is an equal tax-paying opportunity Government. They do not give blacks a break or give women a break or anyone else because they turn around and give our tax money to groups that discriminate. So if we are going to collect money equally from women and everyone else, then certainly when that money is given to an institution, they ought to make sure they do not discriminate against the groups they collect the money from. If people do not want to abide by those rules, they do not have to take the money.

Third, it is pointed out that it is very clear in the law that if an institution is controlled by a certain religious group, then we can give them an exemption. So there is an exemption there if they are controlled. I think that is very fair. But beyond that, any other institution that is getting Federal money—and if they do not want to get Federal money, then they do not have to worry—if they are getting Federal money because that money is collected from everyone, I think we have to make sure that they have an opportunity to get the benefits back. As a woman, if they want to come and say they will cut my taxes 30 percent because they are going to give it to groups that discriminate against women, I might negotiate, but no one from IRS ever comes and negotiates that way.

Let me also point out something else that I think is important. I remember the title IX hearings, and I remember the crazy things we heard. We heard Ph.D's who were the head of universities telling us the reason they could not let women in equally is they would have to buy more diminutive furniture, and that women ate more often and they had to put in more cooking facilities, and that the best way to keep grades up was to have long stag lines on Saturday nights. I do not know any area in the country that still has stag lines. I think all that stuff has been proven very out of date since we put title IX into effect.

Furthermore, we just finished the Olympics, and one of the great changes in title IX was opening up gymnasiums to women, and, oh, my, was there a fight on that. The "Jocko-

cracy" went crazy. I want to say that I think everybody has been very proud of the medals American women have won. Those American medal winners have been here in this House and in the Senate talking to people about how important title IX was for that beginning.

So, Mr. Chairman, I ask the Members to please vote no against the substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

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

Mr. RIDGE. Mr. Chairman, today we decide the fate of the Civil Rights Restoration Act of 1987. It is legislation that has aroused strong sentiments among friend and foe alike. Throughout the debate and discussion, S. 557 has inaccurately been referred to as the Grove City bill. It is important for my colleagues to understand clearly and completely that at no time was there ever an allegation or even a suspicion that the college discriminated on any fashion.

Grove City College is located in my district in western Pennyslvania. This fine institution of higher learning has never discriminated in any of its programs or policies. Grove City College is a private liberal arts college, which was founded by strongly religious members of the Presbyterian Church. This affiliation has helped to shape the academic, social, and spiritual aspects of the college. It is this very fact that as a Christian institution, Grove City College considers discrimination of any type to be inherently inconsistent with its Judeo-Christian beliefs. It has operated for over 100 years with strict policies of nondiscrimination.

Grove City College filed suit against the Government because of its longstanding belief that the intrusion of the Federal bureaucracy into the day-to-day affairs of a private institution was unnecessary and against their cherished freedom, not in defense of discriminatory policies. After the Supreme Court reached its now famous interpretation of title IX which narrowed the view of title IX to a program specificity, Grove City College, under the fine leadership of its president, Dr. Charles McKenzie established the "Student's Freedom Fund" to provide private financial grants for those students that would need Federal financial aid to attend the college. This fund has allowed Grove City College to be free from any Government monies, thus permitting it to retain its much valued autonomy.

The college in the past has appealed for strong civil rights legislation, however, at the same time allowing America's private schools the right to retain their independence and distinctive educational traditions. They will continue this stance in the future. In a campus speech in December of 1986, Dr. Clarence M. Pendleton Jr., Chairman of the U.S. Commission on Civil Rights, pronounced that Grove City College "cherishes freedom, clearly abhors discrimination and that nothing could be further from the truth than to suggest that discrimination existed on campus."

I represent seven private, church affiliated colleges and am proud of their historically unique and distinct academic, social, and spiritual beliefs and tenets. They have helped to shape the towns and communities where they are located and have produced fine men and women who strive for the best that America has to offer. I regret so few of my colleagues have a complete understanding of the specific facts and issues involved in the lawsuit. It is used as a point of reference in this debate without regard to the actual facts. There were never any allegations of discrimination and I appreciate my colleagues giving me this time to correct the record.

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

Mr. Chairman, at this point in the debate I think it is important to make the record clear about religious tenets exemptions granted by the Department of Education.

Between 1976 and 1984 there were only five religious tenets exemptions granted, and 215 applications were not acted upon. While it is true there never was a denial of the religious tenet exemptions by the Department of Education, the failure to act is the same as a denial. It is only the Reagan administration that has approved the vast bulk of the religious tenet applications that have been filed, and we know that that administration has less than a year to go. Another administration can easily take away what the Reagan administration has granted, and that is why I believe the religious tenets need to be statutorily protected rather than left to the whim of the Secretary of Education or the people who work with him.

Mr. FISH. Mr. Chairman, will the gentleman yield to me so I may respond?

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

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for the time, and I appreciate it because it certainly was my prior remarks that prompted my friend from Wisconsin to say what he said, and I would just like to underscore the fact that the legislative history of the religious tenets exemption shows that what the Congress had in mind was seminaries, and the vast bulk of the numbers of exemptions granted have been to seminaries. I think there are only two colleges I saw on the list that have ever been applied and granted exemptions, so I think the purpose of this thing that we have lost sight of was seminaries rather than the dates and other matters.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. EDWARDS].

(Mr. EDWARDS of California asked and was given permission to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Chairman, of course I rise in opposition to the substitute offered by the gentleman from Wisconsin [Mr. SENSENBRENNER] and I want to point out that this is another attempt to go past simple restoration. Our agreement many years ago was to have a bill that would legislate simple restoration of the law before the Grove City decision, and here is another attempt to piggyback another issue, another exemption on it.

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

Mr. EDWARDS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, where in the pre-Grove City law was there corporationwide rather than plantwide coverage rather than the five specific enumerated areas in your bill, to wit: education, health care, housing, social services, or parks and recreation? I cannot find any interpretation of the law prior to Grove City that had broader application in these 5 years than in another five areas, and what your bill does is provide different strokes for different folks.

Mr. EDWARDS of California. Mr. Chairman, in response to the gentleman, the section he refers to was a compromise worked out by himself and a group of us a number of years ago.

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will yield further, that does not answer my question. Where in the pre-Grove City law was there broader coverage for these five areas than for the other areas in the private sector?

Mr. EDWARDS of California. Mr. Chairman, it is our understanding that the commitment was made not to go beyond the law as it was before the Grove City decision of the Supreme Court.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman from California still has not answered the question.

Mr. EDWARDS of California. Mr. Chairman, I only have 3 minutes. I will not yield further.

Mr. Chairman, I oppose the amendment offered by the gentleman from Wisconsin. The amendment would emasculate the title IX prohibition against sex discrimination in a federally funded education program by exempting hundreds, possibly thousands, of schools from compliance with this nondiscrimination duty. In addition, it would severely weaken the application of all four laws to private entities operating federally funded programs. If this amendment is adopted, the Federal Government will find itself in the

untenable position of providing Federal assistance to programs that discriminate against minorities, women, the handicapped, and the elderly.

The amendment opens up a giant loophole in the existing title IX religious tenet exemption. Since its enactment in 1972, title IX has permitted very narrow exceptions from the prohibition against gender-based discrimination in any federally funded education program. One of the exceptions is available to an educational institution if it is "controlled by" a religious organization and there is a title IX requirement which conflicts with the religious tenets of that organization.

Since this bill was introduced in 1985, supporters of this loophole amendment have argued that such a change is necessary because otherwise these institutions, which they claim are no longer religiously controlled, will have to pay for or perform abortions. They can no longer make that claim in light of the Danforth amendment. Now, at last, they must confess their true motives which is they simply want to be exempt from title IX coverage.

In fact, they have lobbied for this change each time title IX has been amended. Congress, in its wisdom, has rejected this effort. During consideration of this bill a few weeks ago, the Senate rejected their claim by a vote of 56 to 39. The House refused to accept this proposal during floor consideration of the restoration bill in 1984.

Virtually every private school can establish some affiliation with a religious organization. Adoption of such a loophole would defeat the purpose of title IX. Not only is such a proposal unacceptable, on policy grounds, it is also unnecessary. Proponents of this amendment cannot cite a single instance in which legitimate exemptions have been denied. It is critical that the control test remain in effect and enforced seriously—for that aspect of the test is the linchpin for assuring that only a limited number of institutions may discriminate with Federal funds.

The proposed change to the corporate coverage section in S. 557 is unacceptable and unwarranted. The corporate coverage provision in the bill represents an accommodation which Democratic supporters in the House made to our Republican colleagues in the Judiciary and Education and Labor Committees during consideration of this bill in the 99th Congress. We agreed to abide by this compromise and convinced Senate supporters to do the same when the bill was introduced in the 100th Congress last year.

The corporate coverage in the bill is a compromise in that the record presented to the Congress supported corporatewide coverage in all instances. The compromise provides for corporatewide coverage in only two instances: First when Federal financial assistance is extended to the corporation "as a whole." or second. when the corporation is "principally engaged in" five business areas—education, health care, housing, social services or parks and recreation—services which in the past have been provided by the government but through increased privatization, are likely to be available through the private sector.

Adoption of this amendment is likely to encourage entities to create discriminatory schemes which will go unchecked by Federal civil rights enforces. For example, under the gentleman's substitute, a nursing home chain could create racially segregated facilities free from Federal review by confining all Medicaid recipients to one or some of the facilities rather than throughout the chain. We should not encourage the development of such creative techniques to avoid compliance with these civil rights laws.

For these reasons, I urge my colleagues to reject this substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

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

Mr. HASTERT. Mr. Chairman, I rise in opposition to S. 557, the so-called Civil Rights Restoration Act of 1988, more commonly known as the Grove City bill.

"Civil rights restoration." That really has a nice ring to it, doesn't it? An affirmative vote on this bill would seemingly "restore" lost civil rights. Who can oppose a bill that would protect people from discrimination due to their race, creed, color, sex, national origin or handicap status? Who is against establishing justice and securing the blessings of liberty? No one.

But, justice and liberty are not what this bill is about.

The mantle of the Civil Rights Restoration Act of 1988 has been used as a cloak for one of the most outrageous attempts at a Federal power grab in our Nation's history. This bill does not simply overturn the Grove City decision, as is claimed by the bill's cosponsors; it goes far beyond that limited objective. S. 557 would allow the Federal bureaucracy to lay jurisdictional claim to levels of American society until now thought beyond its constitutional limits.

The Grove City bill would expand the Federal Government's range of authority for the enforcement of civil rights laws and regulations to every church, school, college, farm, business, or any other institution that receives direct or indirect Federal funding. With 1 trillion Federal dollars sloshing around out there every year, few institutions can remain secure in the knowledge that they would be exempt from the harrassment and expense of burdensome paperwork, bureaucratic compliance reviews, or costly legal fights with individuals or advocacy groups due to an oversight in complying with complex and arcane Federal regulations.

Where will the burden of compliance with the provisions of this bill fall the heaviest? The burden will not fall heaviest on State governments or large corporations, but on institutions that can ill-afford the costs of compliance: private liberal arts colleges, small businesses, and farmers.

What will happen to religiously affiliated colleges like Wheaton or Judson Colleges in Illinois? If a present or future Federal civil rights bill were to violate the religious tenents of these two colleges, should the Federal Government force these institutions to comply, even though compliance may violate deeply held convictions?

What will happen to small businesses that have received assistance from the Small Business Administration or grocery stores that accept food stamps? Not very far from my home is a mom-and-pop grocery store that has been in business for over three generations. They couldn't even hire their grandson to pack groceries without having the burden to prove that they complied with Federal regulations with regard to hiring practices.

I have approximately 10,000 farm families in my distrct, and many of the family farms are incorporated for tax purposes. Those farms that receive crop subsidies, price supports, or similar assistance would come under the scrutiny of Federal agents to ensure that they are fulfilling their obligations in documenting compliance the Federal civil rights laws. It is unfair to expect someone as hard hit as the American farmer to comply with regulations that simply are inappropriate on the farm.

To paraphrase Chief Justice John Marshall, the power to regulate is the power to destroy. The bedrock of American constitutional government is the independence of the individual, and the associations into which he or she freely enters, from the coercive power of the state. When we relinquish the independence of our businesses, our schools, and even our churches to the intrusiveness of the Federal bureaucracy, then we have truly surrendered a piece of our hard-won liberty.

Mr. Chairman, no one in Congress is opposed to civil rights; but we should be against the intrusion of the Federal bureaucracy into areas where it does not belong. I urge my colleagues to defeat this bill.

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Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE].

(Ms. SNOWE asked and was given permission to revise and extend her remarks.)

Ms. SNOWE. Mr. Chairman, even when protecting civil rights, we obviously don't want to interfere with the

true exercise of religious beliefs. That's why title IX has a specific exemption for religious institutions.

But while the legislation today seeks only to restore protections against discrimination, this substitute would significantly diminish those protections through a vastly expanded exemption.

The amendment suggests that, somehow, that before the Grove City case there was a problem with the religious exemption. That simply isn't the case. As the Department of Education itself wrote in May 1987, in this administration, they "have never denied a request for religious exemption * * * (and) no requests for exemption are pending at this time."

With this amendment, however, upward of 786 of the Nation's 3,000 higher education institutions, ones which still receive Federal assistance, might be able to disregard antidiscrimination laws—no matter how tenuous the religious connection, since there is no reasonable test as to what can be claimed. Without responsible criteria to an exemption, the laws themselves become meaningless.

Finally, as to the corporate coverage issue, I just don't see the logic, frankly, in allowing a company, part of an overall organization, that receives tax dollars in one part to discriminate in another. As former Education Secretary Bell wrote, "If you take Federal money, you must comply. If you receive no Federal funds, you need not. It was as simple as that."

It was as simple as that then and it is as simple as that today.

We are here to set the higher standards, not the lower standards. The burden should be on those who seek to discriminate, not on the victims of discrimination.

We as Representatives of the people should be in the business of not creating loopholes for prejudice. Make no mistake, that is what this amendment represents, and that is why I urge you to oppose it.

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. FORD].

(Mr. FORD of Michigan asked and was given permission to revise and extend his remarks.)

Mr. FORD of Michigan. Mr. Chairman, I rise in support of S. 557 as presented to the floor by our committee and ask my colleagues to vote to oppose all of these amendments that are offered, whether they are offered en bloc or individually.

I am distressed by how terribly familiar some of the rhetoric tonight sounds to those of us who were here in the sixties when we were passing landmark legislation.

I find it, as some would say, amazingly strange to hear coming from that side of the body the plaintive cry of "we can't do this, it won't work, and it's going too far" of a law that was signed by someone that certainly has not gone into the books as any extremist in promoting civil rights.

I was a part of the committee when we put title IX in the Higher Education Act, and it was Richard Nixon who signed it into law proudly. I wish that his party had a better memory for the good things he did while he was here.

Mr. Chairman, as a cosponsor of H.R. 1214, the House bill which responds to the Supreme Court's 1984 decision in Grove City College versus Bell, I rise today in support of an identical bill. S. 557, passed by the Senate on January 28, 1988.

Although the Grove City decision ostensibly applied only to title IX of the 1972 Education Act amendments, it cast doubt on the scope of similarly worded civil rights laws barring discrimination on the basis of race, age and handicap.

The first of these statutes to be enacted was title VI of the 1964 Civil Rights Act, prohibiting racial discrimination in federally funded programs, and since that time every administration, no matter which political party was in the White House, has interpreted these laws to mean that whenever a program or activity of an institution received Federal funds, all of the institution's other programs and activities had to comply with the nondiscrimination policy. At the Reagan administration's urging, however, the Supreme Court adopted a very narrow view which, if it remains uncorrected, puts the Federal Government in the untenable position of providing Federal assistance to discriminating entities.

Because of the court's decision, we find ourselves here today in an effort to pass legislation that will restore the pertinent civil rights stautes to their former meaning and interpretation.

If we do not pass S. 557 today, then our Federal civil rights enforcers will be nothing more than auditors. Instead of correcting and eliminating discrimination, these "auditors," along with the victims of discrimination themselves, will have to trace the flow of Federal dollars—an almost impossible task, and a task that will prove to be unconscionably costly to the Federal Government.

Passage of S. 557 will give meaning to the longstanding national policy that Federal funds shall not be used to support discrimination.

In May of 1985, when H.R. 700, the previous restoration bill introduced in the House, was reported by the Education and Labor Committee, it carried two amendments. One was the so-called Tauke-Sensenbrenner abortion-neutral amendment, and the second was an expansion of the religious tenet waiver.

Mr. Chairman, the Senate bill that is before us, S. 557, carries with it only one of the above-mentioned amendments—that relating to abortion. Specifically, S. 557 includes the following language: "nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion."

The effort today will focus largely upon amending the religious tenent provision currently barring discrimination against women and girls in federally funded education programs. Title IX of the Education Act Amendments of 1972.

Under current law—title IX—an institution "controlled by a religious organization" may secure an exemption from title IX's prohibition on sex discrimination if the application of the title "would not be consistent with the religious tenets of such organization." The amendment to expand it would exempt any school merely "affiliated" with a religious group.

The effort to broaden the exemption is unwarranted, and would seriously undermine title IX's protection in thousands of private schools throughout the country.

In passing S. 557, the Senate defeated an expansion of the religious tenent waiver by a vote of 56 to 39 on January 28, 1988.

The bill before us clarifies that the current religious tenet exemption is as broad as the title IX coverage of education programs and activities. No further assurances are needed.

Of the 3,301 higher education institutions in this country, 786 are "religiously affiliated." But even if the loosening of the religious tenet provision only affected those 786 schools, it would impact on 559,053 full- and part-time women students. We can only imagine the numbers of elementary and secondary schools and employees in such schools that would be affected should the exemption be loosened to that extent.

Finally, Mr. Chairman, leaders from more than 20 religious organizations have called upon Congress to defeat any substantive amendments to the Civil Rights Restoration Act, and particularly the expansion of the religious tenet waiver under title IX.

Mr. Chairman, as I have stated, I am opposed to any substantive amendments to the Civil Rights Restoration Act, and I find myself in a most difficult position of supporting the Danforth amendment—the abortion-neutral amendment—which is attached to S. 557 as passed by the Senate. We each have our beliefs concerning the abortion question—and some of us are strongly in favor of women's choice in the matter while others are just as strongly in favor of making abortions illegal altogether.

In fact, the Supreme Court ruling in Roe versus Wade made it legal for women to seek and to obtain clean, safe and painless abortions. It was this remarkable decision that bro. ht women out of the dark alleys and butcher shops where they were once consigned, should they choose not to carry a pregnancy to term.

The Danforth amendment as adopted by the Senate does not seek to nor does it overturn the Court's decision in Roe versus Wade. In the plainest language, the Danforth amendment "permits universities and hospitals that receive Federal funds to refuse to pay for or to perform abortions.

Having stated my feelings concerning the one amendment on the Senate bill, I will go on to say that my longstanding interest in and concern for educational equity, civil rights and the rights of the handicapped, bids me to support the Civil Rights Restoration Act as amended—but no more than that.

I am strongly opposed to any so-called substitute for S. 557 that might be offered here, and to any other damaging amendments that may be called up.

S. 557 is marred by its equivocation on civil rights for women under the Danforth amendment; but it is important for me—for all of us—to renew our commitment to restoring the scope of the interpretation of antidiscrimination laws under title IX, under section 504 of the Rehabilitation Act, under title VI of the Civil Rights Act, and under the Age Discrimination Act.

Mr. Chairman, I rise in support of S. 557, and recommend to my colleagues that it do pass.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, the Civil Rights Restoration Act has many flaws that need to be addressed. The bill does not adequately protect, under title IX, the policies of many educational institutions that are based on religious tenets. The 1972 exemption only applies to institutions controlled by a religious organization. If the Department of Education applied a strict control test, only two universities would qualify: Brigham Young University and Catholic University. Due to composition of governing boards or funding sources, almost all other religious tenet based institutions could lose their protection. For this reason, language should be included—in title IX only—to provide the exemption to institutions controlled by or closely identified with the tenets of a religious organization.

If we don't include this language, institutions all over the country could have their exemptions revoked by the bureaucracy, and will certainly be sued by advocacy groups seeking to overturn them.

However, not only will private schools be affected by this bill, but almost every aspect of our lives will be touched. From the community hospital to the corner grocery store, to farmers, factories, charitable organizations—anyone that receives any Federal aid in any form will be engulfed by the cancerous growth of government in their private lives. This is not the original intent of the Civil Rights Act.

Civil rights are for everybody not just a select few.

In addition, it would appear that the sponsors of the bill believe that the Supreme Court was right in defining Federal aid as aid to a single student but wrong to apply the definition of program very broadly. It amazes me that the court can be so right on one part of the ruling and so wrong on the other part.

Support the Sensenbrenner amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I am afraid that if my substitute is not adopted the consequences of passage of this legislation will be to harm the very people who it is intended to help, those people at the lower end of the socioeconomic scale that need the assistance of the Federal Government and need the opportunity that the strict application of the nondiscrimination provisions provide.

For example, if this bill is passed without a religious tenets amendments, the church-related college or university will be forced in choosing between adhering to the religious tenets of the sponsoring denomination or denying students who use guaranteed student loans or VA benefits admission because they do not with to be poisoned by the Federal money. The result of that is that people of the low and lower middle income brackets who might want to attend a church-related college or university and who need the Federal assistance in order to pay for the expenses of higher education will be denied that choice of an educational opportunity.

We might have the mom and pop grocery store that accepts food stamps from qualified customers. If they are subjected to the rules and regulations contained in this bill, they may very well put a sign in their window, "No food stamps accepted," and that will just close the door to the poor people who use food stamps to feed themselves the choice of shopping at the mom and pop grocery store.

We have heard the example of the national chain that has some facilities taking Medicaid patients in their nursing home facilities. If they are forced between corporationwide coverage or not getting involved in taking Medicaid patients, they may very well opt to close the doors to Medicaid patients so that they do not have to be subjected to the paperwork and the investigation and all of that that is contained in this bill and that will be just that many fewer facilities available for people who are ill who need nursing home care and who have to receive Medicaid payments to pay for it.

So I think we should think long and hard about rejecting the Sensenbrenner amendment. The bill is designed to protect people who require the protection of civil rights laws. I am afraid that the consequences will have exactly the opposite effect.

Finally, there is the question of how to phase a religious tenets amendment. My bill is a good faith effort to bring the law up to date to reflect the change from clergy-controlled boards of directors to lay-controlled boards of directors and the legal interpretations that the courts have placed on that change.

If we have a doubt, I think we should resolve that doubt in favor of religious liberty, not to be unduly restrictive, but to resolve it in favor of religious liberty.

Not one case of discrimination that has been talked about by those who are opposed to this substitute that would still be condoned if my substitute with the religious tenets amendment were adopted.

I would like to quote the President in a letter that he sent to the gentleman from Illinois [Mr. MICHEL] said:

The bill poses a particular threat to religious liberty. It interferes with the free exercise of religion by failing to protect the religious tenets of schools closely identified with religious organizations. Further, the bill establishes unprecedented and pervasive federal regulations of entire churches or synagogues whenever any one of their many activities, such as the program to provide hot meals to the elderly, receive any federal assistance. Moreover, and in further contrast to pre-Grove City coverage, entire private elementary and secondary school systems, including religious systems, will be covered if just one school in such a private system receives federal aid.

Mr. Chairman, I ask the Membership of this body to vote to preserve religious liberty, to give the benefit of the doubt to religious liberty and to support the Sensenbrenner substitute.

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

Mr. SENSENBRENNER. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

It is important as we go into this final vote that we focus on exactly what the gentleman's amendments do. What they do precisely firstly with regard to religious tenets is that it says that an organization or a college which is closely identified with the tenets of a religious organization is entitled to the exemption. That should be and always has been the intent of the sponsors.

With regard to corporate coverage, it says that facility which is receiving the Federal funds will be covered, but not everything else in the world. That has also always been the intent of these four laws.

One other thing. What the gentleman is trying to do, I would say to the sponsors and the proponents of the legislation, is to save the legislation. The gentleman said that there is a veto message out on this bill. It only takes 146 votes to sustain that veto. These two amendments are worthy, have been adopted by the committee, and ought to be adopted by the Sensenbrenner substitute as a way of in fact improving this legislation.

Mr. Chairman, I commend the gentleman for those improvements.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Texas.

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

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

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

Mr. CARDIN. Mr. Chairman, I rise in strong support of S. 557 and against the pending amendment.

Mr. Chairman, I rise in support of S. 557, the Civil Rights Restoration Act. This impor-

tant legislation will bring the law back to the original intent of Congress, declaring, once and for all, that public funds should not be spent to subsidize discrimination.

Our Nation was governed effectively for 20 years by the principal civil rights laws first enacted in 1964. Title VI of the Civil Rights Act of 1964 was a vital component of the most far-reaching civil rights legislation since the reconstruction era, outlawing discrimination in schools, voting, and housing on the basis of race, color, or national origin. Title IX of the education amendments addressed discrimination on the basis of sex, section 504 of the Rehabilitation Act championed the rights of the disabled and finally, the Age Discrimination Act of 1975 protected the elderly.

Then, in 1984, a restrictive Supreme Court ruling, Grove City College versus Bell, narrowed the coverage of all these laws, reversing years of enforcement practices and limiting the options for citizens excluded from jobs, housing, or educational opportunities. That decision made it permissible to continue Federal funding of an institution even though it discriminated in one or more of its programs. That is, Federal funds could be withheld only from the program that was discriminatory. Surely, Congress did not intend to say that the rest of the college could discriminate when its athletic programs excluded women. Nor did it intend to continue funding an institution that in any way continues racial discrimination, or excluded the handicapped from Jobs.

The impact of this ruling has been most unfortunate. The Department of Justice has applied the Grove City limitations to other statutes and the Department of Education has halted numerous investigations. We in Congress must reverse this situation.

It should be clear to all of us in this Chamber that the commitment to civil rights must be ongoing and vigilant. Every day another newspaper story reminds us that discrimination is, unfortunately, still alive throughout the Nation. Our policies cannot alter attitudes deeply entrenched, but they can cease to subsidize the practices that are an outgrowth of these attitudes. As President Kennedy stated:

Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.

Let us continue the progress that we have made in civil rights and support S. 557. To do otherwise means that Federal taxpayers' dollars will be subsidizing invidious discrimination.

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

I believe that it is rather clear cut now that the Sensenbrenner substitute would certainly gut the bill both in terms of the religious tenet exemption that he would allow and also the broad coverage that would be permitted under corporate coverage.

I think that one should remember in terms of the Grove City incident itself that this distinguished college, and we do not accuse it of having discriminated or seeking to discriminate, but that it did receive substantial financial funding. As a matter of fact, between 1974-75 through 1983-84 the Grove City College students brought to the university more than $1.8 million in basic educational opportunity grants.

In addition to that, it did receive financial assistance through guaranteed student loans.

Now, that is a very substantial amount of financial assistance being given to a university that refused to at least assure the Department that it did not seek to discriminate, and it was that failure that brought about in a sense this whole debate and the narrowing of the definition in the Grove City decision.

May I remind the Members also that the supporters of this amendment have not really identified the discriminatory policies that they are seeking to protect by obtaining exemptions for such a large number of institutions and entities. I think throughout the debate there has been no identification of how they intend to pursue these discriminatory policies and to protect them or to give to us a real answer as to when and where should discrimination and such policies actually end.

It is a clear-cut and I think rather obvious theory in government that those who dip their hands in the public till should not object if a little democracy sticks to their fingers.

What the Sensenbrenner substitute seeks to do is to dip their hands into the till and yet not require any obligations or any promises that those who do so will not discriminate against those whose taxpayer's money they seek to use.

So I think that in order that that theory can be upheld that we should reject the Sensenbrenner substitute and not allow such temptation to prevail in our economy and in our society.

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

Mr. MARLENEE. Mr. Chairman, because I am not a member of the Education and Labor Committee or Judiciary Committee, I might not normally be expected to speak on legislation of this sort. However, as a farmer-rancher and member of the House Agriculture Committee I was appalled to learn that the definition of "program or activity" under this bill would certainly cause farmers and ranchers participating in Federal farm programs to be classified as ultimate beneficiaries of Federal assistance.

This would mean additional, onerous, Federal paperwork requirements and random, Gestapo-like, on-site compliance inspections by Federal bureaucrats without a search warrant on privately owned farms and ranches. This Member will have no part of such an assinine scheme.

Mr. STENHOLM testified before the House Rules Committee yesterday requesting to offer a bipartisan amendment, drafted by members of the House Agriculture Committee to effectively exempt family farms and ranches from coverage under this bill.

Unfortunately, the rule granted yesterday by the House Rules Committee prevents Mr. STENHOLM'S amendment from being offered. As a result, they have paved the way for more regulation, paperwork, fines, and lawsuits against farmers and ranchers. Will we ever learn?

Mr. Chairman, I was frankly not at all surprised by the insensitivity of the leadership in the House on this issue yesterday. After all, this is the same leadertship that would not allow even one single committee of the House to have a legislative hearing on the bill. Imagine that, we are ready to pass one of the major overhauls of the Civil Rights Act in a quarter century without one single legislative hearing in the House.

To add insult to injury, the leadership had the arrogance to try to bring this bill to the House under suspension of the rules. After one-fourth of the Members of the House protested to the leadership, we were granted today's gag rule which is not much better.

If we do not want this legislation to cover every farm in America, why don't we just say so? We should not leave it to the whim of some Federal judge or Washington bureaucrat to determine whether a farm is or is not covered. The American Farm Bureau Federation certainly thinks that they are going to be covered according to their thorough analysis of the bill.

The reason why we need language in the bill specifically addressing farmers is that legislative history is not enough to protect farmers. While farmers may have been regarded as ultimate beneficiaries under the current statutes, these statutes are being completely rewritten.

Before, the statutes covered programs or activities receiving Federal aid. Under this bill, private organizations, businesses, partnerships, and sole proprietorships are expressly covered if they receive Federal aid. Farms are obviously businesses.

So I am not at all persuaded that legislative history is adequate to retain the pre-Grove City exclusion of farmers. I am told that in 1964, when debating the 1964 Civil Rights Act, its leading sponsors, Senator Hubert Humphrey, said he would eat the pages of the CONGRESSIONAL RECORD if the bill permitted quotas. We now know the Supreme Court would make Senator Humphrey eat those pages.

Moreover, even if I believed section 7 excluded farmers, it only applies to those regarded as ultimate beneficiaries prior to enactment of the Civil Rights Restoration Act. What happens when the 1985 farm bill expires in several years? At best, it is very unclear that farmers will be excluded from coverage under a new farm bill, and, in fact, I think it is clear they would not be, no matter what we say in the legislative history.

So if we don't want to cover farms just because they get crop-loan subsidies or price supports, the Rules Committee should have listened to Mr. STENHOLM yesterday. Because they didn't, the onerous regulations and massive paperwork requirements facing farmers will be mind boggling.

Mr. Chairman, if America's farmers and ranchers could see what the Congress is dong to them this afternoon they would load their .357's and bring us to justice. Let's defeat this outrageous bill and keep the Washington bureaucrats in their offices and off Montana's farms and ranches.

□ 1915

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 266, not voting 21, as follows:

[Roll No. 19]

AYES—146

Archer	Grant	Petri
Armey	Gregg	Quillen
Badham	Hall (TX)	Ravenel
Ballenger	Hammerschmidt	Regula
Bartlett	Hansen	Rhodes
Barton	Harris	Ridge
Bateman	Hastert	Ritter
Bentley	Hefley	Roberts
Bereuter	Henry	Rogers
Bevill	Herger	Roth
Bilirakis	Hiler	Saxton
Bliley	Hopkins	Schaefer
Broomfield	Houghton	Scheuer
Brown (CO)	Hunter	Schuette
Buechner	Hutto	Sensenbrenner
Bunning	Hyde	Shaw
Burton	Ireland	Shumway
Callahan	Kasich	Shuster
Chandler	Kolbe	Skeen
Cheney	Konnyu	Slaughter (VA)
Coats	Kyl	Smith (NJ)
Coble	Lagomarsino	Smith (TX)
Coleman (MO)	Lancaster	Smith, Denny (OR)
Combest	Latta	Smith, Robert (NH)
Craig	Lewis (FL)	Smith, Robert (OR)
Crane	Lipinski	Solomon
Dannemeyer	Livingston	Spence
Daub	Lott	Stangeland
Davis (IL)	Lowery (CA)	Stenholm
DeLay	Lujan	Stump
Derrick	Lukens, Donald	Sundquist
DeWine	Lungren	Sweeney
Dickinson	Madigan	Swindall
Dornan (CA)	Marlenee	Tauke
Dreier	McCandless	Taylor
Duncan	McCollum	Thomas (CA)
Edwards (OK)	McEwen	Upton
Emerson	McMillan (NC)	Vander Jagt
English	Michel	Vucanovich
Erdreich	Miller (OH)	Walker
Fawell	Molinari	Weber
Fields	Montgomery	Whittaker
Flippo	Moorhead	Wolf
Gallegly	Myers	Wortley
Gallo	Nichols	Wylie
Gekas	Nielson	Young (FL)
Gingrich	Ortiz	
Goodling	Oxley	
Gordon	Packard	
Grandy	Parris	

NOES—266

Ackerman	Borski	Coelho
Akaka	Bosco	Coleman (TX)
Alexander	Boucher	Collins
Anderson	Boxer	Conte
Andrews	Brennan	Conyers
Annunzio	Brooks	Cooper
Applegate	Brown (CA)	Coughlin
Aspin	Bruce	Coyne
Atkins	Bryant	Crockett
AuCoin	Bustamante	Darden
Barnard	Byron	Davis (MI)
Bates	Campbell	de la Garza
Beilenson	Cardin	DeFazio
Bennett	Carper	Dellums
Berman	Carr	Dicks
Bilbray	Chapman	Dingell
Boehlert	Chappell	DioGuardi
Boggs	Clarke	Dixon
Boland	Clay	Donnelly
Bonior	Clement	Dorgan (ND)
Bonker	Clinger	Downey
Durbin	Lehman (CA)	Robinson
Dwyer	Lehman (FL)	Rodino
Dymally	Lent	Roe
Dyson	Levin (MI)	Rose
Early	Levine (CA)	Roukema
Eckart	Lewis (CA)	Rowland (CT)
Edwards (CA)	Lewis (GA)	Rowland (GA)
Espy	Lloyd	Roybal
Evans	Lowry (WA)	Russo
Fascell	Luken, Thomas	Sabo
Fazio	MacKay	Saiki
Feighan	Manton	Savage
Fish	Markey	Sawyer
Flake	Martin (IL)	Schneider
Florio	Martin (NY)	Schroeder
Foglietta	Martinez	Schumer
Foley	Matsui	Sharp
Ford (MI)	Mavroules	Shays
Frank	Mazzoli	Sikorski
Frenzel	McCloskey	Sisisky
Frost	McCurdy	Skaggs
Garcia	McDade	Skelton
Gaydos	McHugh	Slattery
Gejdenson	McMillen (MD)	Slaughter (NY)
Gibbons	Meyers	Smith (FL)
Gilman	Mfume	Smith (IA)
Glickman	Mica	Smith (NE)
Gonzalez	Miller (CA)	Snowe
Gradison	Miller (WA)	Solarz
Gray (IL)	Mineta	Spratt
Gray (PA)	Moakley	St Germain
Green	Mollohan	Staggers
Guarini	Moody	Stallings
Gunderson	Morella	Stark
Hall (OH)	Morrison (CT)	Stokes
Hamilton	Morrison (WA)	Stratton
Hatcher	Mrazek	Studds
Hawkins	Murphy	Swift
Hayes (IL)	Murtha	Synar
Hayes (LA)	Nagle	Tallon
Hefner	Natcher	Tauzin
Hertel	Neal	Thomas (GA)
Hochbrueckner	Nelson	Torres
Horton	Nowak	Torricelli
Howard	Oakar	Towns
Hoyer	Oberstar	Traficant
Hubbard	Obey	Traxler
Hughes	Olin	Udall
Jacobs	Owens (NY)	Valentine
Jeffords	Owens (UT)	Vento
Jenkins	Panetta	Visclosky
Johnson (CT)	Pashayan	Volkmer
Johnson (SD)	Patterson	Walgren
Jones (NC)	Pease	Watkins
Jones (TN)	Pelosi	Waxman
Jontz	Penny	Weiss
Kanjorski	Pepper	Weldon
Kaptur	Perkins	Wheat
Kastenmeier	Pickett	Whitten
Kennedy	Pickle	Williams
Kennelly	Price (IL)	Wilson
Kildee	Price (NC)	Wise
Kleczka	Pursell	Wolpe
Kolter	Rahall	Wyden
Kostmayer	Rangel	Yates
LaFalce	Ray	Yatron
Lantos	Richardson	Young (AK)
Leach (IA)	Rinaldo	

NOT VOTING—21

Anthony	Gephardt	Lightfoot
Baker	Holloway	Mack
Biaggi	Huckaby	McGrath
Boulter	Inhofe	Porter
Courter	Kemp	Roemer
Dowdy	Leath (TX)	Rostenkowski
Ford (TN)	Leland	Schulze

□ 1930

The Clerk announced the following pairs:

On this vote:

Mr. Boulter for, with Mr. Anthony against.

Mr. Kemp for, with Mr. Gephardt against.

Mr. Holloway for, with Mr. Leland against.

Mr. Schulze for, with Mr. Ford of Tennessee against.

Mr. SMITH of Florida and Mr. MATSUI changed their votes from "aye" to "no."

Mr. GINGRICH and Mr. BEVILL changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. SWIFT, chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the Senate bill (S. 557) to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964, pursuant to House Resolution 391, he reported the bill back to the House.

The SPEAKER. Under this rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time and was read the third time.

The SPEAKER. The question is on the passage of the Senate bill.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 98, not voting 20, as follows:

[Roll No. 20]

YEAS—315

Ackerman	Cheney	Fish
Akaka	Clarke	Flake
Alexander	Clay	Flippo
Anderson	Clement	Florio
Andrews	Clinger	Foglietta
Annunzio	Coelho	Foley
Applegate	Coleman (MO)	Ford (MI)
Aspin	Coleman (TX)	Frank
Atkins	Collins	Frenzel
AuCoin	Conte	Frost
Bartlett	Conyers	Gallo
Bates	Cooper	Garcia
Beilenson	Coughlin	Gaydos
Bennett	Coyne	Gejdenson
Bentley	Crockett	Gibbons
Bereuter	Darden	Gilman
Berman	Daub	Glickman
Bevill	Davis (MI)	Gonzalez
Bilbray	de la Garza	Goodling
Boehlert	DeFazio	Gordon
Boggs	Dellums	Gradison
Boland	Derrick	Grandy
Bonior	Dicks	Grant
Bonker	Dingell	Gray (IL)
Borski	DioGuardi	Gray (PA)
Bosco	Dixon	Green
Boucher	Donnelly	Gregg
Boxer	Dorgan (ND)	Guarini
Brennan	Downey	Gunderson
Brooks	Durbin	Hall (OH)
Broomfield	Dwyer	Hamilton
Brown (CA)	Dymally	Harris
Brown (CO)	Dyson	Hatcher
Bruce	Early	Hawkins
Bryant	Eckart	Hayes (IL)
Buechner	Edwards (CA)	Hayes (LA)
Bustamante	Edwards (OK)	Hefner
Byron	English	Hertel
Campbell	Erdreich	Hochbrueckner
Cardin	Espy	Hopkins
Carper	Evans	Horton
Carr	Fascell	Houghton
Chandler	Fawell	Howard
Chapman	Fazio	Hoyer
Chappell	Feighan	Hubbard

Hughes	Molinari	Schuette
Hutto	Mollohan	Schumer
Jacobs	Montgomery	Sharp
Jeffords	Moody	Shays
Jenkins	Morella	Sikorski
Johnson (CT)	Morrison (CT)	Sisisky
Johnson (SD)	Morrison (WA)	Skaggs
Jones (NC)	Mrazek	Skeen
Jones (TN)	Murphy	Skelton
Jontz	Murtha	Slattery
Kanjorski	Nagle	Slaughter (NY)
Kaptur	Natcher	Smith (FL)
Kasich	Neal	Smith (IA)
Kastenmeier	Nelson	Smith (NE)
Kennedy	Nichols	Smith (NJ)
Kennelly	Nowak	Snowe
Kildee	Oakar	Solarz
Kleczka	Oberstar	Spratt
Kolbe	Obey	St Germain
Kolter	Olin	Staggers
Kostmayer	Owens (NY)	Stallings
LaFalce	Owens (UT)	Stark
Lancaster	Panetta	Stokes
Lantos	Pashayan	Stratton
Leach (IA)	Patterson	Studds
Lehman (CA)	Pease	Swift
Lehman (FL)	Pelosi	Synar
Lent	Penny	Tallon
Levin (MI)	Pepper	Tauke
Levine (CA)	Perkins	Tauzin
Lewis (CA)	Petri	Thomas (GA)
Lewis (GA)	Pickett	Torres
Lipinski	Pickle	Torricelli
Lloyd	Price (IL)	Towns
Lowry (WA)	Price (NC)	Traficant
Lujan	Pursell	Traxler
Luken, Thomas	Rahall	Udall
Lungren	Rangel	Upton
MacKay	Ray	Valentine
Manton	Regula	Vento
Markey	Richardson	Visclosky
Martin (IL)	Ridge	Volkmer
Martin (NY)	Rinaldo	Walgren
Martinez	Robinson	Watkins
Matsui	Rodino	Waxman
Mavroules	Roe	Weber
Mazzoli	Rose	Weiss
McCloskey	Roukema	Weldon
McCollum	Rowland (CT)	Wheat
McCurdy	Rowland (GA)	Whitten
McDade	Roybal	Williams
McHugh	Russo	Wilson
McMillen (MD)	Sabo	Wise
Meyers	Saiki	Wolpe
Mfume	Savage	Wortley
Mica	Sawyer	Wyden
Miller (CA)	Saxton	Yates
Miller (WA)	Scheuer	Yatron
Mineta	Schneider	Young (AK)
Moakley	Schroeder	Young (FL)

NAYS—98

Archer	Hefley	Ritter
Armey	Henry	Roberts
Badham	Herger	Rogers
Ballenger	Hiler	Roth
Barnard	Hunter	Schaefer
Barton	Hyde	Sensenbrenner
Bateman	Inhofe	Shaw
Bilirakis	Ireland	Shumway
Bliley	Konnyu	Shuster
Bunning	Kyl	Slaughter (VA)
Burton	Lagomarsino	Smith (TX)
Callahan	Latta	Smith, Denny (OR)
Coats	Lewis (FL)	Smith, Robert (NH)
Coble	Livingston	Smith, Robert (OR)
Combest	Lott	Solomon
Craig	Lowery (CA)	Spence
Crane	Lukens, Donald	Stangeland
Dannemeyer	Madigan	Stenholm
Davis (IL)	Marlenee	Stump
DeLay	McCandless	Sundquist
DeWine	McEwen	Sweeney
Dickinson	McMillan (NC)	Swindall
Dornan (CA)	Michel	Taylor
Dreier	Miller (OH)	Thomas (CA)
Duncan	Moorhead	Vander Jagt
Emerson	Myers	Vucanovich
Fields	Nielson	Walker
Gallegly	Ortiz	Whittaker
Gekas	Oxley	Wolf
Gingrich	Packard	Wylie
Hall (TX)	Parris	
Hammerschmidt	Quillen	
Hansen	Ravenel	
Hastert	Rhodes	

NOT VOTING—20

Anthony	Gephardt	Mack
Baker	Holloway	McGrath
Biaggi	Huckaby	Porter
Boulter	Kemp	Roemer
Courter	Leath (TX)	Rostenkowski
Dowdy	Leland	Schulze
Ford (TN)	Lightfoot	

□ 1954

The Clerk announced the following pairs:

On this vote:

Mr. Gephardt for, with Mr. Kemp against.

Mr. Anthony for, with Mr. Boulter against.

Mr. Huckaby for, with Mr. Baker against.

Mr. McGrath for, with Mr. Holloway against.

Mr. Porter for, with Mr. Schulze against.

Mr. McCOLLUM and Mr. BUECHNER changed their votes from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF S. 557, CIVIL RIGHTS RESTORATION ACT OF 1987

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending S. 557, the Senate bill just passed.

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

There was no objection.

REQUEST FOR GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 557, the Senate bill just passed.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to inquire of the gentleman whether or not we might be able to just have a statement at this point to indicate that no one is to use Extensions of Remarks on this bill in order to make legislative history.

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, I hesitate because I am very doubtful if I can limit the Members' right to make such a request.

The SPEAKER. May the Chair comment: In the opinion of the Chair, it would be impossible for anyone to establish by unanimous consent whether or not a court at some future undisclosed date might construe something placed in the RECORD as legislative history or legislative intent. But I think the Chair would indicate to the gentleman from Pennsylvania that courts sometimes are inclined to make a distinction in their evaluations between those things that were said actually in debate and other things that may have been inserted following the passage of the bill and it would be clear to a court in the future the distinction between the two. Those things inserted pursuant to the gentleman's request within the next five legislative days obviously would appear as additions to the CONGRESSIONAL RECORD which would make it clear to any future court that they had been inserted rather than spoken during the debate.

Mr. WALKER. Further reserving the right to object, I appreciate the Chair's explanation. But do we have some assurance that the extensions that we are talking about here all will appear in the Extensions of Remarks and none of those will find their way into the body of the RECORD as a part of the debate of this bill?

The SPEAKER. If they should, they would be in a different type style, the Chair is advised.

Mr. WALKER. Further reserving the right to object, even if they are extensions where the Member spoke, say, briefly on the floor, did a 1-minute speech on the floor, could that not end up being a speech that is added on to and, therefore, could, in fact, govern legislative history?

The SPEAKER. Well, yes, the gentleman is theoretically correct in that Members are given the privilege of revising and extending remarks they have made on the floor. It is conceivable that a change could be made in the manner in which the remark might have been transcribed earlier.

Mr. WALKER. Further reserving the right to object, additions could be added under those circumstances too.

What this gentleman is trying to assure, we are dealing with a very, very important bill that some people, looking at it, say that the language is somewhat imprecise in it and that we could have a situation where legislative history will play a very important role.

□ 2000

This gentleman wants to be assured, having sat here during a good part of the debate, that that which we heard on the floor today is that which will be the legislative history of the House with regard to this bill, and that we will not have legislative history created through an extension of remarks at some point in the future.

I have no objection at all to Members extending their remarks if they are commenting about whether or not they are supporting this bill, but I do think in this particular case, because of the nature of some of the provisions of it, that it would be a travesty for us

to find out later on that legislative history was made where their words were not actually spoken on the floor and agreed to, and I am just wondering if we can get some kind of an assurance and some kind of a statement from the gentleman that that material which appears in the Extensions of Remarks does not constitute legislative history on this bill.

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

Mr. WALKER. I am glad to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, if the gentleman yields under this reservation of objection, I might suggest that the gentleman from Pennsylvania has an awfully good point with regard to the making of legislative history. Perhaps the way to resolve it would be for the gentleman to object, but then to make it clear that he would object tomorrow or on a subsequent legislative day for additional material to be inserted, and then the courts would have it crystal clear that no changes were made as to this day's legislative day. So on any subsequent days we could have material on this subject inserted.

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

Mr. WALKER. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I would point out that in many instances where the Committee on Standards of Official Conduct has brought recommendations to the floor disciplining an incumbent Member of the House, it has been made quite clear by the chairman of the committee that there are to be no extensions of remarks made to the body of the debate, but that extensions of remarks should appear either in the appendix of the CONGRESSIONAL RECORD or in the subsequent day's CONGRESSIONAL RECORD. Just so that there is no confusion, I would hope that that procedure would be followed in this instance because of the paucity of legislative history at the committee level.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Wisconsin.

That is exactly the point this gentleman is trying to make. All I would hope we could have is a statement similar to that precedent referred to by the gentleman.

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

Mr. WALKER. I am glad to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, having been involved a number of times in legislative history before the U.S. Supreme Court, et cetera, I would point out that you have lawyers on each side, and I would also point out that you now have a video history of the House floor events which gives lawyers an option to examine as to what actually happened in the floor debate.

Mr. WALKER. Mr. Speaker, the gentleman is correct insofar as those cases which come up in 6 months are concerned, but those video tapes are destroyed after 6 months, so, therefore, there is not a permanent record, and the actual permanent record is that which appears in the RECORD. All this gentleman is seeking is some assurance that that which appears in the RECORD will be that which is the true legislative history on the floor. I will simply take a statement from the chairman of the committee that that is the intention that the committee would have with regard to establishing legislative history.

The SPEAKER. The Chair will instruct that the Official Reporters of Debates shall adhere strictly to the official rules of the Joint Committee on Printing in which the precise formula for distinguishing between that which was part of the debate on the floor and that which is inserted subsequently, not part of the debate on the floor, shall be made clear.

Mr. WALKER. Mr. Speaker, further reserving the right to object, do I understand the Chair is saying that if some Member adds material to the body of the RECORD, even though he spoke on the floor, that material will be italicized so it can be distinguished, and so it, therefore, would not necessarily constitute legislative history? Is that what I understand the Chair is telling me?

The SPEAKER. The rules of the Joint Committee on Printing, if the Chair fully understands them, do not require a revision, if within the parameters of the speech, to be so distinguished; they do require, if the Chair is correctly informed, that anything extraneously added and not a part of a speech officially made, nor a revision, presumably a correction made by a Member who had addressed the House, shall be so distinguished.

Mr. WALKER. Mr. Speaker, further reserving the right to object, this gentleman has no problem with that. This gentleman is concerned about a possible extension of remarks. If I understand what the Chair is saying, with regard to an extension of remarks under that situation; for instance, if a Member decides to add five pages of material, that would not fall under the rule as the Chair has stated it, and, therefore, it would be italicized. This gentleman is satisfied with that if that is the case.

If we are talking about grammatical changes, I do not have a problem with that. If we are talking about making incomplete sentences into complete sentences, I do not have a problem with that. But I do have a problem about adding pages of material that could end up being legislative history.

So do I understand that if some Member attempts to add substantial new material over what he or she spoke on the floor, that at that point that would be distinguished in a way that it would not appear that it was actually spoken on the floor?

The SPEAKER. The Chair would want to be somewhat precise in responding to the gentleman's inquiry. The Official Reporters of Debates have been asked to adhere strictly to the rules of the Joint Committee on Printing. I think the appropriate rule is rule No. 7. The CONGRESSIONAL RECORD shall contain a substantially verbatim account of remarks actually made during proceedings of the House subject to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved. The substantially verbatim account shall be clearly distinguishable by a different typeface from material inserted under permission to extend remarks.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, as the Chair well knows, we had a fairly lenient interpretation of that rule around here for a long, long time with regard to how much Members can put into the record after having spoken only a few words on the House floor. We have allowed them to insert volumes of material from time to time having just spoken a few words of debate on the House floor.

This gentleman is very much concerned about this. We have no committee report on this bill. There is language in this bill that is, in the opinion of some lawyers, very difficult to understand. If in fact the whole history of this bill as established in the House is to be the legislative history on the floor over the last couple of hours, then I think we have some right to be assured that we will have a verbatim transcript of what went on on the House floor in the RECORD, and the fact is that when we deal, as the gentleman from Wisconsin has pointed out, with Official Standards around here, that is something we adhere to. I do not understand why, when we are dealing with a matter this serious, with this many questions, we cannot have that same standard apply.

All I am asking is for the chairman of the committee to give me some assurance that that is the intention. If we could get that kind of assurance, I am perfectly willing to grant the request. But if I do not get the assurance, then I am going to have to assume that what we have is the potential for material being added to the RECORD that will establish legislative history that goes beyond anything that was debated in the House over the last couple of hours.

Mr. Speaker, I guess I am asking, can we get that kind of assurance?

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

Mr. WALKER. I am glad to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, certainly as I understand it, it is only a verbatim account which ought to be used as legislative history. I agree with the gentleman 100 percent, and I would praise him for bringing this issue up. I would again point out that I hope that advocates on either side of

this issue would get a verbatim account of the proceedings and keep that record so that any possibility that it would be manipulated could be taken care of.

I am certain also that the chairman would agree that there should be no deliberate attempt on either of our parts, and certainly I, as a supporter of the bill, would not in any way want to attempt to alter or change the legislative history. That is why I read about 55 miles an hour when I was trying to get everything in the RECORD under the few minutes I had been allowed under the rule, and it was unfortunate that the rule was in that way so we could not get more direct legislative history in. So I certainly would not allow anyone that I knew in any way to alter the meaning of the words that I put in.

Mr. WALKER. Mr. Speaker, the gentleman points out another difficulty we have. The short amount of time we had to debate is in fact one of the problems.

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, I cannot give any assurance about what a Member may do that might be in violation of the rule. I would think, if you would grant this unanimous-consent request on the condition that it not in any way violate the rules, including the joint committee rules on printing, then we could give the gentleman that assurance. I do not know of any other assurance that I could offer the gentleman. I do not know what will conform to the rules and what will not.

Mr. WALKER. Mr. Speaker, further reserving the right to object, is it the gentleman's intention as chairman of the committee that no material that is inserted in the RECORD under this request shall be regarded as legislative history for the bill?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, I would think that is the final analysis. The courts are going to give what weight they would give to this as opposed to what else might be given.

Mr. WALKER. Mr. Speaker, I am seeking just basically a yes or no answer here. Is it the gentleman's intention that none of the material inserted into the RECORD after the debate is over, in other words, pursuant to the gentleman's particular request, should be considered as legislative history, that we will not have legislative history there?

Mr. HAWKINS. No. If the gentleman will yield, not as it conforms to what was previously said in the House and it was based on something factual with respect to that Member. I cannot give the gentleman any such assurance. That is the answer.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR SUBCOMMITTEE ON CRIMINAL JUSTICE OF COMMITTEE ON THE JUDICIARY TO SIT ON TOMORROW DURING 5-MINUTE RULE

Mr. BOUCHER. Mr. Speaker, I ask unanimous request that the Subcommittee on Criminal Justice of the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on tomorrow, March 3, 1988.

This request has been cleared by the minority, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PERMISSION FOR MEMBER TO INSERT EXTRANEOUS MATERIAL IN GENERAL DEBATE ON S. 557, CIVIL RIGHTS RESTORATION ACT OF 1987

Mr. FISH. Mr. Speaker, I ask unanimous consent that I be permitted to insert extraneous matter consisting of three letters immediately following my comments under general debate on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, did I understand the gentleman's unanimous-consent request to be that he wanted to insert material in the debate on the Grove City bill?

The SPEAKER. The Chair will point out that the request was made by the gentleman from New York [Mr. FISH].

Mr. SENSENBRENNER. Mr. Speaker, I would ask, is the gentleman attempting to insert material?

Mr. FISH. Mr. Speaker, if the gentleman will yield, that is correct. We have to wait until we get in the House in order to make the request. These are letters I referred to in the course of my remarks.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT AS MEMBER OF COMMISSION ON RAILROAD RETIREMENT REFORM

The SPEAKER. Pursuant to the provisions of section 9031 of Public Law 100-203, the Chair appoints on the part of the House the following individual from private life to the Commission on Railroad Retirement Reform:

Mr. Robert J. Myers, of Silver Spring, MD.

□ 2015

WOMEN'S HISTORY MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 262) to designate the month of March 1988, as "Women's History Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, the minority has no objection to this legislation.

Mr. Speaker, I yield to the gentlewoman from California [Ms. PELOSI], formerly from the State of Maryland, who is the chief sponsor of House Joint Resolution 473, to designate the month of March as "National Women's History Month."

(Ms. PELOSI asked and was given permission to revise and extend her remarks.)

Ms. PELOSI. I thank the gentlewoman for yielding.

Mr. Speaker, it is my pleasure today to speak on the House floor in support of the first piece of legislation I have introduced as a Member of the House of Representatives.

Today, the House will act on House Joint Resolution 473, which my distinguished colleague, Representative OLYMPIA SNOWE, and I introduced. This resolution proclaims the month of March 1988, as "Women's History Month."

Women's history provides a new perspective for looking at the past, a perspective which honors the richness and diversity of the lives of the many women who came before us. It also presents a vision for the future, a vision that shows us there are no limits to achievement.

From Susan Brownell Anthony, who led women to the voting polls in 1872, only to be arrested and while awaiting trial, tried to vote again in city elections; to Eleanor Roosevelt, who emerged as a striking symbol of strength and good will during a tumultuous period of our Nation's history; to Rosa Parks, who defied a racist society and refused to move to the back of a bus, women have been at the forefront of revolution and change. As a mother of four daughters, I want all doors of opportunity open to them. The struggle for freedom and for rights by women in history has brought inspiration and determination for women in the present and in the future.

I ask my distinguished colleagues to join me in the celebration of "Women's History Month" and to support House Joint Resolution 473.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I rise in support of Senate Joint Resolution 262 and its House counterpart, House Joint Resolution 473, a resolution designating the month of March, 1988 as "Women's History Month."

Women have played a major role in all facets of American life. Throughout our history, women of all backgrounds, classes and ethnic heritages have contributed to our cultural, economic and social life. Women of every race were involved in the abolitionist and civil rights movements. American women are known worldwide for their philanthropic endeavors. And it was the struggle of dedicated women who secured voting rights for all qualified citizens; now women make up over 50 percent of the registered voter population in our country.

There are presently 54,520,000,000 women—45 percent—in the American work force. These are women, who continue to contribute to the social, cultural and economic growth of American in the pioneer spirit of their predecessors.

It is only fitting that women in our country be recognized.

I commend my colleague from California, Congresswomen PELOSI, for sponsoring this thoughtful measure in this House. And I would also like to take this opportunity to recognize the gentlewoman from Maine, Congresswoman SNOWE, for her tireless efforts on issues for the betterment of women and children.

Mr. Speaker, I am proud to be an American woman, and to have cosponsored this measure. I urge my colleague to support this resolution.

Mr. Speaker, I would also like to take the opportunity to recognize the gentlewoman from Maine, Congresswomen SNOWE, for her tireless efforts on issues for the betterment of women and children.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 262

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in this country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements to create a more fair and just society for all; and

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American History: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1988, is designated as "Women's History Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEPARTMENT OF COMMERCE DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 251) designating March 4, 1988, as "Department of Commerce Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

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

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation being considered.

I do want to commend the two sponsors of the legislation, the gentleman from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL] for sponsoring House Joint Resolution 447, designating March 4, 1988, as "Department of Commerce Day."

Mr. FARLEY. Mr. Speaker, in the early 1900's, it was President Theodore Roosevelt who, with business and Government leaders, first envisioned what would become the Department of Commerce; a Federal agency which would establish the United States as a leader among our industrial competitors. Seventy-five years later we join with the Senate in honoring this occasion by designating March 4 as "Department of Commerce Day."

The first Secretary, William C. Redfield, assumed the responsibility for this most versatile of all departments. Its many components include:

The International Trade Administration which supports commercial representatives in foreign capitals and industrial centers as well as administering our Nation's trade laws;

The Census Bureau which will be conducting its bicentennial poll of social and economic statistics for business and Government planners;

The U.S. Patent Office which is the final clearinghouse for all intellectual property rights;

National Oceanic and Atmospheric Administration which is our Nation's weather bureau and is responsible for plotting large portions of the Earth's surface;

The National Bureau of Standards which helps to advance the Nation's science and technology and ensures their availability to the public. This year NBS will be administering the first Malcolm Baldridge Quality Award to recognize efforts by business to achieve the highest level of quality; and

The Minority Business Development Administration which assists the growth of minority enterprises.

Although the responsibilities and operations of the Department have changed over the years, promoting the economic growth of the United States remains the fundamental duty of the Commerce Department. Gouverneur Morris, during the Constitutional Convention in 1787, was one of the first advocates of a Secretary of Commerce. Over 200 years later, the original concept of a steward to guide the commercial interests of the United States still endures.

Mr. MICHEL. Mr. Speaker, I am pleased to join the majority leader in sponsoring House Joint Resolution 447 and endorsing the companion measure here, Senate Joint Resolution 251, honoring the Department of Commerce on its 75th Anniversary by declaring March 4, 1988, to be "Department of Commerce Day." This commemorative for one of our distinguished executive branch departments was cosponsored by 230 Members of this House and 63 Senators in the other body.

Such widespread support is indicative of the important role the Commerce Department has played in 75 years of service to the Nation. Its mission of fostering, promoting, and developing the foreign and domestic commerce of these United States is indeed worthy of recognition, perhaps now more so than ever.

Not until early in the 20th century when the United States had become an industrial power in the world did Congress finally establish a Department of Commerce to promote industry and trade. The Department's true beginnings, and many of its component programs precede its official birthdate by more than a century. In the critical period between the Articles of Confederation and the ratification of the Constitution, the common interest in expanding commerce was the strongest link which bound the newly independent States.

As the Nation commemorates the 200th anniversary of the oldest written constitution still in use and the Department of Commerce begins the celebration of its own 75th year, the strength and importance of this link remain. The expansion of commerce is still the key to the development of the United States as the most productive and prosperous country in the world.

My congratulations to Secretary Verity and all his distinguished colleagues on this occasion.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 251

Whereas the ability of the United States to provide for the economic security of the American people depends primarily upon the vitality of the private sector and the competitive free enterprise system;

Whereas the ability of the private sector to generate jobs and a constantly improving standard of living depends heavily on the policies which the Federal Government pursues and the services it provides;

Whereas the Congress of the United States, recognizing the importance of these policies and services, on March 4, 1913, reestablished as the Department of Commerce the executive agency created by the Act of February 14, 1903, and directed it to "foster, promote, and develop the foreign and domestic commerce" of the United States;

Whereas the Department of Commerce has been charged with many important responsibilities, including the effective administration of the trade laws, providing social and economic statistics for business and government planners promoting the protection of intellectual property at home and abroad, advancing the Nation's science and technology and facilitating their use for public benefit, working to improve our understanding of the Earth's physical environment and ocean resources, helping the private sector take advantage of commercial opportunities in space, assisting in the growth of minority business, promoting domestic economic development, assessing policies and conducting research on telecommunications, and encouraging foreign travel to the United States; and

Whereas the officers and employees of the Department of Commerce, by their dedication, diligence, loyalty, and integrity, reflect the finest traditions of public service and, along with the important work they perform deserve public recognition as the Department of Commerce celebrates its seventy-fifth birthday: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled That March 4, 1988, is designated as "Department of Commerce Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two Senate Joint Resolutions just passed.

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

There was no objection.

PERMISSION TO INCLUDE AN EXTENSION OF REMARKS IN TODAY'S RECORD

Mr. HOYER. Mr. Speaker, in light of the action that has just been taken, I had a revision of remarks which I now ask unanimous consent to have included in the Extension of Remarks in today's RECORD. I had talked to the gentleman from Pennsylvania, and I showed the remarks, by the way, to the gentleman from Pennsylvania, although he has not had an opportunity, obviously, to study them, but they do deal with the specific section giving a colloquy of essentially the things that occurred in the Senate.

My unanimous-consent request, Mr. Speaker, is that they appear in today's RECORD under Extensions of Remarks.

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

Mr. WALKER. Reserving the right to object, Mr. Speaker, it is my understanding the gentleman is requesting not that these remarks be put in the body of the debate, but rather that they be included in the Extensions of Remarks in the back of the RECORD, is that correct?

Mr. HOYER. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

GENERAL LEAVE

Mr. HOYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Illinois [Mr. ANNUNZIO].

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

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS of New York addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

[Mr. HUNTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THIRD WORLD DEBT RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 5 minutes.

Mr. LAFALCE. Mr. Speaker, on February 29, James D. Robinson III, chairman and chief executive officer of American Express Co., outlined a detailed and comprehensive proposal to ease Third World debt burdens by creating a new international institute that could purchase commercial bank debt at a discount.

Benefits from these discounts could then be passed along to debtor countries, provided that agreement could be worked out, on a case-by-case basis, with individual countries to assure that necessary economic reforms would be taken to promote the long-term development prospects of these countries.

In making this proposal, Mr. Robinson has put out the "Open for Business" sign for those who have ideas on confronting the Third World debt crisis which is now well into its sixth year.

This problem has resulted in deteriorating terms of trade for the United States; the loss of hundreds of thousands of American jobs; substantially lower living standards for hundreds of millions of Latin Americans, Africans, and Asians; uncertainty in world financial markets; and increased political instability in many newly established democracies in developing countries.

Last year, I introduced legislation to begin the process of establishing an International Debt Management Facility to act as a mechanism to deal with this issue on a comprehensive basis, and to stick with the problem until it became manageable. In effect, I proposed an "International Chapter 11" bankruptcy procedure to replace the ongoing process wherein debtor countries and their creditors engage in a series of protracted rescheduling negotiations in which nothing is ever truly resolved, but the mountain of debt is simply pushed forward into the future.

I believe that Mr. Robinson's plan is fully consistent with the approach I suggested last year; and even better, his proposal has been worked out in significantly greater detail to demonstrate that it is financially feasible. What is presently lacking, however, is the political will to make it happen.

Unfortunately, my concept has been strongly opposed by the administration during the past year, and it will, I except, also oppose the Robinson approach. Instead, the administration continues to insist on its current approach which, while long on rhetoric, has produced very little in reality.

The administration insists that circumstances are improving; that there is light at the end of the tunnel; but the World Bank issued a report in February documenting the opposite.

The administration maintains that additional lending—and additional debt—is the answer; but commercial banks are going in the opposite direction. They are reserving more; writing off more; and lending less.

In December, the administration finally found a "market-oriented" voluntary debt relief program which it liked in the Mexico-Morgan Guaranty plan. Unfortunately, it has apparently not met initial expectations.

The administration is now calling for a massive increase of World Bank resources, much of which would go to something called "structural adjustment lending"—a code word for balance-of-payment loans to enable developing countries to pay interest on their debts. In short, the World Bank is becoming less of a development institution, and more of a short-term financing mechanism—a trend which should be more carefully examined.

Because of the timeliness and extreme importance of Mr. Robinson's remarks last night

before the Overseas Development Council, let me take a few moments to summarize the details of how the plan would work, and then place the entire text of his speech in the RECORD.

Essentially, the Robinson proposal is to convert at least part of the developing countries' commercial bank loans into longer term, more reliable securities. The Institute for International Debt and Development would be sponsored by the governments of the larger industrial countries, which would contribute the initial capital. Both the World Bank and the International Monetary Fund may also contribute. Commercial banks who choose to participate would receive preferred stock from the Institute in exchange for their existing LDC loans.

Under this innovative plan, the Institute would be governed by representatives of the sponsoring governments, the World Bank, the IMF, and the banks. Administration of the Institute would be in the hands of a general manager through a joint venture of the IMF and the World Bank. Voting power in the agency would be according to each government's financial contribution.

The value of the loans bought by the Institute from the banks would be at a substantial discount, to be determined by the Institute's directors and not necessarily equal to the current secondary market valuation of the debt.

After arranging to buy a country's debt, the Institute would negotiate an agreement providing relief either through lower interest rates or reduced principal. In order to guarantee a positive cash flow for the Institute, each participating LDC would be required to pay—for at least 2 years—more than the interest payments made by the Institute on the debt it holds. An important feature of the plan is that all debt acquired by the institute would be subordinate to any subsequent obligations incurred by the debtor nations.

In exchange for the debt relief provided by the Institute, LDC's would have to accept limitations on new borrowing, fiscal and monetary reforms promoting economic growth, and minimum percentages of export revenues to be dedicated to servicing their external debt.

Since participating banks will incur a significant loss as a result of the discount on their existing LDC loans, it should be clear that the Robinson plan is not a "bail-out" of private financial institutions. The proposal does not let either the borrower or the lender off the hook. Instead, it brings everyone together—debtors, creditors, and industrialized countries—in an effort to deal with this vexing problem in a comprehensive manner.

Mr. Robinson has met with a number of Japanese and European officials who have expressed a willingness to discuss their participation in this enterprise. Their interest in participating in the Institute appears to contradict the administration's contention that such a multilateral agency would have little support in these creditor nations.

I hope and believe that the Robinson proposal will initiate a new round of debate and discussion on appropriate ways to deal with the debt problem. We continue to "muddle through" at a very high risk.

The full text of Mr. Robinson's speech follows:

A COMPREHENSIVE AGENDA FOR LDC DEBT AND WORLD TRADE GROWTH

(By James D. Robinson III)

While we in the United States have enjoyed the longest sustained period of peacetime economic growth in our history, there is widespread agreement that the world economy today suffers from chronic structural imbalances—imbalances which have grown dramatically over the past several years.

The U.S. twin deficits;

The trade surpluses of Germany, Japan, and the newly industrialized countries of Asia;

The consumption bias of the U.S. versus the savings bias of its trading partners.

Another imbalance is the debt burden of less developed countries, and the fragility of the world financial system related to these troubled loans in bank portfolios.

Economic growth and prosperity around the world have been hurt by these imbalances. The pain has ranged from less exports and fewer jobs in developed countries, to poverty and political instability elsewhere.

Reductions in the budget and trade deficits are top priorities in the U.S. political agenda and have been for several years. They are getting serious attention, actually progress has been slow—embarrassingly slow.

Easing the LDC debt burden has had a much lower national priority. Indeed, LDC debts seem to be a faraway problem for most Americans. Some think of them solely as an issue for the big banks or as some foreign problem that will one day correct itself.

The blunt reality is that LDC debt has taken a heavy toll on the world economy. For many less developed countries, it has choked off growth and development. The opportunity cost for the developing countries is beyond measure in economic, political, and human terms.

For the developed countries, LDC debts are a silent burden, constricting trade and economic activity. At any time, the LDC debt problem could deteriorate into a financial crisis, triggering world-wide recession

Now, I am not predicting an imminent financial or economic crisis. But I am saying these imbalances, despite many good efforts, have proven highly resistant to self-correcting market remedies to date. Our best antidotes have been case-by-case reschedulings, IMF austerity programs, and the Baker plan.

The current strategy of case-by-case negotiations among the banks, the central banks, the LDC's and the IMF has so far held a crisis at bay. It's been a good strategy for its time, and must continue to be a major part of any future strategy. But it has not brought with it adequate resources to support sustained growth in LDC economies and the consequent gain in living standards.

The case-by-case approach has bought time and set the stage for a solution. But many believe it has not helped the LDC debt problem get much better. As the World Bank said in its report on LDC debt in January, the participants in LDC negotiations are suffering from "debt fatigue."

I believe the time has come to develop new approaches—approaches that are comprehensive—and that's what I want to talk about tonight.

My objective is to shift the dialogue and the focus to the comprehensive level—a level that acknowledges the interrelationship between trade and debt, growth and national security, prosperity and peace.

What I am suggesting is a new approach that seeks to share the burdens, risks and benefits of LDC debt restructuring. The approach that my associates and I at American Express and Shearson Lehman Hutton have developed centers on the creation of a new entity—an entity that will serve as an international reorganization facility.

We've called the facility "The Institute of International Debt and Development." Its purpose is two-fold: First, to provide the IMF and World Bank with new options, powers, and incentives in negotiating programs for LDC economic growth and reform. Second, to act as a reorganization entity for LDC debts, by acquiring outstanding sovereign bank debt, at a discount, country-by-country, in exchange for new, long-term high-quality obligations.

Tonight, I offer this presentation as an example of the type of comprehensive solution we believe is necessary. I hope it can serve as a catalyst to start an active dialogue.

Before describing the proposal, however, permit me to discuss why I believe the LDC debt problem calls for such an approach. Agreement on the need for action is in many ways just as important as agreement on specific solutions.

When the LDC debt crisis surfaced five-and-a-half years ago, the response adopted in Mexico, and subsequently elsewhere, was the classic solution to a liquidity crunch: Temporary rescheduling of loan repayments, belt-tightening by the debtor countries to free up funds for debt service, and new loans by the banks to tide the debtor countries over until improved conditions allowed normal debt servicing.

This ad hoc policy, labeled by some as "muddling through," was put into place with the original Mexican crisis. It has remained the predominant approach to the LDC debt crisis since 1982. Now, "muddling-through" is not meant as a perjorative. When faced with difficult choices, small-steps and crisis management may well be the right strategy. But, unless time in fact will solve or ease the problem, "muddling-through" may simply allow conditions to grow worse and the problem to get larger.

For several years, this case-by-case approach worked. The austerity programs many LDC's adopted under IMF prodding sharply cut their imports. A pick-up in world growth from 1983 to 1985 and large devaluations of LDC currencies helped their exports. As a result, many debtor countries were able to run large enough trade surpluses to generate funds for debt servicing. Finally, the secular fall of interest rates helped by reducing financing costs.

But has progress been an illusion? The LDC debt burdens that sparked the crisis have not gone away. Certainly major confrontations have been avoided, so the case-by-case approach has not failed; but have the results been adequate?

In almost all cases, LDC debts are higher today than they were in 1982:

Mexico, for example, had total debt at that time of $88 billion; in 1987, it was $104 billion.

For Brazil, total debt expanded from $84 billion to $105 billion in 1987.

For eight major Latin American debtors, total debt grew by more than $65 billion over this period.

Of course, growth in debt by itself may not be a sign of trouble, if economic growth or the ability to service the debt increase more rapidly. Generally, this has not happened. Debts of LDC's have risen faster than either their economies or their exports. Debt to GNP ratios have worsened for problem LDC's from 43% in 1982 to 49% in 1986. Ratios of debt to exports—an important measure of the ability to generate income to service debt—have gone up.

As LDC debts have grown, so have their burdens.

On the LDC's, both economically and politically;

On world trade in general;

On U.S. exports in particular; and

On the world's financial system.

Many LDC's have experienced several years of austerity. Real per capita income declined over the 1981-1987 period for all major debtor LDC's, except Brazil. Inflation rates have been high, poverty has worsened. The economic and social costs of trying to generate export earnings principally to meet debt payments have grown. These are the ingredients of political instability.

World trade has also been distorted. Since 1981, U.S. exports to LDC's have fallen. For example, U.S. exports to Latin America alone were $11 billion lower in 1987 than in 1981.

U.S. exporters have suffered and American workers have lost jobs. If the U.S. could regain just the $11 billion in lost exports to Latin America, up to 200,000 jobs could be recovered. If it could regain the $150 billion in total lost exports recently estimated by the overseas development council, 1.7 million U.S. jobs could be created. Clearly, the benefits of a comprehensive solution can be significant.

Finally, LDC debts have been a burden on the world financial system.

Questions about the value of LDC loans have hurt the credibility of bank income statements and balance sheets.

Stock prices of money center banks are below book value, limiting their access to much needed new equity capital.

So, despite many positive contributions from the case by case approach, the risk of a debt crisis still hovers over the financial markets. Can "muddling-through" continue to keep it at bay, awaiting a better tomorrow? What happens when interest rates go up, which they will one day? What happens when U.S. imports start to fall because of our high trade deficit?

What will happen? No one knows. Debt repudiation, a term no one utters, except behind closed doors, has always been a risk. As debt service burdens remain heavy and prospects for new loans and growth stay limited, debtor countries are left with difficult options. Any uptick in interest rates on the larger debt bases will seriously increase the pressure.

Prolonged nonaccrual, much less debt repudiation, would of course be dangerous to banks in the U.S. and elsewhere. In some cases, LDC loans are more than the bank's total capital. The U.S. Government, which insures deposits, or the taxpayers may be forced to act as lender of last resort.

Debt repudiation is obviously a serious matter for debtor countries as well. It would mean the loss of new trade credit; it would impair access to capital markets for many years; capital flight would surely accelerate.

Debt repudiation by one or more major LDC's remains highly unlikely. But, debt repayment moratoriums or suspensions, ceilings on repayment, and other unilateral actions by debtors are possible if conditions deteriorate.

Brazil last year unilaterally suspended its interest payments on certain commercial bank loans. Clearly, it's good news to learn Brazil will soon complete negotiations with the IMF and the banks on a new package of economic reforms, renewed debt service, and new loans. We also hope that the recent IMF/Argentina negotiations on economic reforms have a similar outcome.

Case by case agreement by LDC's on their debt service responsibilities is absolutely necessary to any long-term solutions. But the economic cost of servicing all their existing debts, without sufficient capital for much needed growth, continues to be a "Catch 22."

In the face of this reality, banks, both in the United States and elsewhere, have been increasing reserves and writing off or selling LDC loans, especially since May of 1987. Secondary market valuations for LDC loans, admittedly in a thin market, have moved in one direction—downward. Regional banks with less exposure have been able to write off or sell most or all of those debts.

That action places pressure on larger banks to do the same. Yet, the magnitude of losses that such banks would have to take makes similar acitons more difficult. Of course, if the Financial Accounting Standards Board goes ahead with its proposed requirement that U.S. banks mark down loans, including those to LDC's, to secondary market value, there would be little choice.

Now, loan write-offs or credit reserve increases are not really a blessing for the LDC's. A written-off loan remains a legal obligation of the LDC, and banks will try to collect whatever they can. New credits that LDC's desperately need are even less likely to occur under these conditions. Also as regional banks and others exit the business, the pool of banks ready to make international loans grows smaller and smaller.

The danger in the present situation is that the banks and the LDC's can fall into a war of attrition, grinding each other down in the effort to gain a negotiating advantage. At some point, that struggle could then into a mutual suicide pact, crippling both banks and LDC's.

The bright side is that the banks' increase of reserves and the LDC's recommitment to debt service have provided flexibility for new approaches. New initiatives have been launched to promote private investment in the LDC's, such as the Multilateral Investment Guarantee Authority, "MIGA". Also approval of the enhanced structural adjustment facility within the IMF offers much needed help to the poorest debtor countries, especially in Africa.

Are we at a turning point? Does success with Brazil or Argentina and other initiatives in fact give us a new window of opportunity? Is there, or should there be, an alternative to "muddling-through" . . . A new, more comprehensive approach that supplements and goes beyond the capacity of efforts to date? I think there is. Indeed, there must be.

The Baker plan with its shift in emphasis from austerity to growth, was a good intitial step. It's an important approach, which has proved its worth over the past few years—and still provides a valuable framework. Debt/equity swaps, and other initiatives, have expanded the menu of options. All of these represent important contributing pieces. What the Baker plan has lacked, however, are:

Mechanisms to encourage adequate new lending and investment:

Adequate incentives for LDC's to adopt market-oriented policies; and

The means to assist these countries during a difficult adjustment period when both debt service and growth have to be accommodated.

Where is the light at the end of the tunnel, where banks and capital markets voluntarily extend new credit to LDC's on commercial terms?

More recently, the Morgan/Mexican plan has attracted attention as a way for Mexico to reduce sovereign bank debt. We all hope the tended is successful. Yet even this plan will have only a limited impact for Mexico, and its applicability elsewhere is confined to LDC's with access to sufficient foreign-exchange reserves. Nevertheless, initiatives like this should all be welcomed for whatever individual or collective contribution they can make.

But we still need, in my view, a more comprehensive approach to deal with the major imbalances and present realities.

A market-oriented approach that allows present initiatives to continue, yet establishes an additional framework of broader potential and promise?

A mechanism that allows the creditor and debtor countries, together with financial institutions and central banks to come together on a country-by-country basis in a program that involves significant contributions by each party, in expectation of major benefits for all?

The Institute of International Debt and Development, or I2D2 as we call it for convenience, is such a program. I offer I2D2 tonight as an example—a starting point—as a challenge to others to improve it or to put forth sounder comprehensive solutions. My purpose in describing the proposal is also to highlight the issues that need to be addressed and how in a comprehensive approach they can be knitted together.

I would now like to summarize the features of I2D2. Please bear with me through some detail. We do have a booklet available for you that covers the program in great depth.

Our proposal calls for:

1. The creation of I2D2 as a joint venture of the IMF and World Bank. By drawing substantially from their staffs and capabilities, the need to build a new bureaucracy is avoided.

2. In terms of organization, the I2D2 Board of Directors would include representatives of the sponsoring governments, the IMF, the World Bank, the participating debtor countries, the creditor financial institutions and central banks. The managing director would come from the IMF or World Bank or be hired by them.

3. Major developed country governments—called the sponsoring governments—are asked to provide the initial capital of I2D2, either directly, by call or through arrangements made with the IMF or World Bank. On-going supplemental contingent support would also be provided.

4. I2D2 will seek to negotiate agreements on a case by case basis. Debtor governments that elect to participate would agree to implement economic and financial policies that lead to noninflationary growth, open markets and build creditworthiness.

5. I2D2 would also negotiate with creditor banks to purchase their LDC loans at a discount in exchange for high-quality obligations issued by I2D2. These obligations would be in the form of floating rate consols (perpeptual bonds) and participating preferred stock. Because of the contingent commitments from the sponsoring country governments, the rating on the debt would be among the highest given.

6. Because I2D2 buys LDC debt from the banks at a sizeable discount from face value, its own debt servicing needs would be considerably less than present debt service requirements. Because of this, I2D2 will be able to provide meaningful debt concessions to the LDC's during the adjustment period.

7. A key feature of I2D2—a powerful feature—is that, once it buys the LDC debt from the banks, it subordinates that debt to all new debt issued. That means that new loans would have a prior claim on resources over debt purchased by I2D2. The subordination step is a key factor in opening up new sources of credit for the country.

8. Debt subordination and the concessionary terms negotiated with any participating

country are major tools that are presently unavailable to the IMF or World Bank. I2D2's powers to grant debt relief and debt subordination are very attractive incentives for LDC's to "stay the course" on the reforms needed to restore economic health and creditworthiness. Subordination and concessions can be suspended if a country does not meet I2D2 covenants on structural adjustments, or whatever the agreement in force provides, such as limits on the amount of new senior borrowing.

9. In short, the scope of incentives and the mechanisms for discipline are well beyond anything presently available. The increased credibility of the LDC's economic reforms generated by the use of those two features should not only open LDC access to credit markets, but also represent a "safe harbor" attraction for direct foreign investment and increased foreign aid.

Now, what's the size of the program I'm talking about? Sovereign bank debt of the seventeen rescheduling countries covered by the Baker plan is about $250 billion. Suppose for the moment that I2D2 negotiated over a period of time to buy all $250 billion.

If I2D2 ultimately acquired all of that debt at, say, an average of 60 percent of face, only $150 billion of I2D2 securities would be needed in the exchange. We've arbitrarily split the securities into $125 billion of consols and $25 billion of participating preferred stock. This would be supported by $12.5 billion in equity capital raised from the sponsoring governments. The equity capital would serve as a reserve. It may be paid in or callable.

While I have referred to $250 billion as the size and scope of the proposal, that is simply a framework—in fact, it could turn out to be much smaller. I2D2 would be implemented voluntarily, so some countries may choose not to participate; or they might not reach mutually acceptable terms; or I2D2 might decide a particular country was ineligible; for instance, because its actions were those of a "rogue" debtor. In addition, the amount of capital the developed countries are prepared to commit may not allow I2D2's ultimate size to be that large.

The concept is what I want to establish—the actual size will depend on a number of considerations. The program is modular, although part of its flexibility and strength comes from a pooling of cash flows from a number of participating LDC countries who pay their negotiated debt requirements to I2D2.

While negotiating with a particular LDC on market-oriented reforms, I2D2 would seek bank consensus on an exchange package for that country. The discounted price that I2D2 would pay the banks will take into account several factors, including estimates of the debtor's ability to pay interest, concessions determined appropriate, and the value of the loans in the secondary market.

Please note that to make subordination feasible, free riders can't be allowed; therefore, all sovereign bank debt owed by a contracting debtor country must be acquired by I2D2. To encourage bank participation in full, an acquisition premium over the secondary market would be appropriate. Also, bank regulators would be directed to allow the discount from the debt's face value to be treated as a reserve in a bank's capital base and/or amortized over several years. Banks that choose not to participate would be offered lower yielding exit bonds, or would be required by the regulators to mark down the loans to market value without the benefit of the special reserve treatment or the longer amortization period.

We have included more detail and a veriety of additional considerations in the booklet I imentioned earlier.

As you can tell, in our effort to offer a more constructive solution to the LDC debt problem, we did not reinvent the wheel. Some very bright people around the world have been thinking about this question. Government officials, members of Congress, experts in the IMF and Word Bank, economists, academics and members of the banking community—too many to mention by name—have devoted time an energy to developing proposals for dealing with LDC debts. We have benefited from their ideas, as we have from discussions with a number of government and business leaders in several countries.

What's unique about our plan?

First, it addresses new money needs and it establishes ongoing discipline. The subordination feature opens the doors for new money sources. The plan also creates ongoing discipline by making subordination, as well as concessions, contingent on achieving the structural, market-oriented reforms agreed to by the participating LDC's.

Two weeks ago, in a speech at the Bretton Woods committee meeting, Secretary of State John Whitehead said that an issue "which merits creative thinking in the period ahead is how to encourage developing countries to adopt better economic policies that promote growth." I2D2 not only does that, it also encourages countries to stick to those policies.

Second, a major objective of a comprehensive approach is to get the United States and other G-7 governments more directly involved. World trade growth depends on it; more market-opening trade policies can flow from it.

Third, it provides the IMF and the World Bank with an international reorganization facility that is presently lacking—one that can offer meaningful incentives. Such a facility can negotiate and excecute comprehensive solutions on a case-by-case basis. The private banking community cannot do that. Someone must.

Fourth, it strengthens the world banking system. I2D2 does that, country-by-country, as agreement is reached and I2D2's high-grade securities are exchanged for lower quality debt presenty in bank portfolios. This reduces the uncertainty plaguing bank income statements, balance sheets and stock prices.

Fifth, since the banks take a sizeable loss, it is not a bank ballout.

That's enough on the details of I2D2. I hope you believe as I do that it is time to develop comprehensive concepts. As to I2D2, I'm sure you have questions. Let me try to answer some in advance.

First, "Why would the governments put in any money and take an ongoing contingent risk?" The answer, in my view, is that it's in their best interest to do so.

Timely involvement by the G-7 governments can not only lead to greater growth in world trade and economic prosperity but also strengthen the world's banking system and reduce the risk of a possible and more costly rescue effort in the future. Remember, an ounce of prevention is worth a pound of cure.

For those who believe the "muddling through" approach and time is all that is needed, I ask, what happens if you are wrong?

Why not develop comprehensive programs and have them ready? Test them for effectiveness now; roll them out as conditions permit, have them available, if not in place, before problems get out of hand.

Another question might be, which governments will play?

Based on my personal discussions with a number of Japanese Government and business leaders, I'm convinced the Japanese are clearly looking for approches to recycle funds in a major way and to take a more substantial role in world financial affairs. I think there is a chance they would be a major participant. It's possible, in fact, they would consider taking * * *.

A significant share of the equity. What's needed is for the United States to endorse the concept of a comprehensive approach—one that seeks a partnership with the Japanese and other key countries.

In fact, I believe that LDC debt and trade should be a centerpiece for the next G-7 summit.

We think the Institute of International Debt and Development is a workable and comprehensive solution to the LDC debt problem. It is widely applicable, yet can be implemented country-by-country—when needed.

There are certainly other comprehensive approaches. For instance, the debtor governments themselves could offer to exchange consols directly with banks under an I2D2 framework. Under such a plan banks would be asked to pay sizable insurance premiums to I2D2 which when combined with some callable equity from the sponsoring governments, and, as some have suggested, perhaps further supported by private reinsurance, would serve to guarantee the interest flow. Perhaps that route would be more readily acceptable, and less costly, than the I2D2 proposition I've just outlined.

Again, my point tonight is to shift the dialogue to a comprehensive level. In the weeks and months ahead, I hope there will be active participation in that dialogue by governments, international institutions, the financial and business community, academia and knowledgeable media.

Certainly, there are many ideas in this room and elsewhere. Let's put up an "open for business" sign and seek them out.

In conclusion, it's time to support the general capital increase of the World Bank. It's time to expand our support of the Uruguay round of the GATT negotiations. And it's time to take the next step in the Baker initiative by finding workable, comprehensive approaches. All of us have a vested and collective interest in doing so.

Yes, it is time to expand our vision to the interrelationship between trade and debt, growth and national security, prosperity and peace.

Remember, George Marshall was right: without economic prosperity there can be no lasting world peace. Thank you.

COAST GUARD BICENTENNIAL MEDAL ACT COSPONSOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it is my great privilege and honor to add our distinguished colleague from Florida, the chairman of the Subcommittee on Coast Guard and Navigation, Mr. HUTTO, as the first cosponsor on H.R. 3919, a bill I introduced to authorize the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard in 1990. These medals will join with bicentennial medals authorized in 1975 in commemoration of the bicentennials of the U.S. Army, Navy, and Marine Corps.

The members of the Coast Guard and its predecessor services have a long and distin-

guished record of service to the United States, and particularly to mariners.

The Coast Guard is worthy of commemoration as part of our bicentennial celebrations.

Under the rules of the Consumer Affairs Subcommittee, medal bills cannot be considered until they have at least 218 cosponsors. I urge all Members of this House to join with the chairman of the Subcommittee on Coast Guard and Navigation and myself in cosponsoring this legislation by calling the Consumer Affairs Subcommittee at extension 6-3280.

Mr. HUTTO. Mr. Speaker, I am pleased to join with the distinguished gentleman from Illinois, Mr. Annunzio, in cosponsoring H.R. 3919 to provide for a commemorative medal in honor of the bicentennial of the U.S. Coast Guard, which will celebrate its 200th birthday on August 4, 1990.

The Coast Guard is the oldest continuous sea-going service of the United States, and Coast Guard personnel have fought alongside the Navy in every war since the United States conflict with France in 1799.

All Americans benefit from the services of the men and women of the Coast Guard, whether it be directly as the result of search and rescue missions or indirectly through enhanced port security, the cleanup of oil spills, the safe transport of consumer goods made possible by the Coast Guard's system of aids to navigation, or the interdiction of illegal drugs plaguing our Nation.

The many missions of the Coast Guard are critical to the health and safety, as well as the national security, of our Nation. As the fifth branch of our Nation's Armed Forces, the Coast Guard is a 24-hour-per-day, 7-day-per-week service whose personnel put in 96 hour work weeks, without overtime pay, if that's what it takes to get the job done. Despite ever-increasing missions and cuts in their funding, the dedicated men and women of the Coast Guard continue to live up to their motto—Semper Paratus—Always Ready.

In addition to the commemorative medal proposed by the gentleman from Illinois, the members of the House Merchant Marine and Fisheries Committee have recommended to the Citizens' Stamp Advisory Committee that a commemorative stamp be issued in 1990 in recognition of the bicentennial of the Coast Guard. We have also introduced a resolution, House Joint Resolution 456, directing the Postmaster General to issue a Coast Guard commemorative stamp, and I invite all Members of the House to join in cosponsoring that resolution honoring the Coast Guard, also.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. SHUMWAY] is recognized for 60 minutes.

[Mr. SHUMWAY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

ORDER OF BUSINESS

Mr. DORNAN of California. Mr. Speaker, I have information that the gentleman from California [Mr. SHUMWAY] has laryngitis. He is going to do his special order tomorrow and I am going to do a little piece of it tonight in mine.

I ask unanimous consent that this may be the order of business.

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

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

[Mr. GAYDOS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

ORDER OF BUSINESS

Mr. DORNAN of California. Mr. Speaker, the gentleman from Indiana [Mr. BURTON] has a special order following mine.

Mr. Speaker, I ask unanimous consent that we reverse our order and he be allowed to go ahead of me. The gentleman has some pressing business this evening.

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

There was no objection.

REPORT ON PANAMANIAN INVESTIGATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. DORNAN] for being so kind by letting me go first.

Mr. Speaker, I just returned from Panama. While I was down there I had some interesting information conveyed to me by a number of people who reside in Panama, including members of our Government who are stationed down there in the military and in our embassy. The information that I learned was that Mr. Blandon who has been testifying before a committee in the other body has a Marxist background.

Many people with whom I talked said flat out that he is a Communist.

Mr. Blandon has made some very interesting revelations during his testimony before the committee in the other body regarding the military strongman, the head of the Narco military complex down in Panama, General Noriega.

He has also made some allegations regarding the Vice President of the United States who is now running for President, Mr. BUSH.

Because Mr. Noriega is perceived to be everything that he has been depicted to be by Mr. Blandon and others who have been involved in the indictment of Noriega by our Government in Miami, our U.S. Attorney in Miami with the assistance of the Drug Enforcement Agency, it has given Mr. Blandon a great deal of credibility.

Now, I do not take issue with what Mr. Blandon has said regarding General Noriega, because I think his statement and the indictment together speak for themselves, but what I do question are the comments and allegations that he has made regarding the Vice President of the United States, i.e., that the Vice President called General Noriega the night before we invaded Granada. General Noriega contacted Mr. Blandon. Mr. Blandon contacted Fidel Castro at 2 in the morning and Castro then called General Noriega back around 4 a.m.

The Vice President has vehemently denied this took place, but Mr. Blandon has received a great deal of credibility in the media because of his denunciation of General Noriega and the revelations about General Noriega; so the credibility he has gained while attacking General Noriega I think gives him a modicum of credibility in other areas, i.e., the allegations against the Vice President of the United States.

Now, I have a great deal of concern about that. We are in an election year. The Vice President of the United States is running for President. He appears to be the frontrunner right now and very well may be our nominee. The allegations that Mr. Blandon has made may very well come up in the Presidential campaign this fall if Mr. BUSH is our nominee for President.

For that reason and not because I have any real concern about his testimony regarding General Noriega, I believe that the other body and this body collectively should request that Mr. Blandon be given a polygraph. The testimony that he has given according to sources with whom I have talked is not essential to the case against General Noriega that is pending in Miami, FL, right now. That case I understand has enough corroboration from other witnesses to pretty much have an airtight case against General Noriega. At least that is what I have been told. So Blandon's testimony is not absolutely essential to that case; but even if it were, I think it is absolutely essential since he has made these statements about the Vice President that he be given a polygraph.

So I say to my colleagues in this body, Mr. Speaker, and all who are concerned, let us get Mr. Blandon polygraphed so we will eliminate any doubt once and for all whether or not he is telling the truth. I think it is absolutely essential not just because of General Noriega, but because of the Vice President of the United States, but I do not have much doubt about Noriega.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

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

Mr. DORNAN of California. Mr. Speaker, the gentleman and I have made different selections of two honorable men in this Presidential season. One of them, the gentleman's candidate, is a good friend of both of us and is an outstanding leading in this

Chamber, was our number three in the Republican leadership until he resigned for the Presidential race, JACK KEMP of California, by birth of New York, by the gridiron and by his great congressional service now in his 18th year.

I would wholeheartedly support our colleague, JACK KEMP, to be the President of the United States and an exciting President. I wish him well in the coming primaries.

But my man, the Vice President of the United States, has been about as loyal a Vice President as this country has ever seen just in this century ever. The gentleman would also support the nominee of our party if it is the distinguished and honorable GEORGE BUSH, correct?

Mr. BURTON of Indiana. Obviously, I would.

Mr. DORNAN of California. So what the gentleman is saying is that with all these rumors and everything floating around, generating out of Panama, which said rumors are now being stated as fact on the Columbia Broadcasting System, they are stating, I have heard it come from the mouth of Ghunga Din Dan Rather that Ollie North is a bosom buddy of this drug-running thug, Noriega, all sorts of innuendoes of ties to the Vice President.

□ 2030

I want some of this Blandon testimony and I agree with my colleague, if this man is not a liar then he will not be afraid to be polygraphed. I would like to give him truth serum on top of it, because the networks tend to hang any type of a case on just the testimony of one person, no matter how flawed his background, and they do not do an investigation on him or follow him around as they did one of the former Senators, Mr. Hart.

I just think the gentleman from Indiana [Mr. BURTON] is absolutely correct. People are telling me that probably my candidate is going to win, maybe even on Super Tuesday he will get enough delegates to put him over the top, or be within reach of it, and then they turn around, these liberals, and say, "but we have got him and this administration in the Iran/Contra issue and look what is coming out of Panama."

I had my staff go back and get all of my speeches, but unfortunately we cannot get those from the Subcommittee on the Panama Canal on which I have served in my first 4 years, 1977, 1978, 1979, and 1980, but in my very first congressional delegation, a fact-finding trip like one that the gentleman from Indiana [Mr. BURTON] has just returned from in Panama, I went down there in February 1977.

We found out then that Torrijos was not very bright, and the man who was then Governor Reagan had called him a tin-pot dictator, and that he was run by Noriega, that he organized the demonstrations on our Canal Zone property at that time that we had in perpetuity, and that this guy was about as big a low-life that we had in Central or South America. This has been my understanding as we discussed it for 4 years as we gave away the canal, and as we have still discussed that whole situation, and GEORGE BUSH had said, no way, Jose, Joe, or anybody else that will listen, has he had anything to do with this drug-running thug, and of course until we hear from Lt. Col. Oliver North we do not know.

But I think the gentleman from Indiana [Mr. BURTON] is absolutely correct, let us nail this guy down.

I would inquire of my colleague, if he went down to Southern Command?

Mr. BURTON of Indiana. Yes; I spent quite a bit of time with the commander.

Mr. DORNAN of California. And you stood in front of the deposed President's house?

Mr. BURTON of Indiana. Yes; the Ambassador and I tried to go in to see President Delvalle but they would not let us in.

Mr. DORNAN of California. And the gentleman became aware of the Noriega secret police, the Dobermans, as in attack dogs, the Dobermans running around?

Mr. BURTON of Indiana. Yes.

Mr. DORNAN of California. Did our excellent Ambassador, Ambassador Arthur Davis, an excellent man, a master sergeant in the Weather Office in World War II, an NCO up in Alaska? He showed me pictures of our Embassy, and I saw it with my own eyes, covered with red paint thrown by Noriega's Dobermans. Then Manuel Noriega's thugs broke the windshields and windows of every single U.S. car in Panama City that had Government plates on it.

This is back in the summer when I went down there with the gentleman from California [Mr. HUNTER], and the gentleman from California [Mr. DREIER]. So we have a strange situation here where the media without proof is suddenly trying to wrap this thug around the necks of those of us who were totally opposed to giving away the canal precisely because of the instability of drug running in Panama even then in 1977. They had all these apartment buildings that were called see-throughs. There were no occupants. They were big business buildings and apartment buildings, and they had all gone backrupt.

The Midland Marine Bank was financing all sorts of loans, and I forget the name of the guy that was on President Carter's team to give away the canal, and in a closed committee hearing, I said, "How come your bank, Marine Midland, that your board of directors is on, Ambassador Linowitz, how come you are on the board of directors there? You have got all these loans down there. Of course you want to see Panama try to get money out of the canal."

He said, "Funny you should ask that, Congressman," and this was in closed session, but it can be released 11 years later, "I have decided today to resign from the board of directors of Marine Midland Bank."

I wonder if he would have resigned if I had not asked the question?

So all that nightmare we are reliving except for JESSE HELMS, who was so out-front pounding on the late Torrijos and the thug Noriega about the canal. Only JESSE HELMS seems to get an excuse slip from the liberals who are revisionist historians, and I want CBS to prove to me that Colonel North or particularly the Vice President of the United States or the Central Intelligence Agency had any dealings with this guy Manuel Noriega.

Mr. BURTON of Indiana. Mr. Speaker, if I may reclaim my time, I think the gentleman from California [Mr. DORNAN] makes some salient points, and that is why I think it is absolutely imperative, if we are going to get at the truth, that we have Mr. Blandon polygraphed, and I will urge my colleagues here and in the other body to do just that.

I would like to say that after my visit to Panama, in reflecting upon it, we really have some fine people down there. I think our Ambassador, Ambassador Davis, and his staff are very hard working and are accomplishing this work under very trying circumstances and are doing an outstanding job. And I want to include in that General Woerner, the head of Southcom down there.

Mr. DORNAN of California. Terrific people.

Mr. BURTON of Indiana. They are doing a great job. I have great confidence that whatever happens in the immediate or foreseeable future that they will be able to deal with it.

I would just like to make a couple of brief comments about the Panama Canal because some of our colleagues in the other body and I think some in our body as well are advocating immediate sanctions or immediate embargoes against the government down there and against the people of Panama because they want to stop what is going on, and I agree. We want to get Mr. Noriega out because narcomilitary organizations like his should be stopped, particularly since they are sending drugs in to kill and maim the children of the United States and other parts of the world. But the people down there do not particularly care for General Noriega. The people down there generally like Americans.

I was very surprised to find out that there are very favorable attitudes toward this country down there.

Their currency is the U.S. dollar. They do not have a currency of their own, they use the U.S. dollar, so they are closely tied to us. If we in a knee-jerk fashion impose an economic embargo or sanctions against Panama I think it could create an anti-American

sentiment among the people, not among the Government but among the people, that could have long-term effects that we do not really want to see.

I think pressure applied to the Government itself is already underway. We cut off economic and military aid to that Government I think back in June. They are in trouble with their loans, the country's loans to banks, and I think Panama is going to have difficulty even paying interest on their loans to the World Bank and to IMF. Some of their banks in Panama are in deep trouble. They tell me the Government revenues are down to such a degree they may have to lay off as many as 20,000 employees in the Government within a month.

If we just take a deep breath and hold on for a little bit I think Mr. Noriega may face all kinds of problems of his own making and because of previous pressures that are still ongoing that are being exerted on him he may find it in his own interest to leave Panama as quickly as possible.

Conversely, he controls all of the television, the radios, the newspapers, and the only thing one sees in the newspapers down there now are stories to the effect that the Gringos, the United States of America, is trying to undermine Panama's economy so that they can forcibly take back the Panama Canal and abrogate the treaty we have with Panama, and that we are going to put economic hardship on the vast majority of the people down there in so doing.

If we go ahead and impose these sanctions unilaterally or impose an embargo unilaterally, Noriega will say, "I told you so." I think it will give him more of a solid position than he has had in the past and it might keep him in power longer than he otherwise would be able to stay.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

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

Mr. DORNAN of California. I would like to inquire, your mind was not made up on that point when you went down there?

Mr. BURTON of Indiana. I say to the gentleman from California, no it was not at all.

Mr. DORNAN of California. If the gentleman will continue to yield, I defer to your judgment. That is interesting. I would have been inclined like some Members in the Senate were saying, to sock it to them but sometimes a little fine-tuning to help the people is very important.

Mr. BURTON of Indiana. If I might reclaim my time, let me say I think it may be something we might have to do later on. We may have to do a lot of things. I do not think military intervention is necessary now or in the foreseeable future. I do not think we should impose sanctions unilaterally by ourselves now, but we may have to later on.

The interests of the United States and the free world and this part of the world are very closely tied to the Panama Canal and the Isthmus of Panama. I think we should take a long hard look at what we are going to do and see what ramifications that has not only for the people of Panama and the Government of Panama but what it might portend for the people of the United States as well.

We have a lot of American business down there, a lot of American investment, a lot of American citizens, 10,000 military troops, and I have been told as much as two-thirds of U.S. commerce is affected directly or indirectly by what happens in the Canal Zone. So if we impose economic sanctions unilaterally or impose an embargo unilaterally which leads to an escalation of the problem and maybe a military conflict, we could see the ships going through that canal slowed down or maybe even stopped and that would have a real bad impact on the United States and every State in this Union.

We have to think of the long-term ramifications of our actions before we jump into any situation down there.

I am not saying it may not have to be done at some time, but we should not do it in a knee-jerk fashion. We should take a little time and decide when it is the right time and when it is the right course of action for us.

A lot of our Latin American neighbors feel the same way. They think that democracy should flourish in Panama like it is in other countries down there. They have come out in favor publicly of President Delvalle and I think if we do it in concert with them, even if they do not impose sanctions, but if we make a move in concert with our friends in Latin America I think it will have more of a positive impact. If that does not work we may have to do something else.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield to me?

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

Mr. DORNAN of California. All of our Latin American neighbors, and a lot of our European friends use the Panama Canal. They are well aware that since President Woodrow Wilson pressed an electric button in the Oval Office at the White House in 1914, that until now in all that time when we were the builders, the financers, and the caretakers of the canal, that we have only raised the tolls three times. That is remarkable given the inflation that has gone on in this world since 1914. Since Teddy Roosevelt launched that project and since in his second year Woodrow Wilson got the honor of opening the first canal gate with an electric system that went from Washington, DC, all the way to the Canal Zone, these people are well aware of how well we have managed that canal. They are very worried about an unstable government taking over, and finding itself in a bankrupt situation such as with every Socialist and Communist country in the world, and then having Panama say, well, what is our largest asset? What is our treasure?

The same argument was used by the Speaker on this floor when he was majority leader when we had all the doors sealed, because we had had a lot of secret information on just what a thug Noriega was, and then JIM WRIGHT got up and made this compelling speech and got a standing ovation, and it all went down the tube. They opened the doors, we went into public debate, and many people were unable to know what was divulged in the first sealed Chamber briefing in this Chamber in over a century and a half. But it prevailed in this House to give away the taxpayers' property down there and all our holdings as of 1999 and now all these countries are doing the same to us on Central America, the Arias peace plan, Yoko Ono singing about giving peace a chance, and they are doing the same to us 11 years later that they did to me in Central America in 1977 and that is to say just do not give away that canal, Torrijos is unstable, not very bright, and he is run by this thug Noriega anyway.

Then they turn around and because of home domestic problems about poor Latin Americans and we have this big colossus to the north, they turn around and publicly say to give up the canal.

Now we are getting the same private testimony and public contradiction going on right now about Nicaragua and its Communist government.

Mr. BURTON of Indiana. Reclaiming my time, all these things we are starting to see are interlocked. One thing that concerns me is that we should probably have never given away the canal in the first place but after having said that we have signed a treaty that does give up control of the canal and gives up ownership of the canal so to speak by 1999. Some of my colleagues are saying that we should take it back immediately, and I think there are a lot of people in this Chamber, Mr. Speaker, and on the Hill and around the country that think that that would be a good idea.

I would like to just tell everybody a little bit about some of the problems that we will face if we try to go in and take that canal back immediately. I think the people across this country need to know this as well as our colleagues, Mr. Speaker, that is, that the canal is 52 miles long. At one end is located Colon, at the other end Panama City. On both sides of the canal all the way down there is jungle except for a few short spans of distances there. A lot of that canal has hills on both sides, not mountainous but very, very hilly, and they have an erosion prob-

lem. The mud and sludge that come off those hills, and the tides going in and out necessitates constant dredging. They have dredging equipment that dredges out that canal all the time keeping it open so that ships can pass through.

That is an ongoing problem. In addition to that there is a dam about a half-mile long in a clear-water area from which they get about 8 million gallons of water to take each ship through the canal. This is fresh water that goes through the locks, raises the ships up so they can go to the next lock, and empties out into the Atlantic or Pacific Ocean depending on which way the ship is going.

The problem is there are 104 miles of jungle, 52 miles on each side of the canal. In addition to that we have the dam that has to be protected.

□ 2045

Everybody in all parts of the world, the free world and the nonfree world is anxious to keep the canal open because we all have a vital stake in that and an interest in that.

But before we get involved in a military conflict, trying to force or to abrogate that treaty or take it back, we need to make absolutely sure we are handling it in the right way, if that is the course of action we decide to take, because defending that canal from one end to the other would necessitate I do not know how many troops and how much money. And even if you did that, you still might have some nut, some guerrilla, get up there and blow up part of the mountain with plastic explosives, or that dam, and you would not be able to get the ships through there, and that would have, as I said before, an adverse impact on our economy, the United States of America.

So we may have to think about renegotiating that treaty. We may have to think about a lot of things. We may ultimately think about economic sanctions or even military intervention, I do not know. These are things we are going to have to look at as time goes by.

I hope the problem kind of resolves itself as General Noriega sees what the consequences of his actions are, and I think ultimately he is going to feel that pressure. But we ought to look at all of this in both bodies before we jump into it, and I would urge as many of my colleagues, if possible, if they have the opportunity to go down there and educate themselves for 3 or 4 days on what the canal is all about, what the situation is so that when we do vote on something of that magnitude that will affect this country militarily, economically and every other way that we make the right decision. No knee-jerk reactions.

Mr. DORNAN of California. When you were briefed by the Southern Command, one of our 10 combatant commanders around the world that answers directly to the Secretary of Defense, who answers directly to the President, in any impending crisis or red alert the Secretaries of the military services are cut out of the picture and it is the Commander in Chief, the SECDEF and Southern Commander, and one is the Southern Command and he has the largest area of responsibility of all 10 commands with the smallest—he may be second to the Pacific, but the smallest number of men. Most of his men are assigned to him, but they are doing something somewhere else. General Warner, right?

Mr. BURTON of Indiana. The gentleman is correct.

Mr. DORNAN of California. His predecessor, John R. Galvin, he has gone from this smallest asset commander to our most important command traditionally, SACUR, Commander in Chief of all forces in Europe, and also the commander of all of the American Forces in Europe.

Has my colleague not noticed since General Galvin, a 4-star Army general has gone from the Canal Zone to Brussels, Belgium to NATO headquarters how we do not have any more of our NATO allies criticizing us about our policy in Central America, because one of the things that all of the military officers in NATO said was they could hardly wait to get their hands on a 4-star general who would be their Supreme Commander, Europe, to lecture their politicians. And he has been doing this for almost a year now about Central America. And General Warner was pointing that out to the four of us who went down there in July.

If I could just cross a couple of your t's, that Culebra Cut there which was the largest Earth-moving operation in history, and still is, we picked up where the French left off; that is, what they could not get accomplished in the 1890's and because of the disease also. In that cut, it is so narrow, you are right, the hills are so high on either side that if somebody wanted to bring in a ship, and all ships have free passage there, and have mines in the bottom of the ship, to detonate the ship, to jump the ship at night, or to not even let your own crew know. The communist world has sacrificed a lot of their own soldiers in many conflicts in the last 70 years, to just blow a ship externally on the internal Culebra Cut, and it would take months to get it out of there.

But the worst of all is what you said about the water, the Gatun Lake, one of the largest man-made fresh water lakes in the world which is fed by rainfall.

Mr. BURTON of Indiana. From the hills.

Mr. DORNAN of California. Right, and the rainfall in Panama is not all that regular. Sometimes that lake is down, dangerously down. Every time a ship goes through the canal it is flushed out both ends into the Atlantic and Pacific. I remember, 55,000 gallons of water? It cannot be 55 million, 55,000 gallons of water right out of that fresh lake.

Mr. BURTON of Indiana. No, it is much more than that.

Mr. DORNAN of California. Then it must be 55 million gallons.

Mr. BURTON of Indiana. I think that is probably right.

Mr. DORNAN of California. Just to replace the lost fresh water going up to Gatun Lake and Miraflores Lake and the other lock, three together on the Atlantic side and two and one broken up on the Pacific side, all that water goes out only to be returned by rain.

Imagine a commando operation. Although it is well guarded, as we saw, imagine blowing the Gatun Dam, and all of that water from the Gatun Lake going down to the bottom. How are we going to pump water into there? Is it going to sit until 10 years until the rain water goes back up that lake, or 2 years or 3 years? It is absolutely so easy to sabotage that Canal.

That is why in the Second World War when our troops and our fighter planes were needed everywhere we had squadrons of P-40's, whole naval task forces on either end guarding the German U-boats on one side and the Japanese submarines on the other to stop them from destroying this world treasure, and even to this day if there is a crisis in Europe, all of the Pacific Coast troops and assets, what is it, 60, 70, 75 percent has to transit the Panama Canal.

Mr. BURTON of Indiana. If the gentleman will yield back to me, that is a very salient point. That is why if we decide we have to do something down there, it should be done in a calculated, thorough manner so that we have enough personnel there to protect all aspects of it, which is going to be an awful lot of people because you are looking at 104 miles of shoreline in a jungle area. So when my colleagues on the other side, in the other body, and maybe even in this body start talking about precipitous action, after having been down there I start to shudder a little bit and say, hey, your approach may be wrong. Your goal is correct but let us think about where we are going and what the ultimate ramifications of our actions are going to be, because we are not talking about repossessing a car. We are talking about a major thing that has a tremendous impact.

Mr. DORNAN of California. It is fragile.

Mr. BURTON of Indiana. Let me just talk about something else. I know the gentleman was going to talk about and may yet, and that is the Panama Canal and how it is affected by the surrounding countries.

General Noriega, I understand from radio accounts, television accounts and newspaper accounts, has received support, verbal support and possibly a promise of military support from Fidel Castro of Cuba and Daniel Ortega of Nicaragua saying that they stand with him in his fight to remain in power and keep control of Panama. These

are 2 communist leaders who have a different agenda for the people of this Hemisphere, and they have now come out openly supporting this man who is supposed to be not dealing with them, and giving him offers of not only verbal support but I understand possibly military support if necessary to keep control of Panama.

My colleagues on the other side of the aisle, and some on our side of the aisle, I think there were 12, ought to think about that when we vote down the road, tomorrow and down the road on very critical issues like Contra aid, because they have shown their true colors. They have said in the past, Daniel Ortega, that he wants that Communist Government of Nicaragua to expand throughout Central America, all the way down to the Panama Canal and down into South American, and up into Mexico to endanger our soft underbelly, the southern flank of America, the Mexico-American border. Here for the first time that I can recall he is actually saying to another leader down there we are going to give you help if you need it.

That just shows very clearly to me that he intends to make good on his promise to export revolution, as he has been doing in El Salvador, Guatemala, Honduras, and even down into Panama. When you are talking about Guatemala, Honduras or Costa Rica and El Salvador, those are very important countries. But when you talk about Panama, you are talking about the jugular vein economically and possibly militarily of the United States of America. And for my colleagues on that side of the aisle and some on our side of the aisle who say, well, what are you worried about Nicaragua for, it is such a small little country, they have only 129,000 or 130,000 men in their army right now, there is a danger if they start trying to get control of the jugular vein of North and South America, the Panama Canal, and they have already expressed interest in it, and so has Castro.

The only 2 government leaders in our Hemisphere who have come out openly in favor of Noriega were 2 Communist leaders, Fidel Castro and Daniel Ortega. Now if that does not tell the people of this country and this body something, I do not know what it does. It lets them know what the agenda is, what the objectives are of the Communists in Central America, and their strings are being pulled by the Soviet Union and the Communist bloc controlled out of Moscow.

So my colleagues, we had better be concerned about helping those freedom fighters down there in Nicaragua, because they truly are not only fighting for their security and the freedom of their country, but our own as well. And it looks like they have been fighting all along to keep the Communists from getting control ultimately of the Panama Canal.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

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

Mr. DORNAN of California. You and I were going to participate in a special order by our colleagues, the gentleman from California, NORM SHUMWAY tonight, and now we have these rules around here that you and I occasionally flip on that we are not allowed to refer to anybody in the gallery, even though they pay all of the bills around here, we are not allowed to refer to the press, although in the British Parliament they always refer to the fourth estate behind them in the same general location, but let us put it this way. Talk about national technical means, Cuban Americans, hundreds of thousands on them in the Southern Florida area and throughout the country, and a lot of them in my area, in Los Angeles, Orange County area, they were looking forward to tracking, let us say, through the written record and otherwise this special order about human rights violations in Cuba.

Our colleague from California Mr. SHUMWAY, as I said earlier, has laryngitis, and hopefully he will be well tomorrow, and you and I will participate with him again probably to have maybe not a post-mortem but maybe it will be an analysis of the victorious vote for freedom. This seems to be our monthly Contra tyrant vote, the freedom fighter democratic resistance vote. Maybe it will be on the 3d of every month. My birthday is April 3, next month, and maybe we will do it in April, May, June, July, and we will just keep going like this. Anyway, February 3 and now we have one tomorrow, March 3. I would like to read the first part of Mr. SHUMWAY's "Dear Colleague" letter. To my people who follow the written record know what is coming up tomorrow.

Dear Colleague, as you know, the United Nations Human Rights Commission is expected to vote on a U.S. resolution which simply asks the Commission to investigate the continuing reports of serious human rights violations in Cuba.

There is no disagreement about Cuba's human rights record. It is one of the few countries in which a political prisoner," that is our first amendment generally, "can be sentenced to 20 years, survive the horrors of Boniato or Combinado del Este prison, and not be released two decades later," even when he has served his entire prison sentence.

Why is the vote expected to be so close again this year?

Remember one Member pointed out that India went against us, Mr. Gandhi, the former 747 pilot, the dashing figure who stood before us at that treasured spot up here where Winston Churchill stood and lectured us about Central America, and he put Vietnam out of his ken. He does not worry about that any more, but he votes, I guess, because he has Lenin Square in front of his presidential palace, and all of the Soviet joint commitments to make Mig's, even up to the Mig-29 fulcrum, and let us hope that India comes to its senses as the world's largest democracy in population. Why is it expected to be so close this year, Mr. SHUMWAY says continuing, because "Fidel Castro is an expert at terrorizing his own people. He is also an expert at terrorizing the democratic nations in this hemisphere. Last year Cuba warned that 'armed disturbances' would occur in countries which supported the United States resolution."

Imagine the arrogance of this guy. But then he is going to be watching his eighth United States President come into office in January while he has been there without having had an election.

"The international community has ignored the suffering of the Cuban people for nearly 3 decades," 30 years. "The time has come for those countries who believe in fundamental human rights and freedoms to take a stand on Cuba."

The gentleman from California [Mr. SHUMWAY] has excellent material here, fabulous statements of our great Ambassador up there, the incomparable linguist Gen. Vernon Walters. He has statements from Armando Valladares. When we came back from a fact-finding trip in Honduras and Nicaragua and we put in a call to the White House to go down and give a report to President Reagan, Reagan called me and said welcome back to you and Mr. BURTON, BOB, and then he said, BOB, guess what. I have just done something you are going to enjoy. I have appointed Armando Valladares to the Human Rights Commission and the U.N., and then Castro together with the Kremlin went into a high-powered disinformation program to try to shred this man's reputation, but anybody who has read Valladares' book, "Against All Hope," or has met this compelling figure, they know that this is just more Communist lies to destroy a good man.

So I look forward to participating with you and the gentleman from California [Mr. SHUMWAY] in the special order tomorrow night.

Mr. BURTON of Indiana. I may or may not be able to participate tomorrow night, depending on workload here and the time we get out, because I have commitments elsewhere. But I was going to do it tonight. So I would just like to make a couple of comments about that, and I hope Representative SHUMWAY will forgive me for starting a little earlier. He may want to make some comments too.

But the gentleman talked about India, and I think India is very important because they introduced an amendment last year which in effect killed any kind of human rights investigation regarding the atrocities that have been taking place at the hands of Fidel Castro and his government in Cuba. India, over the next 4 years, is receiving about $600 million in direct

economic aid from the United States of America.

□ 2100

India, immediately after they received this promise of economic assistance over the next 4 years——

Mr. DORNAN of California. All borrowed money against our grandchildren.

Mr. BURTON of Indiana. Yes, all borrowed money against our grandchildren. They had Daniel Ortega, the Communist dictator of Nicaragua fly to New Delhi and they gave him one of the highest medal award honors that they can possibly give a foreign leader. They gave him $10.4 million. After getting $600 million in commitments from the United States that is.

So it is our money they gave to the Communist leader of Nicaragua whom we have been opposing.

Mr. DORNAN of California. Argentina did the same thing.

Mr. BURTON of Indiana. Did they? I did not know that.

Well, he took that $10.4 million, flew out with his medal and a big smile on his face and I understand he went to China and bought some weapons which he is now using in Nicaragua against the freedom fighters, the Contras.

So this gentleman, Rajiv Gandhi, the head of India not only took our money and then shafted us by helping Daniel Ortega but now we are trying to get at least an investigation into the human rights violations taking place in Cuba by having the United Nations investigate through a United Nations resolution and India comes in and stops even the investigation of human rights atrocities. And I think that is reprehensible. I think we should reevaluate our aid program to India.

The gentleman from California pointed out that they are building Mig-29 fighter bombers. That is the most sophisticated weapon I think that the Soviet Union has, at the present time. I know they are working on some others. But they are producing those in India and I understand India is going to get some of those weapons for its own use.

In addition to that I understand they are tending Soviet submarines in the Indian Ocean off the coast, they actually come in and have port privileges in India.

So as far as India being our ally, they are really not and as far as them being a nonaligned nation, I think that is a bunch of baloney. They are tied to the Soviet bloc even though it is not readily noticeable.

The other thing I would like to point out, and I have a number of these things, some of the countries that voted with India last year to divert attention away from Cuba were Algeria, Bulgaria, Ethiopia, East Germany—you would expect the Communist countries to do that. But then Mozambique, Mozambique is one of the countries that our State Department is saying we can wean away from the Soviet bloc. Well, they are not being weaned away very far because they are still supporting the Communist dictatorship and repression that is taking place in Cuba right now even though—there you go again—we are giving them economic assistance.

There are some people like our Ambassador, our new Ambassador over to Mozambique who is advocating that we give them, get this, military aid as well. It is a Communist government that has killed over 70,000 of their own people and they are asking for military assistance and economic assistance which we are already giving them. And we are going to wean them away from the Soviet Union? Sure looks like it with this vote of yesterday.

Mr. DORNAN of California. What the Assistant Secretary Chester Crocker should say to them is, "We are not asking you to vote with us but we are telling you no abstention, no aid." That ought to be clearcut. There has to be some quid pro quo for all this money that we are borrowing against our grandchildren with the No. 3 item in the new Federal budget, $162.5 billion in interest on the debt, and we go more in debt every time we give a nickel to anybody, but to give it to a Communist government that votes against us in the United Nations is incredible.

Mr. BURTON of Indiana. Yes, whose ultimate objective is to do us in. Then you go on: Nicaragua, Nicaragua voted against investigating Cuba. Well, you would expect that, that is a Communist dictatorship.

Yugoslavia, now in Yugoslavia we are buying Yugo cars by the boatload now. That does not make sense. I have auto workers in my district who are concerned about their jobs and the unfair competition. We have Yugoslavian workers who are being paid 50 cents to $1 per hour to build these Yugos and we are buying them in droves, in boatloads as I said. Here they are voting against our position in the United Nations just to investigate human rights violations in Cuba which Armando Valladares has said very clearly are legion down there.

They are torturing people, killing people, repressing people, no fair trial, nothing. Then of course the Soviet Union, you would expect them to be supporting Cuba since Cuba is one of their puppets. But we continue to loan massive amounts of money to the Soviet Union. I do not understand that.

I think once again this year we have an opportunity to put Castro in the docket, on the docket where he belongs.

In 1961, Fidel Castro said there cannot be—one cannot be neutral in Cuba. Over the years he has held to this creed. In Cuba today those who do not actively support the Communist regime are considered to be against it and they are treated accordingly.

Consider this: There are tens of thousands of political prisoners in Cuba. Even Jimmy Carter—now this is back in 1978-79—estimated between 15,000 and 20,000. Professor Edward Gonzalez of UCLA, a noted authority on Cuba puts the number closer to 25,000 to 80,000. Now look at that, 25,000 to 80,000 people being held as political prisoners down there. Che Guevara said, "We have no mercy for those who take weapons against us. It does not matter if they are weapons of destruction or ideological weapons."

Granma, the official newspaper in Havana said, "Before the revolution ceases to be, not one counterrevolutionary will remain with his head on his shoulders." The model for Cuba's edifice of repression is Stalin's, Khruschev's, Brezhnev's, and Gorbachev's Russia. Castro has proven to be an excellent pupil and in fact may have outdone his masters.

In 1988, Cuba can boast Soviet-style gulags, prison farms and forced labor brigades. Some of the longest serving political prisoners in the entire world are being held in Cuban jails according to Amnesty International. That is not our government. Cuba's prisons contain a larger number of prisoners in proportion to population than any other Latin American country. They hold five to eight times as many political prisoners per capita as the Soviet Union, itself. That is according to Castro's own figures.

Mr. DORNAN of California. The only country, pro rata, that has more prisoners is probably Nicaragua. They still have 10,000 prisoners or more with less than 2.5 or 3 million of their people who are in country, because the rest are in the United States as refugees in Honduras or Costa Rica. So Nicaragua may be even worse.

But even in Nicaragua unless we find out otherwise, as we found out with our POW's after the fact, even in Nicaragua as brutal as their captivity is, as many secret executions as there have been and torture, we have not yet heard of examples being thrown into pits of human feces or being put in a cell, solitary confinement, total blackness, stark naked for 8 years, 9 years, which happened to the Ambassador to the United States. Senior Vargas, who Jesse Jackson came out and right here at Dulles while Jackson was posturing about getting these people out, Ambassador Vargas says, "With all due respect to the Reverend here, he has been used," "You have been used, Senor. Don't think that Castro has mellowed or that this is any type of gracious move. This man is a hardened communist and although I am glad to be out we have been used to further his goals." And that is after 22 years.

Mr. BURTON of Indiana. I am glad the gentleman brought that out, because this is something that really

concerns me about the race that is going on for President right now.

The gentleman to whom you just alluded, Jesse Jackson, I talked to him about the atrocities that were taking place in Nicaragua and he was down there and put his arm around Daniel Ortega. He subsequently on the same trip flew up to Havana and put his arm around Fidel Castro. They had a very friendly meeting.

Mr. DORNAN of California. He declared him a reverend, raised his hand to the air and said he was a man of God.

Mr. BURTON of Indiana. And he has also been very closely befriended I think by President Assad of Syria.

Mr. DORNAN of California. And hugging Yassir Arafat.

Mr. BURTON of Indiana. And hugging Yassir Arafat, and other people who oppose the goals and ideals of the United States and other free world countries. It really concerns me that the people of the United States do not understand at least what this one candidate's position is with a lot of these people who oppose our very way of life.

I hope that comes out at some point in the campaign because I think it is extremely important. When we put somebody in the White House we certainly want to have somebody in there who upholds the goals and objectives and principles that this country stands for and is not falling prey to the ideological views of people like Castro and Daniel Ortega.

I took a man named Teafillo Archibald to see Jesse Jackson when he was here. He was meeting with the Black Caucus.

Tiafillo Archibald was from Bluefield, a black from Bluefield who supported the Sandinista government, the Communist Sandinista government when they took power. He worked with them, because he thought they were going to bring about democracy in that country.

Well after he found out what they were really all about, he started opposing some of their policies. They put him in a gulag-style jail, a very small one. They pulled his fingernails out one by one. He showed me what they had done to him. I took him to meet Jesse Jackson. I said I want you to talk to this guy because you think Daniel Ortega is the George Washington of this country. In fact, I heard him say that, I heard him make a statement to that effect, at least I recall he made a statement to that effect. I think it was published in Time or Newsweek.

And he looked at this man and talked to this man. The man showed him his fingers, talked about the atrocities, burning people alive to death, he talked about these little villages down there, the repression of the Miskito Indians and so forth and Jesse Jackson looked at him and said, "Well, those kinds of atrocities unfortunately take place in any way. That is the price of war. But fortunately when this thing is all over they will head toward democracy in Nicaragua."

I believe and hope and pray that Jesses Jackson, Reverend Jackson has been duped by Daniel Ortega, Fidel Castro, and others. But the fact of the matter is he at least has been gullible enough to believe those people. I think we ought to think long and hard about that as we debate the issues in this Presidential campaign because he is becoming more and more of a strong political figure. People ought to know his foreign policy views clearly.

Mr. DORNAN of California. I did not get a chance to tell the gentleman this today. The gentleman and I were witness to something back in September when the gentleman and I were on a fact-finding trip to Nicaragua and then Honduras. We went out to somewhere in Central America to one of the command centers of the freedom fighters, the so-called Contras, what our colleague Henry Hyde calls the Contra tyrants.

The gentleman will recall I had a lifelong friend with me. Since 1943, 45 years, we went through 3 years of grade school, high school, college, and I went into the Air Force as a pilot, he went in as a dentist. We both came out captains. Lifelong friends. He has six kids. His name is Terry O'Brien, you remember Dr. Terrence O'Brien.

Mr. BURTON of Indiana. Yes.

Mr. DORNAN of California. The gentleman will remember we had a Member of the other body, a Senator with us who has to remain nameless under the rule. But remember some of the Central Intelligence Agency people were saying, "Don't let the Senator go in such and such a tent. We don't trust him." Well, that is too bad, that they don't trust somebody. But remember he went down there to Managua and would not let us go in with him to meet Ortega. Now do you think if Ortega had said to him in that meeting, "Tell me, Mr. Senator, what did you see there in the Contra camps, what do the battle maps look like, how much provisions do they seem to have?" Do you think he might be willing to share with his friend the Ortega brothers, what he saw? I am inclined to think so as a matter of fact, having watched him for years.

Mr. BURTON of Indiana. Well, I hate to speculate on things like that. It would bother me to no end if I find a U.S. Senator or Representative would stoop that low.

Mr. DORNAN of California. Well, you know one of the newspapers around here couched in sort of critical terms that the gentleman and I went down there. We had five Members on that trip. It was my Codel. Three of them cancelled, one of them ill, one of them from exhaustion the night we were supposed to pick him up. So we went down, the two of us. But this member of the other body had a private Air Force airplane—not private, I mean a U.S. taxpayer airplane—all by himself with a civilian aboard named Ed King who is the chief honcho—he was discharged from the Army for refusing to go to Vietnam in 1971 because it was combat—he ran the appropriations operation for some of our Members. The gentleman will remember he said, "Who is this man sitting in on this top secret meeting and briefing?" He was introduced as Federal staffer and he is not a staffer at all.

Mr. BURTON of Indiana. He said he was a staffer for the majority leader in the U.S. Senate.

Mr. DORNAN of California. But unpaid staffer. Just a consultant. I still do not know if he was paid, but I know he is one of the people our Speaker tried to force on Cardinal Obando y Bravo along with Wilson Morris of the Speaker's own staff. You will recall when the gentleman brought that up to the Senator, the Senator said "Well, why is Dr. O'Brien here?"

Well let me tell you what Dr. O'Brien did last weekend with his beautiful wife Joan. The gentleman is hearing this for the first time. He got to know Terry on that trip.

Mr. BURTON of Indiana. That is right.

Mr. DORNAN of California. He went down as he promised that he would and as he promised Ambassador Briggs he would. He went down for 3 days just over this last weekend—he just got back yesterday—and he saw 32 freedom fighters, young people. He said all of them dark-skinned peasants. He did 29 restorations, 5 extractions on one man alone and other extractions, 6 impressions, 70 flouride treatments and found out that there are only 150 dental technicians in all of the Contra forces, only 1,500 medics of any kind. That is not doctors, just first aid type medics. And less than a tenth of that are dental technicians. He said some of these kids the teeth were just rotting out of their head with exposed nerves, in combat with this intense pain. He said some of them he could only give one shot to and then work on them for hours. He worked all day long from dawn until dusk. He said he was so impressed with their bravery and decency, he said as an American citizen, "It infuriates me to hear Members in Congress get up and talk about these young boys and girls, that they bayonet pregnant women, their fellow campesino peasants, rape people burn farms and all of that."

□ 2115

He was so touched by these people he said, "Several times I was choking back tears looking at some of these young fighters," some who would never go back into combat because they had lost arms and legs, others who had slight wounds or no wounds and would be going back into combat and maybe be dead within days or maybe be hunted like animals by this 140,000-man reserve and active duty Communist force built up by the

Ortega brothers and their 7 Communist members of the junta. It was really touching to me that my lifelong friend followed through on his promise to Ambassador Briggs.

Mr. BURTON of Indiana. Mr. Speaker, I admired him then. I admire him even more now. His statements bear out pretty much what you and I have known for some time, and that is that the Communists in Nicaragua have followed the lead of their masters in the Soviet Union in building up a perfect or almost perfect disinformation agency down there equivalent to the KGB in Moscow. They are very effective in manipulating American newsmakers and the views of the American people by sending disinformation up all the time.

As for the disinformation the gentleman talked about concerning the atrocities, there have been, I am sure, some on both sides, like their is in any war, but the vast majority of the atrocities, according to the independent human rights agency in Managua, the vast majority or 90 percent of them are occurring at the hands of the Communist Sandinista government. Yet the American people are led to believe night after night on the news, when the news is broadcast on the problems going on in Central America, that the Contras are a bunch of animals, when you and I and the dentist you just alluded to; that is, your colleague, know for a fact from personal firsthand knowledge that they are not that kind of people.

Mr. DORNAN of California. Absolutely not. Let me say that we have been out so much, out more than we have been in, that I have not seen one human rights advocate get up in the well of the House yet and criticize Israel, nor have I, because I truly want to see that fine democracy survive. There is no better fighting force in the world, more disciplined or more courageous in combat, or more of a civilian force on active duty or off active duty, called back war after war; there is no better trained force in the world than the Israelis. And under tremendous pressure you see your lifelong friend next to you take a brick in the face and break his nose, and the next thing you know, you are breaking the fingers on a child. It is a horrible human rights violation. And, by the way, most of the soldiers who were filmed by CBS doing that, all four of them and their officer, are under court-martial and in prison right now.

Would Ortega do that to one of his? That is what the Contra freedom fighters have done. They have 80-plus people in prison right now for human rights violations, and they have had summary court-martials in the field and have executed some of their own members who were fighting for freedom but lost the objective of their goal to stop the human rights violations of Communists, and some of them paid for it with their lives by abusing their own people, the camposinos that feed them, that call them los muchachos, the boys, the commandoes.

So the gentleman is correct. We remember every incident throughout history, including some of our men in the South Pacific. And as Tom Braden, the host of "Crossfire", told me, Eisenhower had to send an order down to our beautiful doughboys that were liberating France and Germany and tell them, "Stop executing German prisoners. We are now up against old men of the home guard and young teen-aged boys. Stop executing them." But after a guy sees four or five of his friends blown away or a whole platoon loses their legs to mines, as happened before My Lai, discipline can break down. It does not mean your cause is unjust or your whole army is rotten or your nation is rotten; it means that you have had a break down of discipline. What you look for is the policy.

What is the policy of Israel? It is a human rights policy. What was the policy of Nazi Germany? It was a genocidal policy. What is the policy of the Contras? To liberate their country for freedom. What is the policy of Daniel Ortega and his brother and his seven cohorts, every one of them a dedicated communist? It is to turn themselves into a Soviet colony. And out of Ortega's own mouth: "Castro is the past. We are the future."

Remember what Fidel said, that it was a great misfortune of history that he, Fidel, was born into a country of only 10 million people. He was dreaming of being Mussolini or Lenin. What is Ortega's dream? Probably to say that it is sad that he was born into a country of only 3 million people.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will let me reclaim my time for just a minute, Daniel Ortega just recently said, just last November, in a newspaper interview that what he would really like to be doing—and I think I am quoting him almost verbatim—what he would really like to be doing is what Che Guevera did, go to other countries to spread the revolution. That is what his goal is. That is what his goal is. That is what his objectives are, and if we let him do it, they will do it. He has already said to Noriega in Panama, "If you need any help, let us know," because that, they know, is one of our real vulnerable areas down there, and he is anxious to jump in down there.

Before my special order runs out, I would like to just finish up on the problems with the human rights atrocities in Cuba and why it is important that this U.N. resolution that is going to be discussed in Geneva in the next few days be passed, and I would urge all the countries that are going to be voting on that to think long and hard about what is going on in Cuba.

Who are these prisoners in Castro's jails? They come from every walk of life—men and women, doctors, lawyers, farmers, writers, unionists, priests, Jehovah's Witnesses; even one man, Andres Solares, who was thrown in prison for writing a letter to Senator Kennedy, a letter in which he was asking for advice about starting a political party.

As with Castro's protege, Daniel Ortega's Nicaraguan revolutionaries who fall out of favor or who dare to suport democracy are dealt with severely. Dr. Martha Frayde, Cuban delegate to UNESCO in 1964, found that out when she criticized Cuban submission to the Soviet Union. Her reward for being a loyal Communist and for being one who criticized just briefly their subservience to the Soviet Union was a 29-year prison sentence.

Members of Congress and other public figures who chum around with Castro are accomplices to this abominable, pathetic, sorry excuse for a human rights record. Shameful silence of the U.N. and of those in the United States who condemn our friends in this hemisphere while failing to condemn Cuba; failure to condemn Cuba further undermines credibility of the U.N.

Frank Calzone, a native of Cuba, an expert on Castro's repression, said, "Castro's gulag is the most massive, systematic, and long-term repressive system in Latin America," with the possible exception, as the gentleman from California said, of Nicaragua.

Last year, "Non-aligned" India sabotaged our attempt to shine the light on Cuba. We need to pressure countries to help us on this. I have been talking to African ambassadors left and right on this since I am the vice chairman of the African Subcommittee. It is in our interest, and in the interest of the Cuban people, who are fighting so valiantly for their freedom down there and who are suffering daily in those jails, and the Cuban Americans in Miami, FL, in the southern part of this country, to really understand the problem, and they are urging the Members of Congress from the Florida delegation and others to take some active interest in this.

Cuba is a country that commits mischief around the world, i.e. Angola, Nicaragua, and elsewhere. Cuba is a country heavily involved in drug smuggling. We know for a fact that a MIG airplane helped to escort a plane into a military base in Cuba to unload narcotics.

Cuba is a country that abuses and tortures its own citizens.

Recommended reading for my colleagues: "Castro's Gulag: The Politics of Terror," by Frank Calzone, and "Against All Hope," by Armando Valladailes.

The Bible says, "Thou shalt not stand idly by over the blood of thy brother," in Leviticus. The Cuban people are our neighbors and our brothers, and we owe it to them to speak out. The friends of freedom need to raise their voices on behalf of

the Cuban people who have suffered long enough.

Mr. Speaker, I urge all my colleagues in this body to take an active interest in this vote that will take place in Geneva next week.

Mr. DORNAN of California. Mr. Speaker, I would underscore what my colleague said about their closeness to us. Most of those Cuban Americans in south Florida will be voting for GEORGE BUSH, but one of them said to me, "We love this man because he didn't come down here and lie to us." He said, "There isn't much we can do for Cuba." He said, "May we ask you to suggest to a Bush administration that Cuba go back on the national agenda, that if Gorbachev, the General Secretary of the world's largest Communist Party"—although it is only 4 percent of the Russian people and all the other various ethnic groups in the Soviet Union—"if he can use the word, 'democratization,' "—and he used that very word, translated literally into the Russian—"if he can talk about that, when is Castro going to be pressed to the wall to talk about the democratization of that island 90 miles from Key West?"

I told him I believed that under any Republican administration Cuba goes back on our national agenda. It is immoral that under the disaster of the way Kennedy ended up the Cuban missile crisis, and all of his defenders proclaimed it as a moment of glory, that it ended up to be the sanitization of the vicious Communist regime, and that is that Bobby Kennedy and Cardinal Cushing did not morally get back the money from the Bay of Pigs, although they transferred that money into tractors and medicine, we are led to believe. We do not know what else transpired. But when we got back those Bay of Pigs invaders, did we get back all of them? And the ones who were the political people in the cities, who were open politically, they paid for it with a quarter of a century of their lives in these slimy Communist prisons in Cuba that I mentioned before.

Mr. Speaker, Cuba has got to be free in our lifetimes. Cuba Libre.

The SPEAKER pro tempore (Mr. VISCLOSKY). Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

[Mr. EDWARDS of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AN ANALYSIS OF THE CURRENT SITUATION IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I do not have my A-frame here with all the charts of those gulag, Soviet-designed, Cuban-built prisons, 16 of them now, I am told, by the army general who is the President's National Security Advisor. I do not have all of those pictures tonight, but then this is not a postmortem.

Tonight is March 2. Tomorrow is our monthly up-or-down vote on the Contra "tyrants," the freedom fighters, the democratic resistance. So let me call this an analysis of where we are going in the so-called historic 100th Congress—that adjective given to this body, the Senate and the House of Representatives, in these 2 years, last year and this year, not because of anything we have done that is historical of import but merely because it is a round number, the 100th Congress over a period of two centuries.

Let us see if we are really going to write history for freedom tomorrow or again become the indispensable arm of the Soviet expansion in the Western Hemisphere. Then we will proceed to do that same thing—become the indispensable arm for Soviet expansionism in Africa because, if we crush the freedom fighters in Nicaragua, the next target is to crush the freedom fighters in Angola. And at this moment in Africa, on that Atlantic coast in Angola, there are battles going on at this moment between units on the Communist side, the forces out of Luanda, that are being commanded by Soviet officers right down to the battalion level—and there are even some rumors that Soviet officers are commanding some companies—not to mention Afghanistan. I am really shocked, having been in about 9 or 10 States over the last month working for the Vice President of the United States, because I want this GEORGE to become the first George since the first President. I want him to be the 41st President of the United States. And in every single appearance I have made for him on the road one or two people have come up and let me know that they have carefully tracked the record of proceedings in this House, either the written record or the national technical means we are not supposed to speak of, and they followed the special order that I had on the night of February 3 which I called a postmortem.

I even used an oxymoron in that at the beginning. I did not realize I had said, "Freedom is murdered temporarily." Of course, when you murder something, it is permanent. What I meant was, I had not given up hope. What I should have said is: It appears freedom is murdered, but it is not. That is a temporary situation.

But here we go again tomorrow. I have here a document I got from the National Security Council. I have trusted the NSC under every Democratic President we had. I particularly admired it under Zbigniew Brzezinski. I did not always agree with what President Carter's National Security Advisor said, but I admired him.

In this Chamber we have people who have utter contempt not only for President Reagan's policies but for his National Security Council. But our National Security Council, under this distinguished 4-star general, Colin Powell, gave my office this document.

Here is what it says: On 10 February, 1988—7 days after my postmortem last month—the Salvadoran Armed Forces engaged a unit El Pepeto in Eastern Chalatenango department, killing an insurgent believed to be a courier. Among the documents recovered from the body of the insurgent was the document entitled "Strategic Estimate." According to this estimate, during the time before the Salvadoran elections and the next harvest, the insurgency should make blows against vital points, increase not only suburban action but urban action, and generalize the war on highways in all parts of the country—in other words, continue destroying the infrastructure.

The document actually uses a new acronym, GPR, which is believed to be the People's Revolutionary War, and it says the GPR should fuse the political, military struggle. The document states that planning must be done in order to get the masses to break through legality and generate anarchy. Communism loves anarchy.

The document also assesses the insurgent view of United States policy toward Central American and internal Salvadoran political matters.

Now, even in an hour's special order, even tightening my stomach muscles and giving you all the energy I can to make you listen, I cannot touch on all this, so I will, by unanimous consent, submit it for the RECORD later.

This is a 19-page document in Spanish taken off this dead insurgent's body. As Cal Thomas put in in one of his excellent columns in the Washington Times, the other day, it was called "Lesson From a Corpse."

□ 2130

Here are some of the things it says. This is an exact translation:

During the next few months of the harvest and the electoral campaign, a window of great political and military weakness of the Army and the Government will open. Our military plan during this time must be of an integral political-military character; we must seek to give military operations a better political content and reach the capacity for destabilization in the rearguard of the enemy—

The enemy being, of course, being José Napoleón Duarte, the one-term elected 5-year President of El Salvador, who everybody around here pretends to love and hug so much. I consider him a brave man.

especially in the capital and principal cities.

This communique goes on, titled "Strategic Estimate."

We need a wide strategy which combines all tactics and categories of effort. We must

combine the guerrilla actions of destruction with political-economic destabilization by concentrating blows against vital points.

It goes on with an excellent analysis. You would think this was written by Lenin himself, Vladimir Ilyich Ulyanov Lenin, who died 2 or 3 months before his 54 birthday. I am 54 and when I think about what that man did, died January 21, 1924. He was to be 54 years of age on April 22 of that year. The way this Lenin has influenced the history of mankind, certainly the most improtant man, evil or good, in a millennium of the most important influence on the course of history, given the numbers of people who have died at the hands of communism, far more than Hitler was able to brutally murder in the 12 stinking years of his so-called thousand year Reich. The Communist killing goes on in most of the continents of the world right at this moment.

Listen to how well this is written, as though Lenin himself were guiding the pen:

The special forces must also operate in this way in accordance with their own characteristic including local forces, clandestinity, and semi-clandestinity. But all these forces must always maintain their bond with the masses and work toward converting the masses into the largest service and intelligence structure of our army. We must understand clearly that our greatest strength lies in our level of accumulated forces and the social timebomb. We can use the GPR to fuse the guerrilia military struggle with the struggle of the large numbers of masses so that the fusion with give rise to the general insurrection. (Field comment: "GPR" may be the people's revolutionary war.)

So hope springs eternal. They tried to pull off this general insurrection within 10 days of President Reagan's inauguration back in January 1982. Is that not amazing? We have been trying to work this problem in Central America for President Reagn 7 years and almost 2 months, and yet in World War II, starting from scratch, with nothing, barely getting the draft going, we went from Pearl Harbor all the way to victory in Europe in 3 years and 5½ months. This has been double what it took to conquer Hitler, double what it took to wrap up Japan by Mid-August 1945, and we are still working this problem, with my hero, Reagan, still adhering to Jimmy Carter's off-the-wall figure, like the speed limit of 55 advisors in this beleaguered nation of El Salvador.

He says:

The key factor with the masses is that we need to get to the point where the radical demonstrations turn into revolutionary and insurrectional actions.

There must be appropriate planning and lines of action which break through legality and generate a state of anarchy, disobedience, and social disorder and causes the masses and members to make the decision to forget about fear of death.

Never before has there existed objective bases as strong and dynamic as those which exist now which give the GPR an integral paramilitary character to advance in the widening and radicalization of the masses movement and the impositions of our conspiratorial policy in the FDP. (Field comment: other documents taken in this same capture show the expansion of "FDP" to be the Democratic Patriotic Front.) These objective bases will present an opportunity of exceptional importance through all of 1988 and a good part of 1989.

Get the feeling here? We are going to be voting on Contra aid again and again and again in the second session of the 100th Congress and in the 101st Congress and thereafter until the cancer of communism is removed from Managua.

Then he goes on another couple paragraphs.

However, the context of the document seems to imply that the "third forces" and possibly the other terms are references to garnering support from untraditional sources for example, as the document states, from within the United States. It must be taken into account that other forces can do a lot to help us get to the moment most appropriate to achieve victory. these include conspiratorial spaces and tendencies in the United States itself which have come about as result of the U.S. central American policy.

I might add, that includes slimy films out of Hollywood, like the one called "Salvador," that they show in some of the Communist camps throughout Central and South America as a training film for how rotten the United States of America is.

I saw a movie on cable the other night called, "No Way Out," excellent movie with this young actor who starred in "Silverado" and "The Untouchables." In the film inside the Pentagon, of course they did not get permission to shoot over there, but they sure built a set that looked like it, inside that Pentagon, and of course liberal writers love to put down homosexual and then give them all sorts of special interest treatment, they have the Secretary of Defense who is having an affair with some young woman. They have as his senior aide-de-campe a homosexual who hires two guys as thugs to kill the Secretary of Defense's mistress girlfriend. Of course, how are these people introduced to the movie audience? And it is a big success, one of the most rented videotapes in America. "No Way Out" is the film. They are described as agency people, CIA people, who have just come back from Central America and the young naval hero, the lieutenant commander, says, "You mean these are people who work with the death squads in El Salvador and Honduras?"

And the guy nods affirmatively.

So here we have without batting an eye two CIA agents, he calls them, Oliver and Hardy. They are thugs. They crash and try to kill people all through the second half of the film. It is accepted in Hollywood that the CIA, of course, ran the death squads in El Salvador and is now setting up death squads in Honduras. Unbelievable. So these people understand, these Communists in Central America, they have a lot of friends in Hollywood.

Then it goes on after another three excellent paragraphs. I do not have time to read them all. It says:

Our conspiratorial line is by its very nature bound to dialog and negotiated political solutions but the dialog is not the only form of conspiracy.

It goes on to say:

Dialog is one form of the conspiratorial struggle but we must develop other informal methods that in the moment of opportunity of power can be more or less important than official methods.

In other words, Yoko Ono Lennon, all we are saying is, "Give dialog a chance."

Then it goes on to say:

And we must remember that flexible discussion and proposals are needed to stimulate the conspiracy.

Another couple of valuable paragraphs that I do not have time to read, and it says:

For revolutionary states and in the area of socialization, negotiation is an expression of victory. To force the United States to negotiate shows that the United States administration is politically weak and cannot mobilize all its efforts and that its policies are internationally isolated.

I wonder if they learned any of this from Vietnam.

Imperialists during negotiations try to make concessions on weak points and try to preserve the other points. The concrete expression of this, in our case, is that there is United States congressional bipartisan support for El Salvador, but in the case of Nicaragua there are deep divisions in the Congress. The unity of the United States Congress in relation to aid to El Salvador will only be broken through strategic advance of the revolutionary movement. The time of the United States elections is the most propitious moment to favor this division.

They are dividing us to conquer us. Watch the debate on the House floor tomorrow. Follow it in the written record.

Esquipulas II—that is the so-called Arias plan, named after the President of Costa Rica, a one-term 4-year President, by the way— is a concrete expression of the negotiation aspect. There is, in Esquipulas II—

Sometimes referred to as Guatemala's, most commony now as the Arias plan.

"There is, in Esquipulas II, for imperialism and its strategy for low-intensity conflict"—finally that expression of ours is making it into the Communist documents—congratulations, Maj. Andy Messing, you finally got that expression to be understood. The Communists always understood it.

There is, in Esquipulas II, for inperialism and its strategy for low-intensity conflict an aspect which is a mortal game. The defeat of the Contras would be a grave strategic defeat for the United States, especially if we take into account the impact of failure in Vietnam and the geo-political position of Central America.

There is a field comment by our Intelligence analysists:

It is clear from the text that the writer is using "Contras" to refer to the Nicaraguan Resistance.

In other words, this poor field guy hates to use the name the Communists in Managua tacked on to the Freedom Fighters, Dick Nicaraguan Resistance. However, if I ever need this man, I will tell him that HENRY HYDE says, "Call them Contra tyrants."

Right up there is the seal for Virginia. It says, "So always tyrants. Sic sempere tyranis." So let us call them Contra tyrants, our young freedom fighters.

It says:

"The failure of the Contras"—this is the Communists writing again—"and the acceptance of the Nicaraguan revolution for the United States can be a total global strategic change. It would also affect the U.S. counterionsurgency policy and support to the Salvadoran Government."

And right you are, Mr. Communist Scholar, being curried by this young courier. Right you are. If the Contras are defeated in Nicaragua, driven into some Bataan death march toward the Rio Coco River in the north and the San Juan River in the south to be picked up by American medical teams so some of our majority colleagues here, being humanitarians would pick them up and bring them to the United States, hopefully, Mr. Speaker, all of them to move to Fort Worth and get registered 5 years from now and vote in one of your elections up there.

Let us see what it says, continuing here:

In spite of the bipartisan unity in the case of El Salvador—

Very fragile, only due to this liberal Democrat, Notre Dame graduate, Jose Durate—

It would be very difficult to have to recognize defeat in Nicaragua in a global view. It would not be politically logical for the U.S. to take its hands out of Nicaragua and place them in El Salvador in the form of more military aid.

Do not bet on it.

For these reasons, the Esquipulas II/Guatemala City/Arias/Wright/Reagan Plan—"is positive for the revolution. The Revolutionary forces can use Esquipulas II"—

And Mr. Arias, I add that—

to divide and break down the opposition. The United States can give nothing and needs to beg for everything. The popular Sandinista revolution has established its rules and we have our own 18 points and 6 points. The United States is weak.

In the interest of time, I jump over the next excellent paragraph, and it says:

El Salvador is a strategic pilot model for the application of low-intensity conflict methodology for the United States. Not only because of the geo-political factor, but also because of the characteristics of the model. El Salvador is a place where the United States broke the classic model of traditional military dictatorship and developed dictatorships of a new type which the United States classifies as "democratic processes"—

In other words, people going to the voting booth, pulling a little curtain and voting in secret, they call that a new form of imperialism.

I jump ahead:

The failure of the Duarte model—

otherwise known as democracy—

would have strategic implications. One thing is a revolution which triumphs over a traditional dictatorship. Another thing would be the fall of a Christian democratic government with a reform ethic.

In other words, they are admitting that Duarte's government is a Christian democratic government with a reform ethic and they want to make it fail because that is an advancement for what we used to call around here Godless—getting redundant—atheistic communism.

I jump through some tremendous material here, which will be in the RECORD:

The longer the war continues, the more favorable is the situation for the revolutionary forces.

That is, Vietnam, French or American model.

The bourgeoisie does not have prospects for resolving the economic crises and the internal contradictions of the situation tend to deepen. All this causes the imperialists to have less control and more instability.

And then we came to page 8. You have got to read this, my fellow American citizens, in its totality.

The United States has started to display fissures in unity.

Yes, sir, right in this Chamber.

Diverse factors have created this fissure, including tiredness of the length of the war—

because we are an impatient people—

the destruction, the impossibility of winning and the realization that the war is an integral phenomenon based on economic, political and social difficulties.

Break the back of the Communist forces of terror, as we did in the Tet offensive, and then a distinguished American, Walter Cronkite, says, "I've had it." A few years later he says on the air, I heard him say this with my own ears:

I am no longer going to call the enemy forces in Vietnam communist forces, red forces. I am going to call them only the Army of North Vietnam.

Was that not nice, the complete capitulation of America's No. 1 watched and No. 1 trusted newsmaker?

Now, here is a little document that all of my colleagues can get. Any American can write to the State Department. It is an easy address. United States Department of State, Bureau of Public Affairs, Washington, DC. You do not even need a ZIP code. Put "Foggy Bottom." It might get there faster. It used to be a swamp down there to the west of the White House.

□ 2145

This document that I want everyone to send for is called America's Foreign Policy Agenda in 1988. That is a grandiose title. It has a nice number, it is Current Policy No. 1040. Does that sound familiar? That is your income tax return number. Just a little coincidence. It is Current Policy No. 1040.

Now here is a paragaph, and it is good reading, there are a lot of dreams here. It says in one paragaph on the front page that in Afghanstan, Angola, Cambodia, Nicaragua, our determined support for those fighting for their freedom has forced our adversaries to understand that expansionism and aggression are costly and that alien and repressive regimes will be challenged.

Not under my colleague, the gentleman from Missiouri [Mr. GHEPHARDT] they will not be. Not under the current Governor of Massachusetts they will not be. Certainly they will not be under Rev. Jesse Jackson. AL GORE, the gentleman who is running for President from one of the other legislative bodies around this Hill, the jury is still out. We will find out after next Tuesday whether people can believe that his great conservative or moderate voting record in the House turned into less support for President Reagan than TEDDY KENNEDY was throwing toward the President.

Here is a speech by a gentleman who worked on the National Security Council for most of the term of the President, Dr. Constantine C. Menges, resident scholar, American Enterprise Institute in Washington, DC. This document and I guess I will have to supply anybody who is interested, it is called Central America and Mexico in the Balance. Let me say this, I cannot put this load on my staff in an election year, just write to the American Enterprise Institute, get the number from information, it is Washington, DC, and this gentleman served in the Reagan administration for 5 years including from 1983 to 1986 as Special Assistant to the President for National Security Affairs. He is an expert on Central America.

Listen to this:

If Congress persists in abandoning the Contras, they will soon have to leave Nicaragua or find themselves hunted down by the 140,000-strong Sandinista Armed Forces, which have been supplied with more than $2 billion in Soviet-bloc weapons (compared to about $200 million in U.S. funds for the Nicaraguan Resistance).

By the way, the Armed Forces in Nicaragua are owned by the Sandinista political party, not by the nation of Nicaragua.

That is a 10-to-1 advantage, and we wonder if our little force of 14,000 Contras, all of them inside Nicaragua now—there is no fighting unit in Honduras or Costa Rica—if they are going to be hunted down like dogs.

Mr. Speaker, I submit Dr. Menges' speech for the RECORD.

CENTRAL AMERICA AND MEXICO IN THE BALANCE,[1] FEBRUARY 5, 1988

In a dramatic vote late in the evening of February 3, 1988, the Democratic controlled

[1] Dr. Constantine C. Menges is Resident Scholar at the American Enterprise Institute in Washington, DC. He served in the Reagan administration

Congress refused the President's request to provide further aid to the Nicaraguan resistance. Nicaragua's Ortega responded by calling for the "complete and total defeat" of the resistance. If Ortega is successful what will this mean for Central America and Mexico.

In 1982 the late, great Democratic Senator Henry Jackson said: "Leftist revolts in Nicaragua, El Salvador, and Guatemala are the preliminary stage for the ultimate assault on Mexico, the true Soviet objective in the Western hemisphere." Early in 1984 the Bipartisan Commission established at Senator Jackson's suggestion and led by Dr. Kissinger presented its report to President Reagan. The Commission, including a former chairman of the Democratic National Committee and Lane Kirkland, wrote: "As Nicaragua is already doing, additional Marxist-Leninist regimes in Central America could be expected to expand their armed forces, bring in large numbers of Cuban and Soviet advisors, develop sophisticated agencies of internal repression and external subversion."

President Reagan echoed Senator Jackson's warning in a May 1984 television address designed to persuade Democratic congressmen to provide adequate levels of aid for the friendly countries of Central America. "If we continue to provide too little help, our choice will be a communist Central America. . . . This . . . poses the threat that one hundred million people from Panama to the open border on our south could come under the control of pro-Soviet regimes."

If the Democratic majority in Congress continues to abandon the armed resistance in Nicaragua (by preventing adequate levels of military support), the linked dangers of communist victory in Central America and Mexico may well develop rapidly.

The Sandinista regime became the aggressor in the region when in 1979 it initiated armed subversion against its peaceful neighbors and, as President Duarte again documented recently, this continues despite the Arias plan. After Carter, Reagan, and the Central American leaders had tried diplomacy and economic aid as a means of persuading the Sandinistas to stop this armed subversion, aid for the Contras began in 1982. It was and is a defensive response to Sandinistas aggression, and it is consistent with the right of states to defend themselves and their allies.

Former Defense Secretary Caspar Weinberger told Congress that if it cuts the Contras off, the Sandinistas with full Cuban and Soviet-bloc backing are likely to expand dramatically their levels of military support to the communist insurgencies in El Salvador and Guatemala. Weinberger said this might include disguising thousands of Sandinista soldiers as communist guerrillas and infiltrating them into neighboring countries.

For example, at about one hundred per day or three thousand each month, it would take only about seven months for the now weakened Salvadoran guerrillas to have additional forces of 21,000. Since it requires about ten soldiers to contain one insurgent, this would mean that the Duarte government would have the impossible task of adding about 210,000 soldiers—a four-fold increase costing about $2 billion.

If Congress persists in abandoning the Contras, they will soon have to leave Nicaragua or find themselves hunted down by the 140,000-strong Sandinista Armed Forces, which have been supplied with more than two billion dollars in Soviet-bloc weapons (compared to about $200 million in U.S. funds for the Nicaraguan Resistance). Next, it is likely that the combination of a sharply increasing communist threat and the demoralization of the pro-democratic groups could lead to a communist Central America in two stages. First, a process including internal panic, turmoil and polarization—perhaps one or more military coups and the return of the violent right—followed by the Congress cutting vital U.S. aid to some of the friendly Central American countries. Some congressional Democrats would likely take a "let the dust settle" approach to any breakdown of the recently achieved democratic institutions. Second, the emboldened communist groups could step up terrorist, military and political action using the usual "broad front" approach to deceive some non-communist elements into helping them take power.

By now Mexico's plight is well known to many Americans: deep poverty unalleviated by the former oil boom; the belief of many Mexicans that economic mismanagement and corruption within the ruling Institutional Revolutionary Party (PRI), led to their years of economic decline; and unwillingness by the governing party to make good on its promises of genuine political liberalization.

Yet six decades of political stability, forty years of steady economic growth, and the adaptation to the effects of the 1982 economic crisis all testify to the strengths of the Mexican political system. It is likely that Mexico will continue to be stable and change through evolution unless the internal and international communist movements decide to attempt a seizure of power.

Unfortunately, history suggests that a communist victory in Central America is likely to be followed by a sustained and systematic strategy aimed at bringing the pro-Soviet communist parties of Mexico and Panama to power. The internal communsit movement in Mexico, with the support of the Soviet bloc and Cuba, will use the communist countries of Central America as a base area just as Nicaragua has been used by the Central American communist movements since 1979.

Except for the governing party, only the communist movement in Mexico is organized in every area of life: a political party with tens of thousands of members, millions of voters, and clandestine apparatus; key communist labor unions and communist penetration of some ostensibly government-controlled unions; peasant organizations throughout the country; a wide array of Soviet-supported front groups; and, two large communist-controlled coalitions of disaffected poor which were formed after the onset of the economic crisis in 1982. To this must be added decades of close Mexican communist cooperation with the Soviet Union and an unusually large Soviet-bloc "diplomatic" presence in Mexico City and permission for the PLO and other terrorist organizations to maintain facilities in Mexico.

A communist strategy for taking power in Mexico will likely emphasize deception and speed in order to prevent the leadership in the United States from understanding until it is too late that a communist seizure of power has taken place. Once the decision is taken, it is likely that clandestine communist groups will deepen the economic and political crisis by sparking strikes, demonstrations, attacks on tourists, and sabotage of oil production facilities which in a short time could begin a sharp downward economic spiral and deepen the misery of the very poor.

There are many classic approaches, all of which have been tried and have often worked in other countries. In the context of deepening crisis, clandestine pro-communist elements within the governing party might cooperate with the communist party and gradually gain full control—this is the Czechoslovakia 1948 approach. Or communist cadres within the military might stage a coup to "reform the Revolution of 1910." This method was used in Ethiopia (1977) and in Afghanistan (1978). Or significant elements of the governing party might openly join with communist-controlled fronts in a coalition defined as the "the authentic and reformed governing party." All of this could be accompanied by terrorism directed at moderate Mexican leaders by groups claiming to represent various regional or class interests but in fact operating under clandestine communist control.

This combined with the lack of real knowledge about Mexican politics among U.S. leaders and the concerns caused by the new communist states of Central America could well mean that a communist government could be in power before there was any consensus in the United States about how to prevent that from occurring. Communist victory in Central America and Mexico would be a tragedy for the hundred million people who live there, and it would confront the United States with an enormous threat which would grow worse year by year.

Fortunately this can be prevented if the Congress provides the funds for the Reagan strategy of helping the people of Central America themselves achieve democracy and real peace. Since 1981 the number of democracies has increased from one to four among the five Central American countries. The Sandinistas came to power in 1979 by promising the OAS that they would establish genuine democracy and remain non-aligned. If Congress finally provides sufficient aid to the Nicaraguan Resistance, the people of Nicaragua can bring about a genuinely democratic government there which will also be at peace with its neighbors. The Democratic majority in Congress continues to face a historic decision in 1988.

Here is something that just came by our offices. Our written Record does not print charts or graphs so I have written the word "in" in front of each year. This shows how much money the Soviet Union has put into the military buildup of Nicaragua. This is all in United States dollars so it can be compared to something.

In 1979, nothing.

In 1980, $10 million, a pittance.

In 1981, $160 million.

In 1982, $140 million.

In 1983, $250 million.

In the year when this House cut off aid to the Contras and used this word "fenced" to talk about a punk $14 million, the Communists put in $370 million.

There was a slight drop down to $280 million, and then the big year 1986, $600 million of military aid.

In 1987 the Soviet Union came up with $505 million, that is half a billion.

Guess what happened during the Arias peace plan period. That is when half that money in 1987 came in, $250 million or $300 million of that $505 million.

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for 5 years including from 1983 to 1986 as Special Assistant to the President for National Security Affairs. This statement was made at a recent AEI foreign policy briefing.

But what happened to January when people including our distinguished Speaker were singing, all we are saying is give peace a chance? What happened?

During January the Communists, Gorbachev, little darling Mikhail Sergeyevich, and this is his birthday today. Just think, his birthday is today and what did Gorby do for us after leaving the White House, right before Christmas? He went back to the Kremlin and he said, "Go for it. Send them another $75 million worth of aid."

Happy birthday, you deceitful Communist leader, General Secretary Gorbachev, 57 years old. I cannot believe he sent them $75 million. Was that the way to treat you, Mr. Speaker? Was that the way to treat our Democratic leadership that has worked so hard to advise the Ortega brothers on how to be good little boys? How to conduct themselves in proper public relations terms during all the division inside this distinguished legislative body? Thanks a lot, Secretary General Gorbachev, for $75 million worth of military aid to hunt down those teenage boys and girls that we uniformed, booted, fed, armed and told to go into Nicaragua to fight for their freedom. Not mercenaries like the late Benjamin Linder, and I will give him his idealism, but he was a mercenary on Nicaraguan soil carrying a Soviet Kalashnikov rifle, AK-47, against Nicaraguans fighting on Nicaraguan soil for what they perceived to be Nicaraguan freedom, whether anyone agrees with it or not.

Mr. Speaker, I submit for the RECORD a letter I wrote to the President 6 days after that disgraceful vote on February 3:

HOUSE OF REPRESENTATIVES,
February 9, 1988.

The PRESIDENT,
The White House, Washington, DC.

MR. PRESIDENT: The February 3rd House vote against your package to aid the Nicaraguan Resistance was a major blow to freedom. The cut-off of the Resistance at this critical juncture cripples their negotiating strength and undermines confidence in U.S. reliability throughout the region. Mr. President, Congressional short-sightedness has overtaken your policy in Central America. We need your help to reverse this set-back.

Mindful of the fact that the Democratic leadership of the House of Representatives has always advocated an abandonment of the Nicaraguan Resistance, we urge you to reject their overtures for your help in fashioning a "compromise" package. Your efforts to compromise on the components of the February package went unheeded by the same individuals who are now requesting your assistance in fashioning a thinly veiled policy of abandonment. We have been asking for some time to see what the Democratic alternative is to aiding the Nicaraguan Resistance. Let these liberals offer it without the Reagan imprimatur.

Mr. President, you can help the opponents of the Resistance to see the folly of their actions by making the American people aware that losing Nicaragua to communism is the inevitable outcome of the liberal's vote last week. We believe that the Democratic leadership is attempting to involve you in their political face-saving ploy to make it appear that they are concerned about the spread of communism in Central America. The facts show that the hard-core opponents of your policy fear the political fallout in November more than they fear the loss of Nicaragua to communism. You, Mr. President, must not be a party to this blue smoke and mirrors political trick.

Mr. President, we do not want to see a precedent of abandonment in Nicaragua spur liberal efforts to undo the Reagan doctrine elsewhere. You must leave office with the banners of the Reagan doctrine unfurled and flying high!

Additionally, we believe that the time is long overdue to get tough with Republicans who consistently vote against your highest priority foreign policy initiative. It is time they feel your political heat in this important election year.

We are here Mr. President, to help you implement your Central American policy.

Your loyalists,

Robert K. Dornan, Gerry Solomon, Buz Lukens, David Dreier, Dan Burton, Henry Hyde, Duncan Hunter.

I will just read part of it.

The February 3rd House vote against your package to aid the Nicaraguan Resistance was a major blow to freedom. The cut-off of the Resistance at this critical juncture cripples their negotiating strength and undermines confidence in U.S. reliability throughout the region.

I should have said throughout the world.

Mr. President, Congressional short-sightedness has overtaken your policy in Central America. We need your help to reverse this set-back.

My colleagues will notice that the President is not on television tonight, the eve before tomorrow's vote, and at a leadership meeting today all my Republican leaders indicated that tomorrow's vote is every bit as important as the vote of February 3. The President is not even asking the networks for time because they all turned him down last time except for the world's most important network, CNN.

Reading further, "Mindful of the fact that the Democratic leadership of the House of Representatives has always advocated an abandonment of the Nicaraguan Resistance, we urge you to reject their overtures for your help in fashioning a 'compromise' package. Your efforts to compromise on the components of the February package went unheeded by the same individuals who are now requesting your assistance in fashioning a thinly veiled policy of abandonment. We have been asking for some time to see what the Democratic alternative is to aiding the Nicaraguan resistance. Let these liberals offer it without the Reagan imprimatur.

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We are here, Mr. President, to help you implement your Central American policy.

This is signed "Your loyalists," DAN BURTON, who just left the floor, GERRY SOLOMON of New York, HENRY HYDE, who will probably be our anchorman tomorrow pleading eloquently as he always does to give freedom a chance, not a dishonorable peace as exists now in Indochina or exists in the empty marketplaces of Managua, Nicaragua, but peace with freedom. Give liberty a chance. Also, BUZ LUKENS, DUNCAN HUNTER, and DAVE DREIER. Those last two people went with me on a Codel down to Panama in July and got the full Southern Command briefing, and it is a stunning briefing and I do not know why it is locked up top secret away from all the American people who fund this place, and run this Government, and are asked to find this trillion-dollar budget, and the American people do not get to see the top-secret information. As much as I admire my friend from California, one of the greatest Secretaries of Defense this Nation has had, "Cap" Weinberger, his biggest failure was that he resisted my blandishments and pleas to declassify 85 percent of this stuff called top secret, which the Soviets already know, which we Congressmen know, including the Senators and Congressmen who will not act upon it. As Jesus Christ himself said, "There are none so blind as those who will not see."

I do not know why we are keeping all these things locked up and we have to leak them out on the floor in dribbles being careful not to declassify anything ourselves when there is one person, as Lyndon Baines Johnson, President of the United States, taught us, here is one person that can declassify anything he wants by just opening his mouth and that is the President of the United States because he is the Commander in Chief.

Here is a document, and this is something we get in our boxes filled with this blizzard of paper, and this is from the Foreign Broadcast Information Service.

This is JPRS report on Latin America.

Listen to this. This is a document that has a section for every country south of the border and north of the border including Canada. It says this week a U.S.S.R. rice shipment arrives in Nicaragua. "A Soviet ship carrying

a 5,000 metric ton load of rice arrived in San Juan del Sur," which is a port that we do not hear too much about. It is the last port on the Pacific Coast before one gets to Nicaragua. It is a beautiful little sleepy town.

"Distribution priorities are: first, the armed forces, then regions 2, 3, and 4 in the Pacific." Feed the men, that is what some of the liberals who are not for any help for the Nicaraguan Resistance no matter what, they will get up and say quite correctly that an army travels on its stomach, and it is a sleazy comment for what Colonel North calls a vascillating unpredictable on-again, off-again group of Members who go back and forth, they are going to vote for humanitarian aid not realizing that it is food, and the army travels on its stomach, so some people vote down freedom and are telling the truth more than some of the so-called swing votes.

It says after they give the armed forces their distribution of rice, then regions 2, 3, and 4 in the Pacific are next, and here the product has not been seen in places of distribution for some days. So maybe it is all going to the army.

Then it says down here another news story: Mass Organizations Denounce Israel—the heads of six Sandinista mass organizations sent a message to the executive committee of the PLO supporting that organization, an organization that was thrown out of Washington, DC, for bragging about terrorist bombings of school buses. These Sandinistas support the PLO calling for an international peace conference on the Middle East and condemning recent actions by Israel.

I do not think we will hear much comment on that on the House floor.

Here is another one, U.S.S.R. Graduates Association—an "Association of Nicaraguans Graduated in U.S.S.R." was formed December 19 in Managua. This "shows the willingness of graduates to strengthen the solidarity between Nicaragua and the U.S.S.R.

Imagine all these kinds coming back and indoctrinating communism to Central America, between us and South America.

When the Nicaraguan Government ordered the newspaper in question to shut down indefinitely after the U.S. Congress approved $100 million for the Contra revolution, it was not administering a "definitive blow" to freedom of the press; it was putting an end to the "freedom" of that paper to continue being the mouthpiece of the aggressor power; that is, us.

Thus, what was being shut down in Nicaragua was not an "independent" newspaper, but a paper that was financially, politically, ideologically, and morally dependent on the Reagan administration.

I wonder if my colleagues feel it coming here? Depending on what they do on the leadership side of the aisle, they are going to close down La Prensa again, the only paper they have opened up.

Mr. Speaker, three times I have corrected you. Do not do it tomorrow, sir, do not say they have opened up newspapers—plural. They have opened up one.

Do not say they have opened up radio stations. They have opened one, a Catholic radio station.

Please be accurate. No TV stations are open yet. Even Somoza had TV stations that were against him, and that he hated.

Mr. Speaker, I submit for the RECORD the JPRS article on Nicaragua.

U.S. INTERVENTION IN HAITI CONDEMNED

[Editorial: "Why Are They Meddling in Haiti?]

Yankee hypocrisy and arrogance are once again looming up threateningly in the wake of the recent bloodstained events in Haiti. Mouthpieces such as the Miami Herald and Congressman Walter E. Fauntroy have outspokenly proclaimed the need for military intervention headed by the United States to assume a "democratic" course in that beleaguered country. Who has given the United States that right? Why didn't they talk about intervening in Chile in 1973 when Allende and 50,000 others were murdered?

The purpose is very clear. The United States is in no way interested in putting an end to crimes of the Tom Tom Macoutes or to the continuation of the Duvalier dictatorship through the Military Junta or other means. On the contrary, its interest consists in perpetuating a Duvalierism with Duvalier and in cutting short the mounting aspirations of the masses for freedom and democracy.

The comment that "Namphy has exhausted the people's patience" and that "he must go" is true, but not because the U.S. Government does not like him. It is simply choosing a perfect scapegoat to placate the masses, keep the system intact and put a "clean" face at its head.

The Yankees could not be more brazen, with the Miami Herald taking the invasion of Grenada as an example and saying bluntly that "this paper supported that invasion." They believe that this unfortunate precedent can be repeated in Haiti, calling on "the democracies of the hemisphere or the United States alone if necessary, to invade Haiti," as if Haiti were the private property of Americans and the Haitian people had no right to ascertain and resolve their internal differences on their own.

The dust is being shaken off the old protectionist practices, and another appeal is being made for "multinational troops to impose order."

The Latin American community of nations, which represent the fundamental component of the OAS and the overwhelming majority of which have signed the NOAL's now have the strength and cohesiveness needed to abort the United States' interventionist plans.

Within this context, the Acapulco pledge, signed by eight Latin American presidents, must become a spearhead against intervention and for the right to self-determination of peoples.

RECENT POLITICAL, ECONOMIC, SOCIAL DEVELOPMENTS

32480047 [Editorial Report] the following items have been abstracted from reports published in various issues of the Spanish-language press in Nicaragua, as indicated. No 8 in a series, USSR Rice Shipment Arrives—A Soviet ship carrying 5,000 metric tons of rice arrived in San Juan del Sur. Distribution priorities are; first, the armed forces, then regions 2, 3, and 4 in the Pacific, "here this product has not been seen in places of distribution for some days." A donation from the EEC is expected with 3,500 metric tons of rice and 1,500 metric tons of cooking oil, the latter enough to supply the country for 2 months. [El Nuevo Diario 23 December 87 p 12.]

Drought Effects, Statistics—According to Reinaldo Antonio Tefel, head onf INSSBI (Nicaraguan Institute of Social Security and Welfare], 530,000 peasants have been "directly affected" by the drought. This includes 230,000 in region 1; 60,000 in region 2; 20,000 in region 3; 20,000 in region 4; 150,000 in region 5; and 50,000 in region 6. A total of 20,000 manzanas planted with beans and corn have been lost, and farm cooperatives report losses of 200,000 quintals of beans and 100,000 quintals of corn. It was reported that region 6 has been left without basic grains due to the drought. [Barricada 23 Dec. 87 p 2; Managua Domestic Service 0300 GMT 18 Dec. 87.]

Land Reform Enters New Phase—The basic transformation in the countryside has been "completed" claimed Alonso Porras, general director of land reform. the land reform program has entered a "phase of consolidation of accomplishments", with private holdings affected only "as a last resort." Only 22 percent of the land distributed in 1987 belonged to private producers, according to Porras. The state owned 22 percent of all lands in 1985, but only 13 percent in 1987. During this year 178,042 manzanas were distrubted to 9,300 peasant families. Land distribution totals since 1979 are: 1,268,000 manzanas to 112,000 families, of which 40,000 were squaters given the land they worked outright. [El Nuevo Diario 18 Dec 87 p 16.]

Mass Organizations Denounce Israel—The heads of six Sandinist mass organizations sent a message to the Executive Committee of the PLO [Palestine Liberation Organization], supporting that organization, calling for an international peace conference on the Middle East, and condemning recent actions by Israel. [Barricada 22 Dec 87 p 2.]

USSR Graduates' Association—An "Association of Nicaraguans Graduated in USSR" was formed 19 December in Managua. This "shows the willingness of graduates to strengthen the solidarity between Nicaragua and the USSR," stated member Gloria Rizo Centeno. [Barricada 22 Dec. 87 p 2.]

'PARDONED' LA PRENSA ACCUSED OF FOLLOWING REAGAN LINE

[Editorial: "Echoes of the Reagan Plan in the Pardoned Newspaper".]

We pointed out yesterday that nothing is more fatal to the hopes for peace than the ideological fanaticism on which the Reagan policy is based, because it leads to an unusual version of reality in which the facts are turned upside down by obsessions or mirages.

The United States counterproposal on the cease-fire offered by the top echelon of the mercenaries shows as much. Only a disoriented Pentagon strategist in the thrall of Reagan metaphysics could imagine that a group of routed mercenaries could allegedly control 68,500 kilometers of our national territory. This alone explains how they can see a "triumph" where there is defeat, "strength" where there is weakness, "an offensive" where there is flight. This is what is called "wishful thinking" in English, the sort of chimera that, as we can see, only a policy doomed to failure can create.

This way of thinking and portraying things has been introduced into the country

by a mass medium that since May 1980, with the help of advisers from the IAPA [Inter-American Press Association] and the National Endowment for Democracy (both linked to the CIA), has been the spokesman for the interests of the Reagan administration in Nicaragua. Since then it has pursued an antirevolutionary and openly pro-American editorial policy, playing the purported role of the local "organizational brains" of the mercenaries and the scattered "civic right wing." Thus, its language is representative and all-embracing, albeit not its own, because it is merely an echo of "His Master's Voice," like the RCA logo.

When the Nicaraguan Government ordered the newspaper in question shut down indefinitely after the U.S. Congress approved $100 million for the counterrevolution, it was not administring a "definitive blow" to freedom of the press; it was putting an end to the "freedom" of that paper to continuing being the mouthpiece of the aggressor power.

Thus, what was being shut down in Nicaragua was not an "independent" newspaper, but a paper that was financially, politically, ideologically and morally dependent on the Reagan administration. The "freedom" that was being suspended was not freedom of information or of the press; it was the freedom for the Reagan administration, after escalating and formally declaring war on Nicaragua, to have one more destabilizing tool in the country.

The paper did more than supply arguments for the debate on the $100 million in Congress. It also systematically concealed all gains by the revolution; provided slanted coverage of military and economic activities; fomented discontent and projected an image of chaos; promoted shortages; reprinted information from the U.S. Embassy word for word; gleefully reported the triumphs of the Reagan administration in its lobbying for funds for the contras; did not report on the counter-revolutionary actions that have adversely affected the lives and the development of the Nicaraguan people, claiming thousands of victims, etc.

Because of its complicity, as proven time and again by its own writings, the plug was pulled on the United States' "rag." Now that the military victories of the people have strategically defeated Reagan's military tool, creating chances for peace not only in Nicaragua but in the rest of the isthmus as well, what this paper says or fails to say, or rather, what it dreams up, fades into the background, because reality is and will be much stronger than any words.

It is precisely because reality shows that the people of Nicaragua are marching forward at a victor's pace that we can afford the luxury of being both generous and implacable in combat. Therefore, as part of the entire package aimed at allowing peace to finally break out, the newspaper of the Reagan administration has also been "pardoned" along with the rest of the beneficiaries of amnesty.

The above does not mean, of course, that they have "laid down their arms" ideologically, because in the final accounting it is the only bastion that the Reagan administration controls in Nicaragua, as this business about 68,000 kilometers is just a pipe dream.

From this controlled position right in the heart of Managua we can thus hear the echoes of the Reagan Plan and we could even read in advance through its editorials the famous counterproposal that they have conveyed to Nicaragua through the mercenaries as their intermediaries.

Compare the comments of the pardoned newspaper with the Reagan Plan and the counterproposal of the [contra] top echelon. They are like two peas in a pod. Their language has an "Orwellian" tint to it, interpreting reality in reverse, as words are not what they mean, and fanaticism clouds reason, law and decency. It thus clamors for a "General Amnesty" so that the pardon granted to the newspaper will extend to some of the self-proclaimed defenders of "liberty" (there is a shortage of "cadres") who left the paper and became overt militants in the mercenary groups; they would thus be able to return without having to lay down their arms (for example, Oscar Leonardo Montalvan, spokesman of the FDN [Nicaraguan Democratic Force]; Humberto Belli, who is on the payroll of the CIA's Institute for Religion and Democracy; Adriano Guillen, a public relations man for MISURA, etc).

Many foreign observers, who have nothing at all to do with the Sandinist Revolution, cannot help but be surprised at the totally uncritical attitude that this paper, which calls itself "nationalist" and "in service to all Nicaraguans," has taken towards the Reagan administration's policy against Nicaragua. While the administration is openly criticized in the United States itself from time to time by papers such as The New York Times or The Washington Post (which in the final accounting, like all major bourgeois papers, are nevertheless good ones), in Managua it finds only apologies and unlimited space for its slander and interests.

All indications are that the pardoned newspaper has once and for all given up the chance to become a national opposition paper and remains an instrument in service to a foreign power. If not, just look at the sort of opposition it engages in and what interests it defends.

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It is precisely the Communists gone on because reality shows that the people of Nicaragua are marching forward at a victor's pace that we cannot afford the luxury of being both generous and implacable in combat. In other words, en garde Cardinal Obando, Msgr. Bismark Carballo. En garde Chimorro family and Violetta Chimorro, the great lady head of that family whose husband was assassinated by the late dictator, Somoza, or even his daughter told me 1 chance in 10 by the Sandinistas themselves to achieve sympathy. But I will accept it that the feif, Somoza, killed the senior newspaperman in that country, the head of the founding family of La Prensa.

Now here is a report that I am going to bring up in my 2 minutes or whatever I get on the floor, and mark my words, there will be a Dornan post mortem for 1 hour if again in this Chamber we vote against freedom. Tomorrow I will do another little talkdown, and show some more of the 16 gigantic prison camps that people suffer in because this Congress cannot make up its mind whether it cares or not about people being executed in secret and being tortured in these Communist prisons in Nicaragua, the only thing they have built since their overthrow of Somoza in July of 1979.

This is from the Rand Corp., headquartered in the middle of my own district right in MEL LEVINE's district. Oh I wish my good friend and colleague, MEL LEVINE, would stop in at the Rand Corp. there on the Pacific Ocean and meet with Bryan Jenkins, who helped write this report with Gordon McCormick, Edward Gonzales, and David Ronfeldt. It is called Nicaraguan Security Policy, and as with most academic papers it has a rather colorless subtitle "Trends and Projections." This book by the Rand Corp. in its 40th year of existence, which has given us Secretaries of Defense and Secretaries of Energy, this book is so incontrovertibly filled with information, how the Sandinistas are selling their soul to Gorbachev and the Soviet Union, it is unbelievable that Members will not accept this Rand projection as they accept the current Rand report on drug-running and what it is doing to our Capital City, this beautiful Washington, D.C. Nancy Reagan was quoting a Rand report similar to this extensively yesterday in all of her television appearances. Last night it was being used again on Nightline and other shows.

But why do they believe the Rand Corp. on what cocaine cowboys and narcotics are doing to our grade school kids, high school kids and college kids, and the whole fabric of our society? What did Nancy say that I have been saying for 20 years since I got on television 20 years ago last month. I said that casual users of drugs are murdering people in Colombia and all through the Caribbean and in other parts of the world, Turkey, whether we use the golden scimitar, the golden triangle, or our own Western Hemisphere, anybody who uses recreational drugs is murdering people. They have the blood of the Attorney General of Sicily and the Attorney General of Colombia, 11 of the Supreme Court Justices out of 15 in Colombia, their blood is on their hands. That is what Rand said.

Well here is the Rand research and development, that is what Rand means here, the Rand report in Rand's 40th year on Nicaraguan security policy. I am going to ask what this costs. I do not care if it costs $50,000, I am going to have it put in the CONGRESSIONAL RECORD so that as these records of this great deliberative body go out to every library in America, every school that wants them, and as we distribute them to our friends and supporters, detractors and colleagues, I want this report as a part of the historical record in the second session of the 100th Congress as we jeopardize freedom.

Here is another report, Cuban, Nicaraguan support for subversion in Honduras, El Paraiso, July 1954. Here is what really grieves me, because we cannot put photographs into the CONGRESSIONAL RECORD. Several pages into this is the picture of the type of person I generally just honor because they walk in the footsteps of the Son of God, Jesus Christ. Here is a priest, a former priest, a betraying Judas Es-

cariot, Father Boulang. He is still considered in Honduras as a subversive priest, an activist, a Christian agrarian, and he reported meeting with Farabundo Marti guerrillas in El Salvador in Concepcion del Uruguay on more than one occasion. This is another mystery to me. How can so many people reject the counsel of Reverend Jim Bakker, Reverend Swaggart or any of the priests or bishops or ministers when they counsel us on pro-life issues, or euthanasia, or drugs, or premarital sex, or infidelity, or pornography and we reject what they say, when the Cristics Institute, as naive and stupid a pro-Communist group as there is, or the National Council of Churches, or the Witness for Peace, when Witness for Peace cycled 65,000 American citizens with very little Communist guidance, they all do the grunt work themselves, to inculcate in these people and indoctrinate them on how these 9 Communists are really benign reformers and they deserve to rule the people of Nicaragua, and they blind themselves to the prison system, they blind themselves to the fact that this is a peasant uprising in Nicaragua, that 98 percent of the Contra freedom fighters resistance forces are Contra kids and girls right off the coffee farms, and 98 percent of the people Ortega has thrown into prison are also peasants, humble peasants out of this poor country. And we have priests who have sold out their vow against anything that would have to do with atheism, and we have Witness for Peace cycling all of these people through training them to hate the United States of America, not just Reagan. They hate the whole government because they know that they are not going to get any better out of our foreign colleague, AL GORE, or anybody else.

Here is a memorandum from a man who actually created the slide show that Colonel North got credit for. He only gave the slide show. This is Colonel Tracy on active duty who is now wrapping up his life's career, and now he is available to the civilian sector as a consultant, and here is his analysis of that disgraceful debate on February 3, his overview "Themes of the Anti-Contra Aid Coalition and the Rebuttals." He starts out with that one, "That's all we are saying, give peace a chance." The Central American presidents want us to stop giving military aid to the Contras, and he analyzes that and knows there is a lot of double talk there. The Soviets do not want to be saddled with another albatross like Cuba. They are really ready to cut off military aid to the Sandinistas once the Contras are gone. Here we stand on little Gorbie's 57th birthday, and he just sent him $75 million, and that is in January. I wonder what our intelligence people are going to tell us that Gorbachev pumped into the Isthmus of North American soil between us and the Panama Canal that we built? I wonder how much he is going to pump in February now that the analysis starts on that 29-day month? We cannot permit the Soviets to place offensive weapons in Nicaragua. Little rebuttal on how they talk big, one of the Senators saying "why, we will take them out with air strikes," and the man has never called for an air strike in his life. He would not even use a spray can to kill a fly, and managed to avoid military service, and he is saying oh, we will mount an air strike. Not one of his sons is going to be in jeopardy.

Another point, no matter how onerous the Sandinistas, the United States cannot provide military aid to the Contras for the simple fact is that it is illegal under international law. We went through that in the Iran-Contra hearings. Here is the rebuttal by Colonel Tracy, retired from the U.S. Army, a humanitarian aid package designed to maintain military pressure on the Sandinistas by keeping the Contras viable as a military force moving around, 14,000 people starving to death in the bush of Nicaragua, ready to once again receive arms from the United States if the Sandinistas renege on their promises. The Sandinistas are unloading Soviet-made artillery, they are unloading more and more surface-to-air missiles so that they can shoot down any airplanes, and the real thing I love about tomorrow's vote is that we are going to take it away from the Central Intelligence Agency who is keeping perfect books, and against the advice of the present Commander in Chief, the President, or his brand new Secretary of Defense, Mr. Carlucci, and the people who love him on both sides of the aisle, and I think he is doing a good job so far, and he says no way that we want this mission.

Then we have my good friend on this side of the aisle, the black sheep of the great Czech American family, BOB MRAZEK, who established the Mrazek line down there, no military person in Honduras can go within 20 miles, not clicks or kilometers, 20 miles of the border. So what are our defense people going to do given the Mrazek line, go up to 20 miles from the border and hand it to the people?

Mr. Speaker, could I ask how much time I have remaining?

The SPEAKER pro tempore (Mr. VISCLOSKY). The gentleman from California has 14 minutes remaining.

Mr. DORNAN of California. Mr. Speaker, I will try not to use all of that time out of respect to the hard-working staff, although, folks, you have not worked too hard over the last 2 months. We have only had 18 votes and it is March already. I cannot believe the way things are around here, and we are going to have threats of a post-election rump session in December. That means we will be here till midnight, 1 o'clock, 2 o'clock in September and up to October, and we will get very little time to go home and campaign.

Some people who read the RECORD or follow through on the national technical means asked me to repeat an analogy because they wanted to get it straight. If you want to get it straight, send for it, but I will go through it again.

Why not a single voice on this side of the aisle standing up and speaking out against our aid to the resistance in Afghanistan against Soviet genocide on the other side of the world? All right, here is the point I tried to make in that post-mortem on February 3. First of all, when I brought up from the leadership desk on our side this point that because Mr. BARNEY FRANK of Massachusetts got up and said not a Member on either side of the aisle speaks out against aid to Afghanistan, that we can run good covert programs, first of all that is a joke. The whole program is overt. Everything I heard in the Khyber Pass that was secret last Thanksgiving has now been flashed on the front page of the L.A. Times. The Tennessee mule program I can discuss openly now, and in last week's Time magazine it says we are giving $630 million. That is a classified figure I thought, and that is only a few million off. What is this? How does this stuff leak out?

Anyway, BARNEY FRANK said that, and I said that is not true. One hundred Members here would vote against aid to the democratic resistance in Afghanistan. No, it is not democratic, we do not know whether it will be democratic, it is just a resistance, a national resistance, and he said that is not true. And once he said those words contradicting me, a Member got up, went right up into the well, it was not Judge CROCKETT, it was a gentleman from the First or Second District of Chicago, not Mr. SAVAGE, the other gentleman got up and said from the Second District, I guess, I do not want any aid to go anywhere in the world. And then I think Mr. CROCKETT got up and said it too. Now that is two that I know of, and four Members on our side of the aisle that do not want to give any money to Angola, Afghanistan, or anywhere else in the world, and they make one interesting point, that we are borrowing all of this money not on ourselves, not on our children, but on my seven grandchildren and any more to come. That is why it is so critical and these dollars are so precious.

But far better we borrow a little money on my grandchildren than to have my children or grandchildren fighting down there or disbursing through the Defense Department aid to the resistance.

Here is why Mr. FRANK is wrong, and I will start a poll in this place, and I will give him the names of people who say that they will cut off the aid to Afghanistan after we cut off the Contras in Nicaragua, and then in Angola. Here is what is so peculiar: Not a voice has been raised on this side except by innuendo, these Members that I men-

tioned who said they do not want aid to go anywhere against Afghanistan.

Now what did we argue about on February 3? It is easy to remember because we argued about $3 million on February 3. I pointed out on this House floor that the star airplane of the highly popular "Top Gun" costs $32 million plus. One engine, whether it is a Pratt and Whitney or a General Electric engine in an F-15, -16, -18, the Harrier, the AV-8(b) or the F-20 Tiger Stark that has been cancelled, one of these engines costs about $8 million, $9 million, or $10 million.

If anybody is following these House proceedings from aerospace, give me the exact figure because I had trouble getting it today. But certainly when you have a 2-engine airplane, and it is worth $32 million, or in the case of the F-15 Strike Eagle that the liberals tried to get out of the budget, and we managed to salvage them, and they are going to go to the Fourth Fighter Wing that earned their glory in Korea, the Fourth Fighter Wing stationed at Seymour Johnson Airbase in North Carolina, and they are going to get the first F-15 Eagles, and those will be made by McDonnell Douglas in RICHARD GEPHARDS's district, the Caucus Chairman, doing very well running for President, they are made in his State, and he is all for them, and they cost over $45 million each, one airplane $45 million. But we haggled here over $3.2 million.

I do not think you could buy the landing gear or its hydraulic system for an F-14, -15, -16 or -18 with $3 million, the landing gear for one fighter. I pointed out that 2 F-18's out of the Marine Corps Air Station at El Toro joining my district, that two of them went up like I used to do in peacetime with a friend, a wing man, probably a good buddy, someone who has a wife, or a friend who they are separated from, and you fly in opposite directions until you are off of one another's radar. Then you turn around and you come at one another, and it is known as ACM, air combat maneuvers. To the air fighters it is called bumping heads, and to the old time fighters, a carryover from World War I, it is called dog fights. That is for you people left over from World War I. And these people go up and they fly over Highway 395, and they go up to the great ski areas of Manmoth and June, and they come together, and as sometimes happens they collide head on, and one fighter goes home, but the other one dies. How do you replace that man? You cannot put a price on a young warrior like that trained to be combat ready so that he never has to fight in combat or leave his family. But two planes cost about $27 million each, the new Marine Corps FA, and that means fighter attack, 18 Hornet.

□ 2215

Fifty-four million dollars gone. I do not know, under this budget or Carlucci's plans whether we will ever be able to replace those two F-18's. They are so hard to come by. We are pumping them out but we were going to build the ones in the budget anyway.

Fifty-four million dollars in one instant over California, preparing to keep that honed edge so that they never have to fight in combat, to stay combat ready and deter the Communist forces around the world. Gone, $54 million and a precious life and we haggled here on February 3 over $3.25 million. That was for bullets. Of course that is not even going to be in the Democratic package, the aid package. Yes, aiding them through the elections November 8.

Now here is this weird comparison between Afghanistan and this nation that you can drive to called Nicaragua.

Under Harry Truman this Chamber voted money to build a PanAmerican highway right through Texas and to California into Mexico—down from Texas and California into Mexico all the way down to the Darien Gap at the neck of Colombia where it meets Panama. You can drive on a top notch highway through Mexico, Guatemala, you can go to El Salvador, detour up to Honduras. Their capital is the only one in Central America, Tegucigalpa, not on the PanAmerican highway. It is as though you were driving to Costa Rica where there are thousands of American businessmen, down to Panama, you can go right down to Managua, the lowest of all the cities down there in those volcanically formed lakes. You can drive to this.

I know a newsman who is afraid to fly. He told my wife, "Yes, I have to leave a couple of weeks ahead of you to be down there with the Congressmen because I have to drive down there, I do not fly." She said, "Drive?" She turned to me, my wife, and she said, "Hey, you can drive to this war, this is not Vietnam." Now here we are, Managua is on Chicago time, HENRY HYDE time, New Orleans time where we are going to have our convention. If you want to look at El Paso, which is on mountain time or Salt Lake City or Denver, take Miami time, DICK CHENEY time, that is 12 hours away from Pakistan and Afghanistan. In other words, our beautiful Rocky Mountains where so many lucky Americans are skiing right now, that is precisely the opposite of a 24-hour world from the United States of America. Up there in those hills of Afghanistan where those ferocious fighters in Afghanistan who beat the British three times and are fiercely independent, whether it is swords or making replicas of any gun you hand them, these people do not have to be trained to fight. They took to our high-tech surface-to-air arm held Stinger missiles, they took to them like ducks to water. But guess what I was informed? It was top secret but it is now on the front page of the Wall Street Journal just a week ago today.

The Stingers did not go to the Afghan resistance through over 6 years of the Reagan administration, almost 6 years; that the first Stinger—and the very first one got a victory, a ground-to-air kill on a Mig—it was September 1986, after we had already started kicking the Contras around several times when the first Stinger was unleashed. And from that September until I went with an excellent fighter for freedom in this Chamber, Congressman Democrat CHARLIE WILSON, of Texas, when I went with his Codel to the Khyber Pass and to the Afghan border and the resistance support town of Pashawa where we visited all these refugee camps too. That was in November. In those 14 months the whole war had been turned on Gorbachev's birthday. Yes, on your birthday, Mikhail, I tell you that there is a cartoon that I would like to send to you. Cartoonists in America are brilliant because they can say so much with a picture.

Here is a picture of the Soviet soldier with you by his side. Mr. Gorbachev. He is sticking this bayonet right through a Mujahidin freedom fighter. And you are saying, Mr. Gorbachev, "Yes, I see this is a bleeding wound. We can pull out now." You are the one who has created the bleeding wound, you are the one who has killed somewhere between 1 and 2 million people. Your leader, who we were told you were going to criticize on November 2 when you had Ortega and U.S. Communist chief Gus Hall and you had Fidel Castro in the front row November 2 in Moscow, and said you were going to rip up Stalin and then you barely slapped Josef Stalin's wrist. It was Stalin who said 1 million deaths is nothing, one man's death in important.

Well, somewhere between 1 and 2 million, hundreds of thousands of Afghan men, women, and children have disappeared because in the 3 years that you have been in command—and this is your anniversary month because you took over 3 years ago this month of March—in those 3 years you have not pulled out any troops. You went through a charade about a year ago making—putting in some troops as you were taking some out—a little shell game. But you can take these troops out, you do not have to wait until May 15 to start and then take 10 months. What are you doing? Patterning yourself after Nixon's Vietnamizations? Oh no; you will make sure, unlike Mr. Nixon, that there is no way that you will fail to leave a puppet government behind in Afghanistan. Only the resoluteness of the Pakistanis will stand between you and some sort of a phoney pullout. No, Mr. Gorbachev, we put that war back in your face, by doing something under President Reagan that Jimmy Carter, with all due respect, would never have done, just like he never would have bombed Qadhafi and stopped Americans being killed all around the world by terrorists.

Whether it was Syria more guilty than Qadhafi or not, Assad of Syria got the message when we rattled Qadhafi's brains. Jimmy Carter would never have liberated Grenada. It was bad enough trying to get around some of the wimps that Reagan had on his staff to get this job done of liberating Grenada. If Mike Deaver has still been on the staff we probably would never have gotten Grenada liberated or Qadhafi bombed.

Now we see, Mr. Gorbachev, that we are willing to put over $630 million, leaked all over the American papers, against you, more than one-half of a billion dollars; not $3 million, over $600 million, 12 time zones away from the Rocky Mountains. Not Chicago/Managua time. And the people there, part of the world family, but they are Islamic and there are seven groups. The first group that gets Stingers believe it or not are loyal to the Ayatollah Khomeini and the whacked-out fundamentalists in Tehran. And, they hate the United States. And, of course, they leaked some of the Stingers down there to Iran.

So parts are in carrying cases and carriages and sites show up on some of those boats that these Iranian cowboys ride around in in the gulf shooting up unarmed tankers. But of those seven groups the Mujahidin, they are all competing with one another. Do we have any guarantee that there will be an election as in Costa Rica, Guatemala, or Honduras or El Salvador? Of course not.

We are just asking them—we are supporting them in their struggle to get rid of the Soviet occuapation troops and then whatever government they carve out for themselves, that is fine because after all they are in the Himalayan foothills. We are not going to track them. Why is it we do for Islamic people, seven competing groups with no hope of democracy that will give them way over 1,000—that is what it said in the L.A. Times and the top figure is classified—way over 1,000 big, strong genetically powerful Tennessee mules not with the little skinny pointy back like Pakistani and Afghan mules but the big, slope-backed mules where you can pile them on top and on both sides; as big as horses, 15 hands, 16 hands high.

We are sending these Tennessee mules, low tech, but we tell the poor Contras, "You carry your stuff on foot across that Mrazek line, if in fact Honduras and Costa Rica haven't completely kicked you out" which I believe they have by now, because of the Arias adaptation of the Wright/Reagan plan. And then with the low-tech Tennessee mules we given them the high-tech state of the art Stingers. What do we give to the Contras down here, our fellow Norte Americanos who have grown up under a Judeo-Christian culture, Old Testament, New Testament, most of them Christians with crosses around their necks? What do we give them? The Red Eye. What is the difference, my fellow Americans, between a Red Eye and a General Dynamics Stinger?

I will tell you, it is very simple. With a Red Eye they get to try to kill you first. They roll in this big Hind 24D, actually the 25 export model, it is coming at you firing rockets, Soviet Gatling guns, it has soldiers inside so it can land. Our Apaches do not do that. We do not have soldiers to come out and bayonet the wounded. But they do in these big Hinds. They are coming at you and you just sit there and you start praying. And if they do not blow you to bits then you get a shot at their exhaust as they leave. But with a Stinger, it is a fair contest.

You get them as they are coming at you. That is the way we treat the Afghans. More on this tomorrow. Why do we not treat our fellow people of this culture, fellow North Americans down in Nicaragua? I think it is a mystery to me and I think it is a mystery to the American people.

Thank you, Mr. Speaker, more tomorrow. I will put some of these reports in the RECORD. Please read what I have already put in the RECORD, my colleagues and anybody else interested in the written RECORD and the national technical means that some of you use to follow the proceedings in this Chamber.

Four hundred thousand Americans watch this, these special orders. So it is a joke that the majority pans the House as though to humiliate us that we are talking to wind here. Four hundred thousand of you watch. God bless you for taking an interest in your country. I love these special orders. Thank you, more tomorrow.

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

There was no objection.

The material referred to is as follows:

MEMORANDUM FOR CONGRESSMAN BOB DORNAN ON CONTRA AID FROM LARRY TRACY

OVERVIEW

The debate on February 3, 1988 demonstrated a paucity of effective arguments on the part of the anti-Contra aid coalition. I suspect that the same old arguments will be trotted out by Speaker Wright on February 25. After have read the Congressional Record for the February 3rd debate, I have isolated the principal arguments that I believe they will use, and have also developed counter-arguments. I am repeating much of the information I furnished you on February 3rd, but in a more legible form. I also recommend you read (and extract anything you find useful) the attached paper—"The United States and Central America in 1988: A Watershed Year"—that I presented at a conference at the University of Miami in January. I just finished updating it to include the events of February, and I believe it can provide you with material that will be relevant in the debate. You may use any of the information in the paper, and you may distribute it to any of your colleagues for their use.

I believe that you and your colleagues should hammer home the theme that if the Democrats are as serious as they say they are to deter Soviet aggression in the region, then Contra aid is an alternative to U.S. troops. Bring out, especially to the C-SPAN audience, that if American boys start coming back in body bags from Central America, it will be because Speaker Wright and his Democrats denied young Nicaraguans the arms to fight for their country.

THEMES OF THE ANTI-CONTRA AID COALITION, AND SUGGESTED REBUTTALS

1. "Let's give peace a chance:

Rebuttals:

A. This is pure sophistry. What we in the West mean by "peace" is entirely different from that meant by "mir", the Russian word that generally translates as "peace". Mir is used, in the Marxist-Leninist lexicon, to refer to a condition that can exist only in a "Socialist" (read Communist) state.

B. Before the Contras became successful in the field (pre-"Redeye" days), the Sandinistas were not willing to talk "peace" except on their terms, which meant unconditional surrender for the Contras. In the last eight months, the Contras have moved with impunity throughout much of Nicaragua, the Sandinista gunship fleet is virtually grounded due to the "Redeye" missiles, and the Sandinista infantry is not as aggressive now that it cannot count on air cover. It has been the military prowess of the Contras that "gave peace a chance", as the Washington Post and other elements of the elite media have pointed out. To now remove the essential factor in the peace equation—Contra military pressure—is to set back peace, not support it.

2. "The Central American Presidents want us to stop giving military aid to the Contras."

Rebuttals:

A. It is not at all certain that Presidents Duarte and Azcona are eager to see their chief antagonist, Nicaragua, free of the kind of guerrilla war that the Sandinistas have waged against their countries, especially El Salvador. But they also realize that congressional power of the purse in the U.S. can be used against them if they displease the Congress, and they are keeping a low profile, not wanting to become embroiled in a U.S. internal dispute. President Cerezo of Guatemala maintains a studied aloofness from the fray, perhaps because Guatemala, larger and more populous than Nicaragua, has traditionally never thought that either Somoza or the Sandinistas were of much concern.

B. President and Novel Laureate Oscar Arias, on the other hand, has not been reticent about injecting himself in the internal U.S. dispute. That he feels comfortable in so doing is explained by the special circumstances of Costa Rica. It has no army, and is dependent on the OAS (read U.S. Army) to defend it. On February 3, 1986, on "One-on-One", John McClaughlin observed in an interview with President-elect Arias that Costa Rica "had it all ways" with no Army to worry about, but secure in the belief that the U.S. would come to its defense if it was attacked. Arias responded that "We think it is correct that we have enough friends who will come to defend Costa Rica in case of attack by the Sandinistas or by what ever force." Arias knows that he can take "a chance for peace" because it will not be young Costa Ricans dying to defend Costa Rican democracy, it will be young Americans. And these young Americans will be the constituents of many of the Democrats who voted against Contra aid.

3. "The Soviets don't want to be saddled with another albatross like Cuba. They are ready to cut off military aid to the Sandinistas once the Contras are gone".

Rebuttals:

A. Soviet military aid to the Sandinistas has been approximately $120 million since the August 7, 1987 signing of the Peace Plan. This is almost twice the amount of U.S. military aid to the Contras in three years. There has been no sign of slackening Soviet resolve. If there were a freeze on all outside military support for the Central American countries, Nicaragua would be "frozen" as the dominant military power in the region.

B. Soviet interest in building Nicaragua rapidly into this dominant position is indicated by the fact that on a per capita basis, Nicaragua has received more military assistance than Cuba over the last four years. Cuba has a population three times greater than that of Nicaragua, and an active duty military twice the size of Nicaragua's. Yet since 1984, Nicaragua has received about the same amount of military assistance from the Soviet bloc as has Cuba.

4. "We cannot permit the Soviets to place offensive weapons in Nicaragua." (the "see what a tough anti-Communist I am argument").

Rebuttal:

A. This is a thoroughly disingenuous argument. Members of Congress must surely know that the Soviets have no need to place nuclear missiles in Nicaragua, as they placed them in Cuba in 1962. They had few missiles that could reach the U.S. then. They can now reach any target in the U.S. in 30 minutes with their land based intercontinental missiles and with their Typhoon and/or Delta nuclear submarine-launched missiles. The Soviets are too rational and cautious to risk provoking the sleeping giant of the U.S. Congress by such a blatant (and unnecessary) move. Democrats who use this argument are drawing a line in the sand that the Soviets will never cross. The soon-to-be 600,000 man army is the real offensive weapon that the countries of Central America have to fear, and the factor that is likely to cause the U.S. to send troops to Central America in the future under the terms of the 1947 Rio Treaty.

B. Once the Congress succeeds in doing what the Sandinistas have been unable to do—destroy the Contras—the Sandinista military will be able to settle down to the business of consolidating the power position of the Sandinista Party, its political superior. Major Roger Miranda has said that the Ortega brothers: "think that the only way of guaranteeing the development of their Marxist program in Nicaragua is to construct a powerful army. One can sign agreements, one can appear to be more flexible in the political system, but what they will never negotiate is the Sandinista army. They know that their power rests, in the long run, in the size of that army."

5. "U.S. support for the Contras has driven the Sandinistas into the arms of the Soviets.

Rebuttals:

A. This is the same argument that was used in the 1960's about Castro. Castro now says that U.S. hostility "had nothing to do with the direction of our revolution. Inexorably, we considered ourselves Marxist-Leninists" (TV interview in Madrid, January 1984). The Sandinistas have been more discreet, but in November 1977, they issued a "General Military-Political Program" in which they said that after toppling Somoza, they would develop a government "along progressive Marxist-Leninist lines." Humberto Ortega said in 1981 that "our doctrine is Marxism-Leninism." Bayardo Arce said in 1984 that although Nicaragua's "strategic allies tell us not to declare ourselves Marxist-Leninist" the goal of the November 1984 elections was "the unity of Marxism-Leninism in Nicaragua.

B. Nicaragua's ambassador to Washington, Carlos Tunnermann, inadvertently acknowledged in a March 30, 1985 Washington Post article that in November 1981, at the time the Reagan Administration decided to assist the Resistance, Nicaragua faced "only a few hundred" ex-National Guardsmen whose chief occupation was cattle-rustling and extortion". At that time, Nicaragua had a Soviet-supplied army of almost 40,000, the largest in Central America's history. (The Sandinista army was 5,000 in July, 1979.)

C. The Sandinista alliance with the Soviet-bloc started long before there were any Contras. The Sandinistas turned down offers of doctors, nurses, and teachers from Costa Rica, and Peace Corps volunteers from the U.S. They immediately turned to the Soviet's surrogate in the Caribbean, Castro, for all of this help and military training. The first Soviet tanks arrived six months before the U.S. decided to help the Resistance. In fact, the Sandinista army, the backbone of the Party as in all Communist countries, became the largest in Central America at the time the Carter Administration was providing more economic aid to Nicaragua than any other benefactor.

6. "No matter how onerous the Sandinistas, the U.S. cannot provide military aid to the Contras for the simple fact that it is illegal under international law."

Rebuttal:

A. Under Article 51 of the United Nations charter, "individual and collective self-defense" measures are permitted to any country. Since 1979, Nicaragua has been engaging in an armed attack against El Salvador. The assistance to the Contras is part of the United States' response to Nicaraguan aggression. To say that U.S. aid can only be sent to El Salvador, and that Nicaragua is free to act with impunity, is to turn the law on its head. If, as Dr. John Silber points out in the March 4, 1988 edition of National Review, aid to the Afghan rebels is legitimate, so too is aid to the Contras. The commonality, according to Silber, is that each is fighting an illegitimate government. The November 1984 elections in Nicaragua did not provide ligitimacy to the Sandinistas: it was considered so flawed that every democratically-elected president of Latin America boycotted the inaguaration of Daniel Ortega.

7. We hold no brief for the Sandinistas, but they have, under the pressure of their Central American neighbors, opened the political sysem and have said "if the opposition wins the election, we will turn over the government to them. There should be no equivocation about that." (Daniel Ortega, as quoted by Speaker Wright from a New York Times story, during February 3, 1988 debate.)

Rebuttal:

A. What Speaker Wright should have quoted from Ortega was a conversation Oscar Arias had with him in November 1986, when Ortega was not feeling much pressure from the Contras. Arias told a Panamanian TV inteviewer that "Ortega told the democratic presidents present that he was not willing to risk his political power." Arias went on to say: "I told him the essence of the democrat is to acknowledge that one day he could be the leader, and on the next the opposition. I asked him if he was willing to become the opposition some day. His answer was no" (FBIS-Latin America) November 14, 1986).

That was the attitude expressed to Arias at the time that the Contras were not placing much pressure on the Sandinistas, because the $100 million voted by the Congress was just beginning to reach the Contras. More than a year later, the Contras have placed sufficient pressure on the regime to cause Ortega to talk of turning over the government. According to Miranda, they will not turn over the army, which is the basis of their power.

B. As to whether Congress can believe Ortega, an article in the June 10, 1983 Washington Post by Lawerence E. Harrison, the director of AID in Nicaragua during the Carter Administration is illustrative. He recounts a coversation with a Sandinista official, who commented that: "You don't understand revolutionary truth. What is true is what serves the ends of the Revolution".

8. "This humanitarian aid package is designed to maintain military pressure on the Sandinistas by keeping the Contras a viable military force, ready to once again receive arms from the U.S. if the Sandinistas renege on their promises."

Rebuttal:

A. A transparent cop out on the part of Wright and his colleagues. The impact on the morale of the Contras has been devastating in the aftermath of the February 3rd vote. Even if the Contras have military supplies, the momentum of their operations will be stopped. A cease fire in place, with no resupply under U.S. control, will enable the Sandinistas to surround them, and when they are ready, "crush them", in Ortega's words of February 21.

B. The Democrat's proposal is actually a capitulation to the Sandinistas, an effort to cover their tracks so that if things don't work out, and the U.S. must eventually send combat troops to Central America, these Democrats will be able to say "we did all we could". If U.S. troops eventually fight and die in Central America, the record should be clear that it was because the Democrats cared more for a political victory over Ronald Reagan than they did for Central American democracy. They should not be allowed the political cover of what is an act of moral cowardice.

BANKS SHOULD PAY PREMIUMS TO FDIC ON FOREIGN DEPOSITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 30 minutes.

Mr. KLECZKA. Mr. Speaker, I am today introducing legislation to restore equity in the federal deposit insurance funding mechanism by requiring the Federal Deposit Insurance Corporation [FDIC] to levy assessments on foreign as well as domestic deposits.

Current law requires banks to pay an insurance premium based on deposits received in the United States. Banks do not now, however, pay a nickel in deposit insurance assessment on foreign-based deposits, even though the FDIC provides de facto coverage for the bulk of these deposits.

The de facto coverage results from the "too large to fail" doctrine now embraced by the federal regulatory agencies which effectively guarantees all deposits of large banks, insured and uninsured. De factor insurance of foreign deposits without a parallel assessment which includes those deposits clearly favors larger banks at the expense of others. This is because the FDIC premium is assessed on just about all the deposits for most banks, but is levied against only about half the deposits of the largest banks.

I include in the RECORD a table from the February 19, 1988, American Banker which answers the question "Who Pays Least for FDIC Protection";

TEN INSTITUTIONS WITH MOST FOREIGN DEPOSITS IN 1987

	Assets 12/31/87 ($ bil.)	Domestic deposits 9/30/87 ($ bil.)	Foreign deposits 9/30/87 ($ bil.)	FDIC 1987 assessment ($ bil.)	Percent of deposits on which assess. paid
Morgan Guaranty	$75	$15	$34	$11	31
Bankers Trust	57	11	23	9	32
Citicorp	204	40	66	34	38
Republic National	19	5	8	3	39
First Chicago	44	12	17	9	41
Chase Manhattan	99	27	36	24	43
Continental Illinois	32	8	10	7	44
Manufacturers Hanover	73	23	23	18	50
Chemical	78	26	13	20	67
BankAmerica	93	50	23	42	69

Source: Federal Deposit Insurance Corporation.

While small- and medium-sized banks usually pay full fare premiums, big banks ride the deposit insurance system via super saver.

Mr. Irvine Sprague, who chaired the FDIC for more than a decade, described the current situation well in the October 22, 1987, American Banker. Relating the cost of Federal deposit insurance, and defining those who bear that cost, he said:

What does federal deposit insurance cost? Bank-America paid $21.5 million in January and $20.5 million in July in assessments; Citibank paid $16.9 million in January and $17.3 million in July. The numbers varied from January to July because assessments are based on the moving average of deposits as stated in call reports.

The obvious question: Why does Citibank, a much larger institution, pay less for FDIC protection than Bank-America? The answer: The law is unfair.

Only domestic deposits are assessed and insured and Citibank does much more business in the foreign markets. All of the thousands of smaller banks pay on all of their deposits, the handful of international giants, mostly headquartered in New York City, pay on only a portion of theirs.

The fact is that when megabanks face failure, all of the depositors are protected, insured and uninsured alike . . . The record is clear. Continental Illinois paid only $6.5 million in assessments in 1984, yet its entire $69 billion structure was protected. Why will Congress not correct this inequity? Why do the big banks get a free ride on their assessments while their smaller brethren pay full fare?

At this point, a recounting of the Continental Illinois escapade is in order. As Mr. Sprague noted in his book "Bailout," of the $69 billion Continental structure bailed out by the Federal Government, $30 billion was in off-book liabilities. A hefty $36 billion was in uninsured borrowings, much of it foreign originated. These figures dwarf the $3 billion in insured domestic deposits the FDIC was required by law to protect. As the General Accounting Office noted,

The Federal move to bail out all depositors and creditors involved, insured and uninsured, was carried out in part to prevent a run on the bank by foreign depositors.

Continental, of course, paid no FDIC premiums based on those deposits.

A few large banks are the principal beneficiaries of this all-to-convenient underassessmnt. In 1984, the 10 largest banks collectively controlled 71 percent of foreign deposits. This means that 10 megabanks controlled among themselves $224 billion in deposits on which FDIC premiums were not assessed but for which, for all practical purposes, the FDIC was liable. As of March 31, 1987, 20 megabanks controlled 84.3 percent of all foreign deposits of FDIC-insured banks. The $280 billion in unassessed foreign deposits of these giant institutions came close to equalling the $363 billion in domestic deposits on which these institutions paid a bargain basement $303 million in gross insurance premiums. As the chart I previously included in the RECORD indicates, foreign deposits actually exceed domestic deposits at some money center banks.

For some banks, overseas accounts are very profitable. According to a recent study, the 10 biggest U.S. banks escaped payment of a collective $115 million in insurance premiums in 1984. This figure is perhaps better understood when separated out as a percentage of net income for the banks involved. For six of the 10 banks, the benefits accrued by not paying FDIC assessments on foreign deposits accounted 3 to 4-percent of net income, a sizable portion by any standard.

We now have a deposit insurance system in which the 14,000 plus banks with no foreign deposits subsidize the deposit insurance premium payments of the fewer than 300 banks which do. This point has not been lost on most bankers. I am pleased to report that the measure I introduce today has the strong support of the Independent Bankers Association of America, an industry trade group which represents the interests of approximately 6,500 commercial banks. In testimony before the House Banking, Finance and Urban Affairs Financial Institutions Subcommittee on December 3, 1987, Charles Doyle, the chairman of the IBAA Federal Legislation Committee, explained why his organization favors extending the FDIC assessment to cover foreign deposits. He said:

All banks pay a premium for FDIC insurance protection based on all their domestic deposits, including those over $100,000. However, the insurance coverage for most banks extends only to domestic depositors up to $100,000. In contrast, all deposits—foreign and domestic—at too-big-to-fail banks are covered, and such banks by their very nature present a greater systemic risk to the FDIC. The money center banks do not want to pay a fair premium assessment for their covered deposits, both foreign and domestic. This means that every bank holding foreign deposits gets a free ride and is subsidized by the rest of the banking system. As the Continental Illinois case made clear, foreign deposits are effectively a liability to the FDIC, and all liabilities should bear an assessment . . . Congress could partially address this inequity by simply including all deposits, foreign and domestic, in the deposit insurance base. Too-big-to-fail banks would then pay a fairer share for the FDIC coverage they enjoy. And, this proposal could be made "revenue neutral" by decreasing the overall assessment rate that the FDIC imposes.

The legislation I introduce today is revenue-neutral. It would reduce the overall assessment rate for all banks, to one-fourteenth of 1 percent of deposits from one-twelfth of 1 percent, while broadening the base to include foreign as well as domestic deposits. According to the FDIC, a reduction of the premium rate to one-fourteenth of 1 percent would nearly level out the effect of the expansion of the premium base which results from the inclusion of foreign deposits, with gross assessment revenues declining by eight-tenths of 1 percent. The effect for the overwhelming number of banks would be a welcome reduction in FDIC insurance premiums. Banks with a modest amount of foreign deposits would, in many instances, roughly break even as the effect of the broadened assessment base is mitigated by the lower overall assessment rate. Large banks which rely on a substantial amount of foreign deposits would begin to pay full freight.

I would like to address he arguments of those who might oppose this legislation.

Some large banks argue that the FDIC assessments of foreign deposits would sharply reduce the competitiveness of American banks abroad while having a serious adverse impact on the American trade deficit.

While an equitable assessment system would increase slightly the cost of doing business for a handful of banks, it would not make loan or deposit rates of American institutions with foreign branches uncompetitive with other banks, nor would it have a serious adverse impact on our trade balance.

Let us take a look at the numbers.

To raise $1.4 billion in 1985 assessment income, the FDIC levied an assessment of approximately 0.079 percent, or one-twelfth of 1 percent, against $1.8 trillion in domestic deposits.

Had that assessment base included foreign deposits, an additional $322 billion would have been added to the amount on which the premium was levied.

With such a broadened base, a flat percentage charge of 0.067 percent, or one-fifteenth of 1 percent, would have raised an equal amount of assessment income—$1.4 billion.

It is very useful to remember that the inclusion of foreign deposits for purposes of FDIC assessment can make possible a corresponding reduction in assessments on domestic deposits held by a bank.

Had the FDIC base been broadened in 1985, the assessment on all domestic deposits would have declined by 0.012 percent, from 0.079 percent to 0.067 percent. This would reduce pretax costs to banks by $210 million. The 268 banks with foreign offices that year would have enjoyed a reduction of 0.012 percent in assessments on their on their $825 billion in domestic deposits. In other words, they would pay $99 million less to the FDIC on their domestic deposits.

The $322 billion in foreign deposits held by these same banks would be subject to an 0.067 percent assessment. That would have

translated into an additional $216 million in costs.

Accordingly, the net increase in pretax costs for banks holding foreign deposits would have been about $117 million. This is the figure that results from subtracting the $99 million in savings from the $216 million in cost increase.

The $117 million figure is essential if we are to determine the impact of an equitable FDIC assessment system on competitiveness and trade.

Had banks with foreign deposits paid an additional $117 million in pretax assessment costs in 1985, their greater pretax cost of funding loans could be approximated by dividing the $117 million in costs by the $322 billion of foreign deposits. This would yield an additional cost of doing business of roughly four one hundredths of 1 percent—0.00036. If the aftertax cost of funding loans rose by roughly three-quarters of this value—a reasonable assumption based on worldwide effective corporate income tax rates for banks—and if higher net costs were passed on to all bank borrowers on a dollar for dollar basis, bank deposit and loan rates would be affected only slightly by the resulting percentage point change of approximately three one hundredths of 1 percent.

The impact on competitiveness and profitability of higher net costs equal to three basis points would be minimal.

The nine largest money center banks in 1985 paid 10.5 percent on interest-bearing deposits in foreign offices while earning 11.1 percent on their loans, net losses. Large banks other than money-center banks paid 9.6 percent on interest bearing deposits in their foreign offices while earning 11.0 percent on their loans, net losses.

Neither money center banks nor other large banks were required to pay a premium to the FDIC on their foreign deposits. The differences were determined by the marketplace itself and the position of individual banks within the marketplace. A higher net after-tax cost of three one-hundredths of 1 percent would not make foreign branches of American banks uncompetitive.

The costs incurred by an individual institution, whether related to economies of scale or regulatory requirements, are a determinant in that institution's position in the marketplace. Some banks may find making interbank loans on extremely thin margins to be profitable, others might not. The inclusion of foreign deposits in the FDIC premium base is not the determining factor on whether or not a bank does business overseas.

The very existence of the FDIC makes banks more competitive in their bids for foreign deposits. It certainly enhances the basic capital position of the bank by guaranteeing domestic deposits up to $100,000. Foreign competitors have no comparable deposit insurance mechanism.

In addition, foreign depositors are concerned about the safety of the institutions in which they deposit large sums of money. Not all banks are as safe and sound as American banks. According to a confidential Bank of England study, stockholdings of Japanese banks equal to about one-third of their assets are tied up in the Japanese stock market. As noted in the January 28, 1988 Wall Street Journal, this makes Japanese banks, unlike American banks, very vulnerable to a stock market crash.

Does the marketplace put a value on the safety of deposits? While difficult to quantify with exactness, Catherine Cumming noted in the Federal Reserve Bank of New York Quarterly Review of Autumn, 1985: "The normal tiering in the Euromarket suggest that safety may be worth more than 8 basis points." It seems clear that the backing American banks receive in the marketplace from FDIC protection may well be worth substantially more than the minimal cost of assessment of foreign deposits.

While an increase in the assessment base and an across-the-board reduction in the overall assessment may be the most equitable way to proceed, I want to make clear to my colleagues that I would certainly support a broadening of the base to include foreign deposits without a corresponding reduction in the overall premium if events demand such a course. The inclusion of the $332 billion in foreign deposits would increase the FDIC premium base by approximately 15 percent. If the FDIC maintains that this is a more desirable method of comprehensive assessment, Congress would be wise to listen to that advice.

Since I indicated my intent to introduce this legislation earlier this year, bankers in 25 States have contacted me to let me know of their support for the initiative. At this point, I would like to include in the RECORD copies of some of those letters of support from the various States along with the text of the legislation.

The material follows:

McHENRY STATE BANK,
McHenry, IL, January 15, 1988.

Re Federal Deposit Insurance Assessment Equity Act.

Hon. GERALD KLECZKA,
Cannon House Office Building., Washington, DC.

DEAR CONGRESSMAN KLECZKA: I am certain that about 99 percent of the insured banks in this country would support your legislation to impose federal deposit insurance assessment on foreign deposits. The present program is totally unfair to us who deal strictly in domestic deposits.

We can certainly understand that foreign deposits must be insured but to enjoy protection without assessment is totally unfair.

Very truly yours,

THOMAS F. BOLGER,
President.

STATE BANK OF LISMORE,
Lismore, MN, January 11, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR MR. KLECZKA: Received information today on your Federal Deposit Insurance Assessment Equity Act and would like to inform you that I am in complete agreement with the proposed bill. It is a wonder that this inequity has been unaddressed for this long.

If there is anything I can do to assist you please feel free to contact me.

Sincerely,

GARY M. LOOSBROCK,
V.P. Cashier.

VIRGINIA COMMUNITY BANK,
Louisa, VA, January 12, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR MR. KLECZKA: I support you in your introduction of a bill requiring FDIC to charge premiums on foreign deposits. We pay premiums for insurance based on all of our deposits, and I see no reason for money center banks being excluded. I would suspect they are better able to pay the premiums, than are many community banks across the country and I wish you success in guiding this legislation to completion.

Sincerely yours,

A. PIERCE STONE.

STATE BANK OF ESCANABA,
Escanaba, MI, January 15, 1988.

Re F.D.I.C. Assessment Equity Act.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I hail and support your bill to bring equity to the F.D.I.C. assessments of bank deposits.

As pointed out in your bill, the money center banks have been getting a free ride for many years by their ability to exclude foreign deposits from their deposit base when calculating their F.D.I.C. Assessment.

I support increasing the F.D.I.C. revenue by including these foreign deposits in future assessments.

Your bill will give small community banks and large banks that do not accept foreign deposits equity in the F.D.I.C. fund.

Thank you for your efforts.

Sincerely,

FORREST A. HENSLEE,
President.

POTOSI STATE BANK,
Potosi, WI, January 28, 1988.

Re Amendment to Federal Deposit Insurance Act.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: Foreign deposits should not receive free coverage under FDIC insurance. This only subsidized the much larger Banks at the expense of smaller banks.

The Federal Deposit Insurance Act should be amended to include foreign and domestic deposits in the deposit insurance base.

Thank you for your help on this matter.

Sincerely,

NEIL C. PIER,
President.

LIVERMORE FALLS TRUST,
January 21, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR MR. KECZKA: It is my understanding that you are planning to, or have introduced a bill called the, "Federal Deposit Insurance Assessment Equity Act". You are to be commended for your efforts to corrects a gross inequity in the business of banking.

As you know, the nation's mega banks have long enjoyed a competitive advantage with the nation's community banks—not because of economics-of-scale or for efficiencies often attributed to large institutions (improperly, in my opinion) but rather because of the perceived too-big-to fail umbrella under which they operate. Fortunately, or unfortunately, depending on one's view point these same maga institutions are the primary beneficiaries of foreign deposits. The problem is that by exempting foreign deposits from the F.D.I.C. assessment process, holders of domestic deposits are being unfairly asked to subsidize those institutions with the foreign claims. Your bill seems to address the salient issues and remedies the inequity.

Thanks for your understanding and support.

Sincerely,

L. GARY KNIGHT,
Executive Vice President.

PEMIGEWASSET NATIONAL BANK,
January 25, 1988.

Re: Federal Deposit Insurance Assessment Equity Act.

Hon. CONGRESSMAN KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: In any discussion, plain facts stemming from common knowledge are a basic method to come to agreement.

Common knowledge—Failure of the Continental Illinois Bank

Fact—The Continental Illinois Bank had both domestic and foreign deposits.

Fact—The Continental Illinois Bank was assessed a premium on only its domestic deposits.

Fact—The Continental Illinois Bank failed.

Fact—The Continental Illinois Bank's $69 billion structure—which included both domestic and foreign deposits—was protected by FDIC insurance.

In this ear when equality is being stressed, the obvious question raised is "Why is this allowed"?

Foreign deposits are effectively a liability of the FDIC and all liabilities should and must bear an assessment.

Respectfully,

FLETCHER W. ADAMS,
Executive Vice President.

FIRST NATIONAL BANK,
January 11, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives,
Washington, DC.

DEAR MR. KLECZKA: Thank you very much for your concern over the inequities in the FDIC assessments to banks. This has been of conceren to smaller, community banks for some time and your proposed bill, "Federal Deposit Insurance Assessment Equity Act", addresses the main items affecting community banks. It is my opinion that foreign deposits should definitely be included in the FDIC assessment base. This would accomplish two things: increase the overall amount of premium income to FDIC and make the bill "revenue neutral", decreasing the overall assessment rate on deposits.

Money center banks are presently the beneficiaries of an enormous U.S. Government support system that is not available to smaller domestic banks. Your bill addresses this inequity by including all deposits, both foreign and domestic, in the deposit insurance base. Large banks would then pay a fairer share of the FDIC coverage they enjoy.

We encourage your efforts to assess foreign deposits. Independent bankers throughout the United States are solidly behind you in this endeavor.

Very truly yours,

L.D. WESTBURY,
President.

THE APPLE CREEK BANKING CO.,
January 11, 1988.

Hon. GERAI D KLECZKA,
Washington, DC.

DEAR CONGRESSMAN KLECZKA: I am pleased to hear that you propose to introduce legislation that would charge big banks premiums on foreign deposits. I want to applaud you for introducing such a bill. For too long, big banks have gotten a free ride. Particularly since Continental Illinois failed and was bailed out, in total, by FDIC. In essence, all of the deposits of that bank were made whole, foreign and domestic. It is time that the big banks share the full load.

I also would like to point out that many money center banks are also presently the beneficiaries of enormous US Government support system not available to smaller domestic banks. The US government is not playing a major role in helping us re-negotiate our troubled agriculture and energy loans. There is no IMF support system helping to ensure that interest payments will be made. The perception of small banks depositors is that their deposits over $100,000 are at risk in smaller banks no matters how well run they are.

For the Apple Creek Banking Company, a small $21 million bank, and for the 130 plus members of IBAA in Ohio, I wish you success in the passage of this bill.

Sincerely,

ALFRED C. LEIST,
President.

STATE BANK OF CHITTENANGO,
February 1, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC

DEAR CONGRESSMAN KLECZKA: Thank you for your interest in correcting the glaring inequity inherent in the FDIC's failure to assess foreign deposits.

Obviously, a very large majority of the nation's smaller banks are devoid of any foreign deposits and are, therefore, bearing a disproportionate share of the cost of carrying the deposit insurance system. In recent years, this situation has been exacerbated by the reduction in assessment credits resulting from the rash of bank failures. FDIC assisted merger activities and open bank assistance costs highlighted by the $4.5 billion injection into Continental Illinois.

State Bank of Chittenango noticed an increase of more than $5,000.00 annually in its net FDIC premiums when the assessment credits were modified because of those problems.

Those same banks which are too big to fail are, for all practical purposes, 100% FDIC insured and are, at the same time, enjoying the benefits of a portion of their deposits free of insurance premium assessment. Our bank, on the other hand, is paying a premium on 100% of its deposits, but does not enjoy 100% deposit insurance.

Congressman Kleczka, like you, I just don't understand why we should pay more and get less, nor why our depositors and shareholders should be treated like second class citizens by comparison to the depositors and shareholders of major money center banks which hold the lion's share of unassessed deposit liabilities.

Sincerely,

ROBERT B. MACDONALD,
President and Chief Executive Officer.

CRESCENT CITY BANK,
New Orleans, LA, January 22, 1988.

Congressman GERALD D. KLECKZA,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN KLECKZA: This letter expresses my support for your plans to introduce a bill requiring that the Federal Deposit Insurance Corporation impose premiums on foreign deposits of domestic banks.

Good luck in this endeavor.

Very truly yours,

RAY C. BAAS,
President and
Chairman of the Board.

THE BROOKINGS BANK,
Brookings, SD, January 20, 1988.

Congressman KLECKZA,
House of Representatives, Cannon Building, Washington, DC.

DEAR CONGRESSMAN: As a community banker in a small town in South Dakota, I want to applaud your efforts in reforming the FDIC deposit insurance premium structure. Your attention to this is a welcome relief to those of us who serve the communities in obscurity, while money center banks dominate the consciousness of the news media and regulators.

For a long time we have watched expenses for FDIC insurance increase (there has been no partial refund of premiums for some time) while the money center banks have paid far less proportionally because of their international deposits. Nevertheless, when a bank the size of ours experiences financial difficulty, it is closed, while the Continental's of this world remain in business draining away the reserves of the FDIC. A fund our bank has been contributing to since 1935.

I hope this legislation is successfully passed, and I will urge my Congressional Representatives to support it.

Very truly yours,

GEORGE LUND,
Chairman.

BANK OF COLUMBIA,
Columbia, AL, January 28, 1988.

Hon. GERALD KLECZKA,
U.S. Congressman, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I would like to offer you my support and appreciation for your introducing the bill requiring the FDIC to impose premiums on foreign and domestic deposits. Small banks should not have to pay high FDIC premiums so that the larger institutions can house foreign deposits and not pay for their coverage. The law should be changed, assessing all deposits, foreign and domestic.

Again, I appreciate your support of this legislation.

Sincerely,

B.F. OAKLEY,
Chariman and CEO.

THE PEOPLES BANK,
Winder, GA, January 12, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Cannon Building, Washington, DC.

DEAR CONGRESSMAN KLECZKA: It is my understanding that you plan to introduce a bill requiring that the FDIC impose premiums on foreign deposits. As a small town community banker for over 40 years, I would like to thank you in advance for your decision to place this bill before Congress and to urge its passage in the strongest possible terms.

The large moneycenter banks have failed to carry their fair share of the insurance deposit load for many, many years and yet have derived all the benefits of having 100 percent of their deposits insured as shown by the Continental Bank's near failure.

It not only seems basically unfair to require the small and regional banks to pay full premiums on their deposits but it adds insult to injury when we find that the small banks are allowed to fail without any intervention whatever and yet when a large bank gets into difficulties, the regulatory authorities rush to their rescue.

As you are well aware, the many small banks, particularly in the midwest and agricultural areas, have had some extreme difficulties in trying to serve their farm communities and it would be of tremendous help if you would push this bill through and at least make the large banks pay their pro rata share of the premiums for deposit insurance.

May I express in advance my personal appreciation for your consideration and I will be more than happy to supply any informa-

tion from a local standpoint that you might desire to support your position.

Yours very truly,

CHARLES O. MADDOX, Jr.,
President.

THE FIRST NATIONAL BANK,
Greencastle, PA, January 13, 1988.

Congressman GERALD KLECZKA,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN KLECZKA: May I congratulate you on the introduction of your bill "Federal Deposit Insurance Assessment Equity Act" which would include foreign deposits in the FDIC assessment base, and speaking for the small banking industry, (having been past President of the Independent Bankers Association of Pennsylvania) the present FDIC assessment has been so unfair to the small banks of the United States.

Although the mega banks do not use this in their promotion, we know what they rest comfortably in knowing the fact that the federal government totally insures all of their deposits, including those of foreign depositors. On the other hand, we small bankers must be straightforward with our depositors in indicating that the limit of insurance coverage is $100,000 per deposit. It is beyond our comprehension how the United States government can allow this inequity to continue to exist. It is important to us that "All" liabilities should bear an assessment by the FDIC, and the free ride that the mega banks have enjoyed should come to an end.

Our small banks have outperformed the mega banks year in and year out. This comes from highly qualified management and knowing our customer, thereby, creating fewer loan writeoffs, despite the fact that we outperform most mega banks makes very little difference in the minds of the customer or depositor. By putting ourselves in his place, we must weigh very heavily where we are going to place our deposits in excess of $100,000; where they are 100 percent guaranteed, or where they are exposed in excess of $100,000.

I totally support your act which calls for the inclusion of foreign deposits in the FDIC assessment base.

I hope your bill meets with success. Any Congressman should vote in favor of your bill to correct the inequity and unfairness against small banks which has prevailed since the Continental Illinois failure.

From all of us, we thank you for your sponsorship.

Yours truly,

C.B. SHANK
President.

THE FARMERS BANK,
Hardinsburg, KY, January 12, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: This letter will register our Bank's support and the support of other Independent Bankers in the State of Kentucky for your proposed legislation requiring the FDIC to impose premiums on foreign deposits. This requirement is long overdue and we feel it is important that the large banks who have foreign deposits should pay their fair share of insurance premium.

You have our solid support for your proposed legislation.

Sincerely,

C.D. BENNETT,
President.

VALLEY BANK,
Kalispell. MT, January 14, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: We understand that you are planning to introduce a bill requiring that the Federal Deposit Insurance Corporation impose premiums on foreign deposits. We are pleased to note your concern and we sincerely support your efforts. With the failure of the Continental-Illinois Bank, it has become obvious that the Federal Deposit Insurance Corporation and those required to provide the funding for the FDIC Reserves were being "ripped off" by money center banks earmarked "too big to fail". It is the feeling of this writer that it is imperative that ALL deposits insured by the Federal Deposit Insurance Corporation be placed under the assessment system if we have any hope of maintaining the safety and soundness of the system. It is totally unrealistic that the major money center banks of this country should be receiving FDIC premium *welfare* from the Nation's ten or eleven thousand community banks. We sincerely hope that you are successful in your efforts.

Sincerely,

A.J. KING,
President.

NEBRASKA STATE BANK,
South Sioux City, NE, January 25, 1988.

Congressman GERALD KLECZKA,
Washington, DC.

DEAR CONGRESSMAN: I am voicing my support of your bill to require that the FDIC impose premiums on foreign deposits. Though foreign deposits are technically not covered by deposit insurance, banks that rely heavily on foreign deposits are generally the same banks that the federal regulators would not allow to fail under any circumstances. Thus, they enjoy de facto 100% deposit insurance, but pay on only their domestic deposits. As the Continental Illinois case illustrated, foreign deposits are effectively a liability of the FDIC, and all liabilities should bear an assessment. This inequity can be solved by your bill whereby all deposits, foreign and domestic, are assessed equally.

Thank you for your consideration in this matter.

Sincerely,

ROY YALEY,
President.

FARMERS BANK,
Parsons, TN, February 5, 1988.

Congressman GERALD D. KLECZKA,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I am writing in support of your effort to require the FDIC to impose premiums on foreign deposits.

As you know one of the strengths of America has been the diversity of its institutions including commercial banks.

This diversity has been nurtured by the "dual" banking system of nationally chartered banks and state chartered banks.

It seems that in recent years "dual" banking has come to connotate something else and that something else is unfair and uneven treatment by regulators of large banks and small banks.

We have seen a myriad of regulations imposed on small banks because of abuses of consumers by large banks, but when it comes to the question of surviving or failing or of not paying a fair FDIC insurance premium or of paying a fair FDIC insurance premium the new "dual" standard has been invoked.

The fundamental question here is, what is right and what is wrong with the FDIC insurance premium policy? We are dealing with matters of principle, but there is more to the question than principle.

It is just plain good sense to assess all deposits with a premium and lower the overall assessment rate.

I commend you on your effort and I sincerely hope that your colleagues will support this effort to right a wrong.

Sincerely,

H.L. TOWNSEND, Jr.,
President.

AMERICAN EXCHANGE BANK,
Collinsville, OK, January 15, 1988.

Congressman GERALD KLECZKA,
Washington, DC.

DEAR HONORABLE CONGRESSMAN: I am writing in response and support of your proposed legislation which would require all banks to pay equally on ALL of their deposits.

I feel, in these troubled economic times, that fair the burden of FDIC protection must be borne by all. It appers to be crystal clear that most small community bankers perceive large banks as having full coverage from FDIC, which is not afforded to us. With this favored treatment should come responsibility and liability of payment for all premium payments.

I certainly support your efforts to see that the FDIC assessment is equal and fair to all. I appreciate your help on our benefit. If there is anything we can do to assist you, please let me know.

Sincerely yours,

WILLIAM S. FLANAGAN, Jr.

FARMERS AND MERCHANTS BANK,
Wimbledon, ND, January 14, 1988.

Hon. GERALD D. KLECZKA,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE KLECZKA: I am writing in support of your bill entitled the "Federal Deposit Insurance Assessment Equity Act." As a small rural banker, I totally agree that it is time the "too big to fail" banks pay their share of the insurance assessment.

Congress can simply address this matter by including all deposits, foreign and domestic, in the deposit insurance base. Too-big-to-fail banks would then be paying a fairer share for the FDIC deposit insurance they enjoy.

As a rural agricultural bank, the proposed decrease assessment would also help our situation. I wish you the best of luck in this legislation.

Sincerely,

J.A. BROWN,
President.

AVERY COUNTY BANK,
Newland, NC, January 19, 1988.

Hon. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I am writing you in support of the bill you are planning to introduce requiring that the FDIC impose premiums on foreign deposits. I feel that all liabilities should bear an assessment. The money center banks do not pay their fair share for the safety they enjoy.

Very truly yours,

MARTHA GUY,
President.

WESTERN COMMERCE BANK,
Carlsbad, NM, January 20, 1988.

Subject: Federal Deposit Insurance Assessment Equity Act.

Hon. GERALD KLECZKA,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN KLECZKA: The two reasons for requiring the Federal Deposit Insurance Corporation to levy assessments on foreign deposits as well as domestic deposits is one, because it is fair and two, it will also help restore the much needed equity in the federal deposit insurance funding mechanism.

The majority of foreign deposits are "technically" insured since most of them are kept in too-big-to-fail banks. These deposits have no risk because they enjoy a federal safety net being in banks that are significant to the banking system.

Banks that don't carry foreign deposits have carried more than their fair share of the funding of the F.D.I.C. If a bank wants to have foreign deposits on its books, it should have to pay the F.D.I.C. a premium on them. This change should not only apply to the large money center banks, but also to the smaller institutions as well.

Sincerely,

DON KIDD,
President.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BAKER of Louisiana (at the request of Mr. MICHEL) for today on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. PARRIS, for 5 minutes, on March 3.

Mr. HUNTER, for 5 minutes, today.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. LAFALCE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. EDWARDS of California, for 60 minutes, today.

Mr. EDWARDS of California, for 60 minutes, on March 3.

Mr. KLECZKA, for 30 minutes, today.

Mr. GARCIA, for 60 minutes, on March 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PANETTA and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the RECORD and is estimated by the Public Printer to cost $1,815.

Mr. MARLENEE to revise and extend his remarks prior to the vote on the Sensenbrenner substitute in the Committee of the Whole today.

(The following members (at the request of Mr. DORNAN of California) and to include extraneous matter:)

Mr. DORNAN of California.
Mr. GREEN.
Mr. BROOMFIELD.
Mr. PORTER.
Mr. SAXTON.
Mr. DONALD E. LUKENS.
Mr. VANDER JAGT.
Mr. MOORHEAD.
Mr. GILMAN.
Mr. DAVIS OF Michigan.
Mr. LEWIS OF Florida.
Mr. COUGHLIN.
Mr. PARRIS.
Mr. BEREUTER.
Mr. GUNDERSON.
Mr. BARTON of Texas.
Mr. MCDADE.

(The following members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. SHARP.
Mr. DEFAZIO.
Mr. LIPINSKI.
Mr. MONTGOMERY.
Mr. GEJDENSON.
Mr. MANTON in two instances.
Mr. YATES.
Mr. EDWARDS of California.
Mr. CLEMENTS.
Ms. OAKAR.
Mr. MILLER of California.
Mr. LEVINE of California.
Mr. TALLON.
Mr. HAWKINS.
Mrs. SCHROEDER.
Mr. RICHARDSON in two instances.
Mr. GARCIA in two instances.
Mr. DYSON in two instances.
Mr. COLEMAN of Texas.
Mr. KLECZKA.
Mr. BROOKS.
Mr. COELHO.
Mr. DONNELLY.
Mr. DURBIN.
Mr. LELAND.
Mr. ACKERMAN.
Mr. MAZZOLI.
Mr. VENTO.
Mr. LANTOS in two instances.
Mr. SWIFT.
Mr. STALLINGS.
Mr. GRAY of Pennsylvania.
Mr. HAMILTON.
Mr. BERMAN.
Mr. OWENS of Utah.
Mr. BOLAND in two instances.
Mr. APPLEGATE.
Ms. SLAUGHTER of New York.
Mr. WAXMAN.
Mr. MINETA.
Mr. STARK.
Mr. STUDDS.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 25 minutes p.m.), the House adjourned until tomorrow, Thursday, March 3, 1988, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3010. A letter from the Administrator of Veterans Affairs, Veterans Administration; transmitting a report of a violation which occurred in connection with the allotment to the Office of the Inspector General and consisted of an overobligation in excess of the OIG's third quarter allotment, fiscal year 1987, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3011. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to provide greater flexibility in military officer personnel management during officer force reductions; to the Committee on Armed Services.

3012. A letter from the Administrator, Environmental Protection Agency, transmitting a copy of the Agency's study of asbestos-containing materials in public buildings, pursuant to 20 U.S.C. 4016, 4020(7); to the Committee on Energy and Commerce.

3013. A letter from the Chairman, Environmental Protection Agency, transmitting a report "EPA Activities and Accomplishments under the Resource Conservation and Recovery Act: Fourth Quarter fiscal year 1986 through fiscal year 1987", pursuant to 42 U.S.C. 6915; to the Committee on Energy and Commerce.

3014. A letter from the Chairman, President's Cancer Panel, transmitting a copy of the Panel's 1987 annual report to the President, pursuant to 42 U.S.C. 285a-4(b); to the Committee on Energy and Commerce.

3015. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 88-10, certifying that 17 major narcotics producing and/or trafficking countries have cooperated fully with the United States to control narcotics production, trafficking, or money laundering; that certification of Laos, Lebanon, and Paraguay is in the vital national interests of the United States; determination that he will not certify Panama, Iran, Syria or Afghanistan; and a copy of the 1988 International Narcotics Control Strategy Report, pursuant to 22 U.S.C. 2991(h)(3); to the Committee on Foreign Affairs.

3016. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting a copy of the Deputy Secretary's Determination and Justification that the needs of displaced Tibetans are not similar to those of displaced persons and refugees in other parts of the world, pursuant to Public Law 99-399, section 1308(b)(2)(A) (100 Stat. 901); to the Committee on Foreign Affairs.

3017. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to wiave foreign military sales surcharges on sales to the NATO Maintenance and Supply Organization [NAMSO]—a NATO subsidiary body—in support of weapon system partnerships and NATO/SHAPE projects; to the Committee on Foreign Affairs.

3018. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the 1987 annual report of the Board's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3019. A letter from the Deputy Director of Administration, Central Intelligence Agency, transmitting the Agency's annual report on its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3020. A letter from the Chairman, Commodity Futures Trading Commission, transmitting the Commission's thirteenth annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3021. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the 1987 annual report of the Department's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3022. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the Bank's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3023. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3024. A letter from the Chairman, Federal Labor Relations Authority, transmitting the Agency's annual report on its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3025. A letter from the Chairman, National Endowment for the Arts, transmitting the Council's annual report on its activities under the Freedom of Information Act during calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3026. A letter from Assistant Vice President for Public Affairs, National Railroad Passenger Corporation, transmitting the Corporation's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3027. A letter from Vice President and General Counsel, Overseas Private Investment Corporation, transmitting the Corporation's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3028. A letter from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting the Commission's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3029. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting the 1987 annual report of the Board's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3030. A letter from the Solicitor, United States Commission on Civil Rights, transmitting the Commission's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3031. A letter from the Chairman, United States Consumer Product Safety Commission, transmitting the Commission's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3032. A letter from the Administrator, Veterans Administration, transmitting the Administration's annual report on its activities under the Freedom of Information Act for 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3033. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3034. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting copies of grants of suspension of deportation of certain aliens, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3035. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report on appeals filed for fiscal year 1987, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Post Office and Civil Service.

3036. A letter from the Secretary of Health and Human Services, transmitting a report on the applicable percentage increase for the Medicare prospective payment system for fiscal year 1989, pursuant to Public Law 100-203, section 4002; to the Committee on Ways and Means.

3037. A letter from the Secretary of Education, transmitting the Department's views on S. 557, the Civil Rights Restoration Act; jointly, to the Committees on Education and Labor and the Judiciary.

3038. A letter from the Comptroller General, transmitting a report on U.S. international narcotics control activities, pursuant to 22 U.S.C. 2291 nt.; jointly, to the Committees on Government Operations and Foreign Affairs.

3039. A letter from the Assistant Attorney General, transmitting a draft of proposed legislation to amend Title 42 of the United States to confer statutory law enforcement powers on special agents of the U.S. Environmental Protection Agency with responsibility for criminal enforcement of environmental laws; jointly, to the Committees on the Judiciary, Energy and Commerce, Agriculture, Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2032. A bill to authorize the conveyance of the Liberty ship Protector with an amendment (Rept. 100-509). Referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD:

H.R. 4053. A bill to redesignate the J. Strom Thurmond Reservoir as the "Clarks Hill Lake"; to the Committee on Public Works and Transportation.

By Mr. BROOKS (for himself and Mr. HORTON):

H.R. 4054. A bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes; to the Committee on Government Operations.

By Mr. BROWN of Colorado:

H.R. 4055. A bill to amend the Uniform Time Act of 1966 to permit Colorado to observe daylight savings time during additional periods in order to improve air quality in urban areas; to the Committee on Energy and Commerce.

By Mr. DAVIS of Michigan (for himself, Mr. JONES of North Carolina, Mr. AUCOIN, Mr. BATEMAN, Mrs. BENTLEY, Mr. BIAGGI, Mr. BILIRAKIS, Mr. BOSCO, Mrs. BOXER, Mr. CALLAHAN, Mr. DYSON, Mr. ECKART, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FIELDS, Mr. FOGLIETTA, Mr. FUSTER, Mr. HERGER, Mr. HORTON, Mr. HOWARD, Mr. HUTTO, Mr. LENT, Mr. LIPINSKI, Mr. MCCLOSKEY, Mr. MCMILLEN of Maryland, Mr. OWENS of New York, Mr. PORTER, Mr. QUILLEN, Mrs. SAIKI, Miss SCHNEIDER, Mr. SHUMWAY, Mr. SMITH of New Jersey, Mr. TRAFICANT, Mr. UPTON, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. WELDON, and Mr. YOUNG of Alaska):

H.R. 4056. A bill making urgent supplemental appropriations for fiscal year 1988 for Coast Guard operating expenses; to the Committee on Appropriations.

By Mr. ERDREICH:

H.R. 4057. A bill to provide for a study by the Secretary of Health and Human Services to develop recommendations for correcting the disparities in the computation of social security benefits (commonly referred to as the "notch problem") which were caused by the enactment (in 1977) of the present formula for computing primary insurance amounts under title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. GARCIA:

H.R. 4058. A bill to amend the Export-Import Bank Act of 1945 to require appropriations for the amount of any loan subsidy provided by the Export-Import Bank of the United States and to authorize appropriations for such purposes for fiscal years beginning after September 30, 1989; to the Committee on Banking, Finance and Urban Affairs.

H.R. 4059. A bill to amend the Export-Import Bank Act of 1945 to authorize appropriations to the Tied Aid Credit Fund for fiscal years 1989 and 1990; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PANETTA (for himself, Mr. DE LA GARZA, Mr. FOLEY, Mr. STAGGERS, Mr. GLICKMAN, Mr. OLIN, Mr. HAWKINS, Mr. ESPY, Mr. JEFFORDS, Mr. MORRISON of Washington, Mr. ACKERMAN, Mr. NOWAK, Mr. OWENS of New York, Mr. VENTO, Mr. WYDEN, Mr. LOWRY of Washington, Mr. MILLER of California, Mr. RODINO, Mr. MATSUI, Mr. FAZIO, Mr. TRAXLER, Mr. PENNY, Mr. GONZALEZ, Mr. DORGAN of North Dakota, Mr. STARK, Mr. WALGREN, Mr. GILMAN, Mr. MFUME, Mr. BROWN of California, Mr. EDWARDS of California, Mr. ATKINS, Mr. BERMAN, Mr. WILSON, Mr. MARTINEZ, Mr. MCHUGH, Mr. DWYER of New Jersey, Ms. PELOSI, Mr. TRAFICANT, Mr. FRANK, Mr. STOKES, Mr. WOLPE, Mr. WILLIAMS, Mr. HERTEL, and Mr. LELAND):

H.R. 4060. A bill to provide hunger relief, and for other purposes; jointly, to the Committees on Agriculture and Education and Labor.

By Mr. KLECZKA:

H.R. 4061. A bill to amend the Federal Deposit Insurance Act to provide deposit insurance in a manner which does not discriminate against small- and medium-sized banks by expanding the assessment base and reducing the assessment rate for deposit insurance; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PARRIS (for himself, Mr. BARNARD, Mr. SHUMWAY, and Mrs. SAIKI):

H.R. 4062. A bill entitled "The Management Interlocks Revision Act of 1988"; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROSE (for himself, Mr. JONES of North Carolina, Mr. VALENTINE, Mr. LANCASTER, Mr. PRICE of North Carolina, Mr. NEAL, Mr. COBLE, Mr. HEFNER, Mr. MCMILLAN of North Carolina, Mr. BALLENGER, Mr. CLARKE, Mr. RAVENEL, Mr. SPENCE, Mr. DERRICK, Mrs. PATTERSON, Mr. SPRATT, and Mr. TALLON):

H.R. 4063. A bill to require the Secretary of Labor to permit North Carolina and South Carolina to continue to employ 17-year old school bus drivers under certain conditions until June 15, 1988; to the Committee on Education and Labor.

By Mrs. SCHROEDER (for herself and Mr. GLICKMAN):

H.R. 4064. A bill to amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges; to the Committee on the Judiciary.

By Mr. SHARP (for himself, Mr. MOORHEAD, Mr. BRUCE, Mr. BRYANT, Mr. LENT, Mr. MARKEY, Mr. RICHARDSON, Mr. WALGREN, and Mr. WYDEN):

H.R. 4065. A bill to amend the National Energy Conservation Policy Act with respect to the energy policy of the United States; to the Committee on Energy and Commerce.

By Ms. SLAUGHTER of New York:

H.R. 4066. A bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of firefighting vehicles; to the Committee on Public Works and Transportation.

By Mr. WELDON:

H.R. 4067. A bill to prohibit certain railroad employees from leaving their post in the event of a train accident; to the Committee on Energy and Commerce.

By Mr. GEJDENSON (for himself, Mr. UDALL, Mr. MILLER of California, Mr. RICHARDSON, Mr. CAMPBELL, and Mr. DEFAZIO):

H.R. 4068. A bill to amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and the Judiciary.

By Mr. HOWARD (for himself (by request), Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. SHUSTER):

H.R. 4069. A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1988 and 1989, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. PARRIS:

H.R. 4070. A bill to provide another opportunity for Federal employees to elect coverage under the Federal Employees' Retirement System; to provide that the recently enacted government pension offset provisions of the Social Security Act shall not apply to Federal employees who take advantage of the new election period; and for other purposes; jointly, to the Committees on Post Office and Civil Service and Ways and Means.

By Mr. SLATTERY:

H.R. 4071. A bill to amend section 210 of the Energy Reorganization Act of 1974 to provide protection against discrimination for certain employees, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Energy and Commerce, Armed Services, and Science, Space and Technology.

By Mr. WAXMAN (for himself, Mr. HYDE, Mr. LELAND, Mr. SCHEUER, Mr. WALGREN, Mr. WYDEN, Mr. SIKORSKI, Mr. BATES, Mr. BRUCE, Mrs. COLLINS, Mr. BOUCHER, Mr. MILLER of California and Mr. DOWNEY of New York):

H.R. 4072. A bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. FASCELL (for himself (by request), Mr. BROOMFIELD, Mr. SOLARZ, and Mr. LEACH of Iowa):

H.J. Res. 479. Joint resolution to authorize the entry into force of the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; jointly, to the Committees on Foreign Affairs and Interior and Insular Affairs.

By Mr. BOUCHER (for himself, Mr. CARDIN, Mr. WOLF, Mr. HOYER, Mr. PARRIS, Mr. MCMILLEN or Maryland, Mrs. MORELLA, Mr. FAUNTROY and Mr. SISISKY):

H.J. Res. 480. Joint resolution granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact; to the Committee on the Judiciary.

By Mr. GARCIA (for himself, Mr. WYDEN, Mr. BLILEY, Mr. FUSTER, Mr. LEWIS of Georgia, Mr. SMITH of Florida, Mr. LEHMAN of Florida, Mr. KOSTMAYER, Mr. WOLF, Mr. MFUME, Mr. OWENS of Utah, Mr. DE LUGO, Mr. KONNYU, Mr. BILBRAY, Mr. FAUNTROY, Mr. HOWARD, Mrs. COLLINS, Mr. FAZIO, Mrs. BOXER, Mr. HUGHES, Mr. MRAZEK, Mr. FROST, Mr. LIPINSKI, Mr. EVANS, Mr. DEWINE, Mr. WORTLEY, Mr. BATES, Mr. CROCKETT, Mr. VOLKMER, Mr. ROE, Mr. HOCHBRUECKNER, Mr. BERMAN, Mr. HORTON, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. SOLOMON, Mr. TOWNS, Mr. DARDEN, Mr. BORSKI, Mr. CAMPBELL, Mr. CLAY, Mr. DONNELLY, Mr. DOWDY of Mississippi, Mr. BUECHNER, Mr. DREIER of California, Mr. DE LA GARZA, Mr. FISH, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FRENZEL, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. FEIGHAN, and Mr. BRYANT):

H.J. Res. 481. Joint resolution to designate the period beginning May 16, 1988, and ending May 22, 1988, as "National Safe Kids Week"; to the Committee on Post Office and Civil Service.

By Mr. BONIOR of Michigan (for himself, Mr. HAMILTON, Mr. OBEY, Mr. STOKES, Mr. ASPIN, Mr. MILLER of California, Mr. GUARINI, Mr. LOWRY of Washington, Mr. DORGAN of North Dakota, Mr. FRANK, Mr. MCCURDY, Mr. SPRATT, Mr. ROWLAND of Georgia, Mr. SLATTERY, Mr. MORRISON of Connecticut, Mr. COOPER, Mr. CARPER, Mr. ANDREWS, and Mr. LANCASTER):

H.J. Res. 482. Joint resolution to provide assistance and support for peace, democracy and reconciliation in Central America; jointly, to the Committees on Appropriations, Armed Services, Foreign Affairs, the Permanent Select Committee on Intelligence, and Rules.

By Mrs. MEYERS of Kansas:

H.J. Res. 483. Joint resolution to designate the week beginning April 3, 1988, as "National Auctioneers Week"; to the Committee on Post Office and Civil Service.

By Mr. KOSTMAYER:

H. Con. Res. 255. Concurrent resolution expressing the support of the Congress for Panamanian President Delvalle and for democracy in Panama; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. LEACH of Iowa (for himself, Mr. BROOMFIELD, and Mr. PASHAYAN):

H. Con. Res. 256. Concurrent resolution urging the President to use his emergency refugee authority to accommodate the admission of additional Armenians and others from the Soviet Union; to the Committee on the Judiciary.

By Mr. MANTON (for himself and Mr. ACKERMAN):

H. Con. Res. 257. Concurrent resolution expressing the sense of the Congress that the Board of Governors of the Federal Reserve System should take such steps as may be necessary to prevent electronic fund transfers between financial institutions in the Republic of Panama and financial institutions in the United States until such time as the President certifies the Republic of Panama pursuant to section 481(h)(2)(A) of the Foreign Assistance Act of 1961; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RAHALL (for himself and Mr. MOLLOHAN):

H. Con. Res. 258. Concurrent resolution expressing the sense of Congress regarding the upcoming National "Silver-Haired Congress"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR:

H. Res. 393. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. KOLTER:

H. Res. 394. Resolution expressing the opposition of the House of Representatives to the proposed World Bank loan to restructure Mexico's steel industry; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GAYDOS (for himself, Mr. MURTHA, Mr. RITTER, Mr. APPLEGATE, and Mr. REGULA):

H. Res 395. Resolution expressing the sense of the House of Representatives that the proposed World Bank loan to Mexico is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization efforts; and the Government of the United States should use its best efforts to prevent approval of that loan; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

276. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to the depletion of the ozone layer, to the Committee on Energy and Commerce.

277. Also, memorial of the Legislature of the State of Nebraska, relative to the Vietnam Women's Memorial Project; to the Committee on Interior and Insular Affairs.

278. Also, memorial of the Legislature of the State of Maine, relative to the retention of mortgage revenue bonds; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. STALLINGS introduced a bill (H.R. 4073) for the relief of Mr. Wilhelm Schlechter, Mrs. Monica Pino Schlechter, Ingrid Daniela Schlechter, and Arturo Davio Schlechter; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 74: Mr. MOODY.

H.R. 190: Mr. SABO, Mr. ERDREICH, Mr. NEAL, and Mr. TAUKE.

H.R. 245: Mr. GRANDY.

H.R. 276: Mr. RICHARDSON.

H.R. 341: Mr. HILER and Mr. PACKARD.

H.R. 541: Mr. BRENNAN.

H.R. 778: Mr. WORTLEY and Mr. FORD of Tennessee.

H.R. 912: Mr. LAFALCE.

H.R. 1119: Mr. RICHARDSON.

H.R. 1204: Mr. FIELDS.

H.R. 1272: Mr. OWENS of Utah.

H.R. 1583: Mr. PETRI, Mr. MACKAY, Mr. ROGERS, Mr. DENNY SMITH, Mr. GOODLING, Mr. CHENEY, and Mr. GREGG.

H.R. 1663: Mr. PACKARD, Mr. HASTERT, Mr. BATES, Mr. CRAIG, Mr. OBEY, and Mr. COOPER.

H.R. 1766: Mr. ROE.

H.R. 1782: Mr. MFUME and Mr. SMITH of New Jersey.

H.R. 1965: Mr. CRAIG.

H.R. 2017: Mr. WORTLEY.

H.R. 2148: Mr. CLARKE, Mr. ANDREWS, Mr. MILLER of Ohio, Mr. COOPER, Mr. SHAYS, Mr. MARKEY, and Mr. CRAIG.

H.R. 2238: Mr. DE LUGO, Mr. MCMILLAN of North Carolina, Mr. ESPY, Mr. HOUGHTON, Mr. SMITH of Texas, Mr. MCCOLLUM, Mr. VANDER JAGT, Mr. TRAFICANT, Mr. LEWIS of Georgia, Mr. STENHOLM, Mr. PRICE of Illinois, Mr. WELDON, Mr. PEPPER, Mr. TALLON, Mr. DICKINSON, Mr. KONNYU, Mr. FEIGHAN, Mr. SMITH of New Jersey, Ms. PELOSI, Mr. LENT, Mr. SAXTON, Mr. LEHMAN of California, Mr. DAVIS of Illinois, Mrs. LLOYD, Mr. PENNY, and Mr. BILIRAKIS.

H.R. 2567: Mr. SUNIA, Mr. ROYBAL, Mr. SABO, Ms. PELOSI, Mr. ACKERMAN, and Mr. FUSTER.

H.R. 2580: Mr. CHANDLER.

H.R. 2674: Mr. HOYER.

H.R. 2717: Mr. LEHMAN of California and Mr. DURBIN.

H.R. 2734: Mr. MCEWEN.

H.R. 2800: Mr. CHANDLER, Mr. ASPIN, Mr. SKELTON, Mr. HEFNER, Mr. CARR, and Mr. FORD of Tennessee.

H.R. 2837: Mr. VENTO.

H.R. 2879: Mr. FISH.

H.R. 2976: Mrs. BENTLEY and Mrs. COLLINS.

H.R. 2988: Mr. HARRIS, Mr. YOUNG of Alaska, Mr. BARNARD, and Mr. SUNIA.

H.R. 3070: Mr. VENTO, Mr. SLATTERY, Mr. LOWRY of Washington, and Mr. COOPER.

H.R. 3132: Mr. LEHMAN of California.

H.R. 3146: Mr. RINALDO and Mr. SLATTERY.

H.R. 3149: Mr. BILIRAKIS.

H.R. 3193: Mr. RICHARDSON.

H.R. 3199: Mr. LEWIS of Florida.

H.R. 3299: Mr. DYSON, Mr. ECKART, Mr. HORTON, Mr. OWENS of New York, Mr. VANDER JAGT, and Mr. YOUNG of Alaska.

H.R. 3361: Mr. APPLEGATE, Mr. SPENCE, Mr. HOWARD, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. VANDER JAGT, Mr. GEJDENSON, Mr. GARCIA, Mr. LELAND, Mr. COUGHLIN, Mr. FLORIO, Mr. DYSON, and Mr. KENNEDY.

H.R. 3603: Mr. MOODY.

H.R. 3622: Mr. DOWDY of Mississippi, Mr. EVANS, Mr. BOUCHER, Mr. ROE, Mr. KONNYU, Mr. WORTLEY, Ms. KAPTUR, Mr. BROWN of California, Mr. TALLON, Mr. BILIRAKIS, Mrs. COLLINS, Mr. DEWINE, Mr. LOWERY of California, Mr. EDWARDS of California, Mr. LANCASTER, Mr. ROBINSON, Mr. GEJDENSON, Mr. NIELSON of Utah, Mr. HUGHES, Mr. PANETTA, Mr. RICHARDSON, Mr. LEVIN of Michigan, Mr. JONTZ, and Mr. DYSON.

H.R. 3628: Mr. RINALDO, Mr. MCDADE, Mr. DOWNEY OF NEW YORK, Mr. TRAXLER, Mr. CLARKE, Mr. OWENS of New York, Mr. MACK, Mr. TRAFICANT, Mr. RAHALL, Mr. CARPER, Mr. SKEEN, Mr. BILIRAKIS, Mr. SUNIA, Mr. BOLAND, Mr. BROOKS, Mr. UPTON, Mr. SCHUETTE, Mr. GRANDY, Mr. MICA, Mr. FEIGHAN, Mr. HAYES of Louisiana, Mr. MATSUI, Mr. AUCOIN, Mr. SPRATT, Mr. DIXON, Mr. MOORHEAD, Mr. GARCIA, Mr. KENNEDY, Mr. OBEY, Mr. SIKORSKI, Mrs. SCHROEDER, Mr. STARK, and Mr. PEPPER.

H.R. 3662: Mr. WORTLEY, Mr. HOWARD, Mr. GRANT, Mr. HUGHES, Mr. UPTON, Mr. DANNEMEYER, Mr. NIELSON of Utah, Mr. HENRY, and Ms. KAPTUR.

H.R. 3757: Mr. MILLER of Washington, Mr. LOWRY of Washington, and Mrs. KENNELLY.

H.R. 3774: Ms. KAPTUR, Mr. NIELSON of Utah, Mr. HUGHES, Mr. LANCASTER, Mr. OWENS of Utah, Mr. CAMPBELL, and Mr. TALLON.

H.R. 3781: Ms. KAPTUR, Mr. OWENS of Utah, Mr. MRAZEK, and Mr. BOUCHER.

H.R. 3782: Mr. MRAZEK, Ms. KAPTUR, Mr. OWENS of Utah, and Mr. BOUCHER.

H.R. 3784: Mr. BOUCHER.

H.R. 3800: Mr. JONES of Tennessee and Mr. SPENCE.

H.R. 3826: Mr. RAY, Mr. MILLER of California, Mr. LAGOMARSINO, Mr. LEWIS of Florida, Mr. OBERSTAR, Mr. UPTON, Mr. LANTOS, Mr. DE LUGO, Mr. CHAPMAN, Mr. HORTON, Mr. SISISKY, Mr. MCCURDY, and Mr. MARTINEZ.

H.R. 3830: Mr. FISH and Mr. BLAZ.

H.R. 3840: Mr. HUTTO, Mr. DICKS, and Mr. ATKINS.

H.R. 3842: Mr. DAVIS of Illinois, Mr. FRANK, Mr. GLICKMAN, Mr. BOEHLERT, and Mr. JOHNSON of South Dakota.

H.R. 3844: Mr. VALENTINE, Mr. HUBBARD, Mr. HOLLOWAY, Mr. CAMPBELL, and Mr. STUMP.

H.R. 3865: Mr. TAUZIN, Mr. NIELSON of Utah, Mr. SLAUGHTER of Virginia, Mr. AUCOIN, Mr. SPENCE, Mr. LIVINGSTON, and Mr. REGULA.

H.R. 3866: Mr. TAUZIN, Mr. MCCLOSKEY, Mr. SLATTERY, Mr. MURTHA, Mr. LEATH of Texas, Mr. HUCKABY, and Mr. BONKER.

H.R. 3878: Mr. DEFAZIO.

H.R. 3879: Mrs. BOXER, Mr. GONZALEZ, Mr. MARKEY, Mr. EVANS, Mr. NEAL, and Mr. GARCIA.

H.R. 3889: Mr. LUJAN, Mr. RAHALL, Mr. STENHOLM, Mr. CARPER, Mr. SWEENEY, Mr. MILLER of Ohio, Mr. BARNARD, Mr. MCGRATH, Mr. BEREUTER, Mr. DONALD E. LUKENS, Mr. FRENZEL Mr. ROWLAND of Connecticut, Mr. SHUSTER, Mr. WHITTEN, Mr. CHAPMAN, Mr. BRUCE, Mr. DELAY, Mr. RAVENEL, Mrs. VUCANOVICH, Mr. LENT, Mr. FLAKE, Mr. UPTON, Mr. TAUKE, Mr. MCDADE, Mr. GALLO, Mrs. PATTERSON, Mr. TALLON, Mr. TRAXLER, Mr. HORTON, Mrs. LLOYD, Mr. BUNNING, Mr. LIVINGSTON, Mr. SMITH of New Jersey, Mr. BADHAM, Mr. HANSEN, Mr. BATEMAN, Mr. MCEWEN, Mr. SOLOMON, Mr. COATS, Mr. BLAZ, Mr. RITTER, Mr. SLAUGHTER of Virginia, Mr. HOLLOWAY, Mr. GLICKMAN, Mr. STANGELAND, Mr. APPLEGATE, Mr. PACKARD, Mr. MOLLOHAN, Mr. VENTO, Mr. BEVILL, Mr. WISE, Mr. SUNDQUIST, Mrs. SMITH of Nebraska, Mr. DERRICK, Mr. HEFNER, Mr. BOULTER, Mr. BUSTAMANTE, Mr. PASHAYAN, Mr. GILMAN, Mr. KOSTMAYER, Mr. FUSTER, Mr. RINALDO, Mr. GARCIA, Mr. WORTLEY, Mr. DAVIS of Michigan, Mr. STRATTON, Mr. ROBINSON, Mr. DOWDY of Mississippi, Mr. JEFFORDS, Mr. WATKINS, Mr. VANDER JAGT, and Mr. BRYANT.

H.R. 3892: Mr. BILBRAY, Mr. DAVIS of Illinois, Mr. DENNY SMITH, Mr. PANETTA, Mr. NIELSON of Utah, Mr. GRAY of Illinois, Mr. TAUZIN, Mr. BRYANT, Mr. GARCIA, Mr. COMBEST, Mr. DAVIS of Michigan, and Mr. FAZIO.

H.R. 3900: Mr. WORTLEY.

H.R. 3905: Mr. DELLUMS, Mrs. VUCANOVICH, Mr. OWENS of New York, Mr. HOCHBRUECKNER, Mr. LOWRY of Washington, Mr. ACKERMAN, Mr. DEFAZIO, Mr. RODINO, Mr. STUDDS, Mr. BATES, Mr. MARTINEZ, and WEISS.

H.R. 3907: Mr. NICHOLS, Mr. DENNY SMITH, and TRAFICANT.

H.R. 3915: Mr. FAUNTROY, Mr. SENSENBRENNER, Mr. DELLUMS, Mr. WOLPE, and Mr. ROE.

H.R. 3919: Mr. HUTTO.

H.R. 3940: Mr. HORTON, Mr. DYSON, Mr. UPTON, Mr. PETRI, Mr. LIGHTFOOT, and Mr. PENNY.

H.R. 3974: Mr. SCHUMER and Mr. AKAKA.

H.R. 3975: Mr. STARK, Mr. OWENS of New York, Mr. JONTZ, Mr. ACKERMAN, Mr. DAVIS of Illinois, and Mrs. BOXER.

H.R. 4002: Mr. BOEHLERT.

H.R. 4003: Mr. HAWKINS.

H.R. 4011: Mr. THOMAS of Georgia, Mrs. BENTLEY, Mr. MARLENEE, Mr. MARTIN of New York, and Mr. DELAY.

H.R. 4017: Mrs. PATTERSON.

H.J. Res. 50: Mr. CRAIG.

H.J. Res. 373: Mr. ROEMER, Mr. GALLEGLY, Mr. WOLF, Mr. NEAL, Mr. ATKINS. Mr. LIVINGSTON, Mr. SKEEN, Mr. DE LA GARZA, Mrs. LLOYD, Mr. RICHARDSON, Mr. ROWLAND of Georgia, Mr. MORRISON of Washington, Mr. LEHMAN of California, and Mr. SMITH of New Hampshire.

H.J. Res. 377: Mr. PERKINS, Mr. ACKERMAN, Mr. SKELTON, Mr. SPRATT, Mr. SABO, Mr. WATKINS, Mr. ROWLAND of Georgia, Mr. YATES, Mr. GONZALEZ, Mr. CAMPBELL, Mr. REGULA, Mr. OWENS of Utah, and Mr. NATCHER.

H.J. Res. 386: Mr. AUCOIN, Mr. BARTLETT, Mr. BILBRAY, Mr. DINGELL, Mr. HOYER, Mr. IRELAND, Mr. LOWERY of California, Mr. MAVROULES, Mr. RUSSO, and Mr. SCHAEFER.

H.J. Res. 388: Mr. CAMPBELL, Mr. CHAPMAN, Mr. CRANE, Mr. EVANS, Mr. HASTERT, Mr. MARTINEZ, and Mr. VENTO.

H.J. Res. 415: Mr. SCHUMER, Mr. HALL of Ohio, Mr. GALLEGLY, Mr. ST GERMAIN, Mr. HAYES of Illinois, Mr. WILSON, Mr. WEISS, Mr. SCHUETTE, Mr. MCEWEN, Mr. ROWLAND of Georgia, Mr. FRANK, Mr. MACKAY, Mr. PEPPER, Mr. MCMILLEN of Maryland, Mr. HOYER, Mr. MONTGOMERY, Mr. THOMAS of Georgia, Mr. PASHAYAN, Mr. YATRON, Mr. LAFALCE, Mr. GRANT, Mr. LOTT, Mr. VOLKMER, Mr. STARK, Mr. WISE, Mr. MARKEY, Mr. DOWDY of Mississippi, Mrs. BENTLEY, Mr. FISH, Mr. BLAZ, Mr. MORRISON of Washington, Mr. COUGHLIN, Mr. GILMAN, Mr. TAYLOR, Mr. COOPER, Mr. YOUNG of Alaska, Mr. LENT, Mr. MILLER of Ohio, Mr. BILIRAKIS, Mr. MURPHY, Mr. SUNDQUIST, Mr. SUNIA, Mr. MILLER of Washington, and Mr. ERDREICH.

H.J. Res. 420: Mr. TOWNS, Mr. MAZZOLI, Mr. LAFALCE, Mr. LELAND, Mr. FAWELL, Mr.

SCHAEFER, Mr. RAY, Mr. LIPINSKI, Mr. ESPY, Mr. DE LUGO, Mr. BEVILL, Mr. LOWRY of Washington, Mr. MCEWEN, Mr. SHAW, Mr. CAMPBELL, Mr. ROE, Mr. QUILLEN, Mr. PRICE of North Carolina, and Mr. HORTON.

H.J. Res. 441: Mr. LAGOMARSINO.

H.J. Res. 442: Mr. ROGERS, Mr. OBEY, Mr. LELAND, Mr. THOMAS A. LUKEN, Mr. YATES, Mr. MRAZEK, Mr. ATKINS, Mr. FAZIO, Mr. BLAZ, Mr. BOLAND, Mr. BEVILL, Mr. REGULA, Mr. HORTON, Mr. ANDERSON, Mr. MARTINEZ, Mr. CARPER, Mr. CLINGER, Mr. COUGHLIN, Mr. CROCKETT, Mr. CAMPBELL, Mr. DAVIS of Illinois, Mr. BILBRAY, Mr. DIXON, Mr. DOWDY of Mississippi, Mr. DYMALLY, Mr. EMERSON, Mr. BORSKI, Mr. DE LA GARZA, Mr. LANCASTER, Mr. FOGLIETTA, Mr. ERDREICH, Mr. FAUNTROY, Mr. MCCLOSKEY, Mr. SKAGGS, Mr. ROBINSON, Mr. MINETA, and Mr. PARRIS.

H.J. Res. 443: Mr. MCGRATH, Mr. HUGHES, Mr. NEAL, Mr. LAGOMARSINO, Mr. MICHEL, Mr. ENGLISH, Mr. CLAY, Mr. BONIOR of Michigan, Mrs. KENNELLY, Mr. CONYERS, Mr. HARRIS, Mr. FORD of Michigan, and Mr. FUSTER.

H.J. Res. 445: Mr. KILDEE, Ms. OAKAR, Mr. BERMAN, Mr. DIXON, Mr. JONES of North Carolina, Mr. LANCASTER, Mr. RHODES, Mr. MATSUI, Ms. PELOSI, Mr. ROSE, and Mr. OBERSTAR.

H.J. Res. 447: Mr. GAYDOS.

H.J. Res. 448: Mr. VANDER JAGT, Mr. DONALD E. LUKENS, Mr. DAVIS of Illinois, Mr. YATRON, Mrs. BOXER, Mr. HUNTER, Mr. SCHEUER, Mr. GALLO, Mr. RICHARDSON, Mr. WOLF, Mr. BORSKI, Mr. DYSON, Mr. WELDON, Mr. WOLPE, Mr. FAWELL, Mr. GRADISON, Ms. PELOSI, Mr. FRENZEL, Mr. MCHUGH, Mr. CLINGER, Mr. SABO, Mr. DIOGUARDI, Mr. LANTOS, and Mr. MANTON.

H.J. Res. 470: Mr. VOLKMER, Mr. OWENS of New York, Mr. FASCELL, Mr. GRANT, Mr. SKAGGS, Mr. NOWAK, Mr. CAMPBELL, Mr. BRENNAN, Mr. SCHUMER, Mr. ERDREICH, Mr. MRAZEK, Mr. KOSTMAYER, Mr. NEAL, Mr. MOAKLEY, Mr. SYNAR, Mr. ANDERSON, Mr. BRYANT, Mr. LIPINSKI, Mr. MOODY, Mr. BUSTAMANTE, Mr. JENKINS, Mr. LAGOMARSINO, Mrs. SAIKI, Mr. SCHUETTE, Mr. REGULA, Mr. MCEWEN, Mr. MARTIN of New York, Mr. SISISKY, Mrs. BOXER, Mr. BOLAND, Mr. NIELSON of Utah, Mr. YOUNG of Florida, Mr. WORTLEY, Mr. VANDER JAGT, Mr. GILMAN, Mr. FROST, Mr. INHOFE, Mr. PURSELL, and Mr. WELDON.

H. Con. Res. 83: Mr. ESPY.

H. Con. Res. 115: Mr. GONZALES, Mr. FUSTER, Mr. BATES, Mr. ERDREICH, Mr. SIKORSKI, Mr. CONTE, Mr. GORDON, Mr. OBERSTAR, Mr. LEVIN of Michigan, Mr. RICHARDSON, Mr. PANETTA, Mr. VENTO, Mr. TORRES, Mr. SMITH of Florida, Mr. WYDEN, Mr. WALGREN, Mr. BENNETT, Mr. ROE, Ms. KAPTUR, Mr. MONTGOMERY, Mr. NEAL, Mr. DORNAN of California, Mr. FROST, Mr. RAHALL, Mr. CRANE, Mr. FAZIO, Mr. KOSTMAYER, Mr. BRYANT, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DYMALLY, Mr. WHITTEN, Mr. HUGHES, Mrs. BOXER, and Mr. DE LUGO.

H. Con. Res. 229: Mrs. MARTIN of Illinois.

H. Con. Res. 238: Mr. CRAIG and Mr. HANSEN.

H. Con. Res. 241: Mr. VENTO.

H. Res. 258: Mr. WORTLEY, Mr. HYDE, Mr. CRAIG, and Mr. PARRIS.

H. Res. 276: Mr. CRAIG. Mr. SABO, Mr. DIOGUARDI, Mr. LANTOS, and Mr. MANTON.

H.J. Res. 470: Mr. VOLKMER, Mr. OWENS of New York, Mr. FASCELL, Mr. GRANT, Mr. SKAGGS, Mr. NOWAK, Mr. CAMPBELL, Mr. BRENNAN, Mr. SCHUMER, Mr. ERDREICH, Mr. MRAZEK, Mr. KOSTMAYER, Mr. NEAL, Mr. MOAKLEY, Mr. SYNAR, Mr. ANDERSON, Mr. BRYANT, Mr. LIPINSKI, Mr. MOODY, Mr. BUSTAMANTE, Mr. JENKINS, Mr. LAGOMARSINO, Mrs. SAIKI, Mr. SCHUETTE, Mr. REGULA, Mr. MCEWEN, Mr. MARTIN of New York, Mr. SISISKY, Mrs. BOXER, Mr. BOLAND, Mr. NIELSON of Utah, Mr. YOUNG of Florida, Mr. WORTLEY, Mr. VANDER JAGT, Mr. GILMAN, Mr. FROST, Mr. INHOFE, Mr. PURSELL, and Mr. WELDON.

H.J. Res. 473: Mr. FAZIO, Mr. GARCIA, Mr. OBERSTAR, Mr. WOLF, Mr. BRYANT, Mr. PANETTA, and Mr. ERDREICH.

H. Con. Res. 83: Mr. ESPY.

H. Con. Res. 115: Mr. GONZALEZ, Mr. FUSTER, Mr. BATES, Mr. ERDREICH, Mr. SIKORSKI, Mr. CONTE, Mr. GORDON, Mr. OBERSTAR, Mr. LEVIN of Michigan, Mr. RICHARDSON, Mr. PANETTA, Mr. VENTO, Mr. TORRES, Mr. SMITH of Florida, Mr. WYDEN, Mr. WALGREN, Mr. BENNETT, Mr. ROE, Ms. KAPTUR, Mr. MONTGOMERY, Mr. NEAL, Mr. DORNAN of California, Mr. FROST, Mr. RAHALL, Mr. CRANE, Mr. FAZIO, Mr. KOSTMAYER, Mr. BRYANT, Mr. COYNE, Mr. DAVIS of Illinois, Mr. DYMALLY, Mr. WHITTEN, Mr. HUGHES, Mrs. BOXER, and Mr. DE LUGO.

H. Con. Res. 229: Mrs. MARTIN of Illinois.

H. Con. Res. 238: Mr. CRAIG and Mr. HANSEN.

H. Con. Res. 241: Mr. VENTO.

H. Res. 258: Mr. WORTLEY, Mr. HYDE, Mr. CRAIG, and Mr. PARRIS.

DELETIONS OF SPONSORS FROM PUBLIC BILL AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. Mr. SCHUMER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

[Omitted from the record of Tuesday, March 1, 1988]

130. By the SPEAKER: Petition of Robert W. Wangrud, Milwauki, OR, relative to the U.S. Constitution; to the Committee on the Judiciary.

131. Also, petition of the Erie Couinty Environmental Management Council, Buffalo, NY; relative to the Clean Air Act; to the Committee on Energy and Commerce.

132. Also, petition of the Council of the city of New York, NY, relative to congratulating merchant marine war veterans of World War II on the occasion of their being given official war veteran status; to the Committee on Veterans' Affairs.

Declassified and Approved For Release 2013/08/15 : CIA-RDP91B00390R000500460011-3

EXTENSIONS OF REMARKS

CHILDREN AND FAMILIES IN POVERTY: THE STRUGGLE TO SURVIVE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MILLER of California. Mr. Speaker, last week, the Select Committee on Children, Youth, and Families held a hearing on "Children and Families in Poverty: The Struggle To Survive." We heard very compelling testimony from children and families who experience the stress and frustration of poverty every day, as well as from the dedicated human service providers who try to help them with overworked staff and limited resources.

We also released a report, "Trends in Family Income: 1970–1986," prepared at my request by the Congressional Budget Office, which illustrates that the plight of poor families has only grown worse. I have attached a select committee staff analysis of the report. As we engage in the current budget debate, I urge my colleagues to take notice of the report's findings that millions of families with children, especially young families and families who were already poor, have lost income over the last decade and a half. We cannot afford to weaken any further the resources available to these families.

The material follows:

OPENING STATEMENT CONGRESSMAN GEORGE MILLER, CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

"CHILDREN AND FAMILIES IN POVERTY: THE STRUGGLE TO SURVIVE" FEBRUARY 25, 1988

For millions of families in America today, poverty—not prosperity—remains a tragic fact of life.

Since 1983, the Select Committee on Children, Youth, and Families has documented that millions of children and families have been left out of the so-called "economic recovery."

In 1986, despite many months of economic expansion, almost 13 million children remained in poverty, nearly 3 million more than in 1979. Children living in single-parent families are at greatest risk of living in poverty, and the experts now tell us that one out of two children will spend some portion of childhood in a single-parent family. Yet the greatest relative increase in child proverty has been among children living in two-parent families.

Today, we will hear the results of a new study of child and family poverty rates among 8 western industrialized nations, including our own. It should be a source of despair for every American that, despite the promise of economic security for all, the United States has higher child and family proverty rates than every one of the countries studied, except Australia, even when income transfer benefits are included.

We are also releasing a major new study on trends in family income in the United States, prepared at my request by the Congressional Budget Office (CBO). The new report, "Trends In Family Income: 1970–1986," contains both good news and bad news. The good news is that family income rose for the typical family during that period, based on CBO's new method for measuring income trends. CBO found that "adjusted family income" rose 20 percent from 1970 to 1986. Even among those families for whom incomes rose, CBO found that the principal reason, among the non-elderly, was the increased number of workers per family, not increased earnings by the typical worker. In many families, both parents now must work to maintain the standard of living, which results in increased costs as well as increased income, such as child care and commuting.

But there is also bad news. Many of the most vulnerable families, and those in which many of our children are growing up, did not share in the prosperity. In fact, young families, low-income families with children, and poor single parent families in 1986 were much poorer than their counterparts in 1970. Income inequality became more pronounced among all major family types except unrelated individuals under age 65 and the elderly, and income gaps widened between the rich and those who are less affluent. The sharpest increases in inequality have occurred since 1979, even among the elderly. Among those affected most adversely were poor families with children. The CBO report notes that "the group of families with children that is at the bottom of the income distribution is markedly worse off now than the corresponding group was 16 years earlier." Among the poorest two-fifths of families with children, median income dropped 12 percent from 1970 to 1986.

Poor single-mother families with children were hit especially hard. In 1986, one-fifth of all single mother families had incomes less than half of the poverty line, and approximately 45 percent had incomes below the poverty line.

Young families have been affected very dramatically, too. More than 40 percent of families with children in which the family head was under 25 lived below the poverty line—and over one-fifth had incomes less than half the poverty line in 1986. For these families, median family income fell 43 percent between 1970–1986. In fact, even among the top two-fifths of these families, median income fell 21 percent.

Today we will also receive testimony from real experts on poverty: the children and families who endure privation, day in and day out, year after year, despite national economic recovery. And we will also hear from those from both rural and urban communities who work with the families to break the terrible and degrading cycle of poverty in America.

I also want to pay tribute to those who are here today under the auspices of the National Planning Committee on Children in Poverty, who are attending a national conference in Washington this week.

STAFF ANALYSIS OF KEY FINDINGS, FROM THE CBO REPORT: "TRENDS IN FAMILY INCOME: 1970–1986"

The new Congressional Budget Office report, "Trends in Family Income: 1970–1986," contains both good news and bad news. The good news is that under a revised way of measuring income trends developed by CBO, family income for the typical family rose during this period. Previous measures of changes in family income over the period have shown a decline.

The bad news is that these income gains were not evenly distributed. Low income families with children, young families at all income levels and poor single mother families in 1986 were much worse off than their counterparts in 1970. Among all major family types except nonelderly unrelated individuals and the elderly, income inequality increased and the gaps widened between the rich and those who are less affluent.

In addition, the news that family incomes rose is tempered by the finding that the principal reasons for the gains among the non-elderly was the increased number of workers per family, not increased earnings by the typical worker. Many families with children have needed to have both parents work to avoid losing ground.

TRENDS IN FAMILY INCOME

The CBO report measures changes in family income over the 16 year period from 1970–1986. These measurements are made in a different manner than that traditionally employed in the past. There are three differences between the CBO measurements and traditional measurements: [1]

CBO adjusted family incomes to reflect to a decline in the average size of families during this period. Since the average family was smaller in 1986 than in 1970, CBO concluded that the average family needed less income to remain at the same level of well-being. This adjustment for family size is the principal reason why the CBO measure shows income growth rather than the stagnation indicated by other measures.

In adjusting annual income levels for inflation, CBO did not use the Consumer Price Index (CPI), but used an alternative inflation index that CBO believes provides a more accurate measure of price changes. Because the alternative index rose more slowly during the 16-year period than did the CPI, measured income growth is greater than if the CPI were used.

CBO modified the definition of "family" normally used in measuring family income changes. CBO counted unrelated individuals—including elderly people living alone—as "families". One-third of CBO's "family units" consist of unrelated individuals.

With all three adjustments, CBO finds that "adjusted family income" (AFI) for the median (or typical) "family" rose 20 percent from 1970 to 1986. This compares with an increase of six percent in median family income during this period among families as traditionally defined, without adjusting for family size and using the CPI to account for inflation.

The CBO data show differing trends in changes in AFI for median families in various family categories. For single mother families with children, median income rose just 2 percent under CBO's AFI measure. For both elderly unrelated individuals and elderly families without children, median family income rose 50 percent.

[1] CBO notes that adjustments should also be made for income received in-kind and for taxes paid, since both factors changed markedly over the 16-year period and would thus affect the well-being of families. Because the requisite data are not available, CBO was unable to make these adjustments.

INCREASES IN WORKERS PER FAMILY BOOSTED INCOMES

CBO observes that "the rise in the number of workers per family appears to be the principal reason why incomes increased." CBO states that earnings failed to keep pace with inflation for many workers, especially those in the younger age groups. This suggests that, for many families, adding a second earner to the workforce or increasing the second earner's work hours was often necessary to keep family income from falling. This also indicates that the increased incomes reported by CBO did not come without a cost. These altered work arrangements have resulted in parents (especially mothers) having less time with children, less leisure time, and possibly, fewer children.

Indeed, when the large influx of mothers into the labor force during this period is taken into account, it is striking that AFI did not rise more substantially. From 1973 to 1986, the median AFI for married couple families with children rose a relatively modest 13.1 percent, despite large increases in work by mothers and a reduction in family size as well (see further discussion of this 1973-1986 period, which is different than that used in the CBO report).

It should be noted that the CBO data do not include a major cost borne by many of these families as a result of the entrance of many mothers into the labor force—child care costs. Child care costs are a corollary of the increase in workers per family that CBO identifies as the factor primarily responsible for the income gains. As CBO notes: "Families are likely to bear a cost, however, when more of their members work. In particular, there are direct costs associated with employment, such as for child care or for commuting. Furthermore, the new workers have less time available to perform household chores, so either costs rise—if services are purchased—or some chores are not done." (CBO did not incorporate these costs in the analysis, in part because data are not available to make such adjustments.)

THE FAMILIES LEFT BEHIND

A number of family groups fell behind. As CBO states, "Not all [family groups] experienced a growth in income." Some suffered large income declines.

1. Poor Families with Children

Among those affected most adversely were poor families with children. The CBO report states:

Median family income has continued to grow since 1970, albeit more slowly than in earlier years and at widely different rates for different groups. At the same time, the group of families with children that is at the bottom of the income distribution is markedly worse off now than the corresponding group was 16 years earlier.

The CBO report shows that the median AFI of the poorest two-fifths of families with children in 1986 was 12 percent lower than that of the comparable group in 1970.[2]

Poor single mother families with children were hit especially hard. In 1986, one-fifth of all single mother families with children had incomes below half the adjusted poverty line (that is, below $3,974 for a family of three).[3] Approximately 40 percent of these families had incomes below the adjusted poverty line.

2. Young Families

The family group affected most severely was that of young families. In 1986, the median AFI of families whose head was under age 25 was 18 percent lower than that of the corresponding group in 1970. For the poorest two-fifths of families with a head under 25, median family income was 34 percent lower. Median family income even declined for the top two-fifths of all families with a head under 25.

The declines are most stunning among young families that had children (2.3 million in 1986). The median income of such families in 1986 was 43 percent below that for comparable families in 1970. Among the poorest two-fifths of these families, median income was 56 percent lower in 1986 than in 1970. Even among the top two-fifths of these families, median income fell 21 percent.

More than one-fifth of all families with children in which the family head was under 25 had incomes below half the poverty line in 1986. More than 40 percent of these families lived below the poverty line.

Low-income families with children in which the family head was 25 to 34 also had sharply lower median AFI in 1986 than their counterparts in 1970. Median income was fully 18 percent lower for the two-fifths of these families with the lowest incomes.

Median AFI also fell for both young married couple families and young single parent families. For example, median income of married couple families with children in which the family head was under 25 was 17 percent lower in 1986 than for similar families in 1970.

Median AFI was also lower for single mother families with children in which the mother is under 25. By 1986, nearly one-fifth of these families had incomes below one-fourth of the adjusted poverty line (that is, below $1,987 for a family of three). About two-fifths of these families fell below half of the adjusted poverty line, and a large majority of these families were poor. Among single mother families with children in which the mother was 25-34, more than one-fifth lived below half of the adjusted poverty line and a majority were poor.

Increased inequality

The CBO report shows that income inequality increased substantially between 1970 and 1986 among non-elderly families. For all types of non-elderly families except unrelated individuals, inequality rose over this period. The growth in inequality helps explain another CBO finding: despite general income growth since 1970, poverty rates of groups other than the elderly failed to decline appreciably.

Among the poorest two-fifths of families with children, median adjusted income was 12 percent lower in 1986 than for comparable families in 1970. But, among the wealthiest two-fifths of families with children, median adjusted income was 27 percent higher.

For the botton two-fifths of all families (including the elderly), median AFI in 1986 was 9 percent higher than for similar families in 1970; among the top two-fifths of all families, it was 29 percent higher—a gain about 3 times as large.

Among the poorest two-fifths of families with a head under 25, median AFI in 1986 was 34 percent lower than for corresponding families in 1970; among the top two-fifths of these families, it was five percent lower.

The sharpest increases in inequality have occurred since 1979. CBO found that "for all major family types, inequality grew between 1979 and 1986. While high and low-income families had roughly comparable gains in income during most of the 1970's, the incomes of low income families rose only slightly or fell between 1979 and 1986, while incomes of wealthier families rose sharply." Even among the elderly, inequality grew in the 1980's.

Median adjusted income for the bottom two-fifths of all families fell 2 percent from 1979 to 1986, while median adjusted income for the top two-fifths of all families rose 10 percent.

Median adjusted income for the bottom two-fifths of families with children fell 14 percent from 1979 to 1986, while median AFI for the top two-fifths of these families increased 8 percent. This trend—of lower AFI for poor families in 1986 compared with their counterparts in 1970 and rising AFI for wealthier families—also holds for married couple families with children.

In fact, for every major non-elderly family type, median adjusted income for the bottom two-fifths of families was lower in 1986 than for the comparable groups in 1979. For most of these family types, the median adjusted income of wealthier families rose during this period.

Observations Concerning the CBO Findings

Several observations should be made concerning the income gains that CBO found over the 1970-1986 period. In analyses of stagnating family income in the U.S., the year 1973 (rather than 1970) has often been used as the starting point (see for example Frank Levy's recently published book Dollars and Dreams: The Changing American Income Distribution). 1973 has traditionally been regarded as the high point for income growth in the U.S. It was the year in which the conventional measure of median family income reached what is still its highest level. The CBO report shows that nearly half of the 20 percent increase in AFI occurred between 1970 and 1973. From 1973-1986, the increase for the median family was 11 percent.

In addition, 1970 was a recession year, albeit one in which the unemployment rate was not that high. There is growing concern that a recession could occur in the next few years. If, as many economists predict, a recession does occur in the near future, a significant amount of the income gain reported by CBO could disappear.

A further observation is that virtually all remaining income growth found by CBO (other than that in the 1970-1973 period) has occurred since 1982 when income growth was financed in significant part through large budget and trade deficits—in essence, by borrowing from the future. When we repay these debts, living standards for American families may well fall back.

As Frank Levy states in Dollars and Dreams:

. . . the U.S. rate of investment is no higher today than it was in 1973, despite the [inflow of] foreign capital. Foreign funds have been used to offset government deficits and thus to finance extra U.S. consumption. This is a strategy for postponing stagnation's effects, but it involves borrowing from the future. Eventually the foreign funds must be paid back with interest. And because they were used to finance consumption, rather than additional investment, the repayment will require reducing our consumption below what it otherwise would have been.

. . . are we living as well today as we did in 1973? The answer is no. "We appear to be doing better, but this is only because we have borrowed against the future in ways that eventually must be repaid."

[2] The median income for the bottom two-fifths of families is the income received by the family at the 20th percentile. Similarly, the median income for the top two-fifths of families is the income received by the family at the 80th percentile.

[3] The adjusted poverty line is the same as the official poverty line except that CBO used the alternative inflation index to adjust for price changes since 1967.

Moreover, CBO observes that the principal reason why its measurements show income increases (instead of the income stagnation or declines previously reported for this period) is its adjustment of family incomes for declining family size. Many analysts believe that the decline in family size is itself related, in part, to the slow economic growth that was occurring. Families postponed having children, or had fewer children, in part because they believed they could not afford as many children as families had in the past. This decline in birthrates contributes markedly to the rise that CBO found in AFI, but it may also mean that we will have fewer skilled workers than we will need in the future. Levy comments that "the decline in the birthrate was, in its way, a different kind of borrowing from the future" especially since the "decline is heavily concentrated among middle-income families."

BUDGETING FOR EXPORT-IMPORT BANK

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GARCIA. Mr. Speaker, today I am introducing a bill that will substantially improve the way the Export-Import Bank of the United States is reflected on the Federal budget and improve the weakened financial condition of the Bank.

First, the bill will clarify the true or subsidy costs of Eximbank's programs. The annual budget figures for Eximbank are misleading because they overstate Eximbank's impact on the Federal budget. Currently, Congress annually sets ceilings limiting the Bank activity for direct loans, guarantees and insurance, and administrative expenses. Eximbank borrows funds from the Treasury's Federal Financing Bank [FFB] to run its programs, repaying the FFB with interest. But often, the ceilings are viewed as costs to the Government. The fact is that the actual subsidy costs of Eximbank's programs were less than 7 percent for direct loans and 2 percent for guarantee and insurance programs of the total budget authority allocated to Eximbank during fiscal year 1987.

Eximbank has labored for years against a misunderstood image of being too costly. Clarifying the actual cost of Eximbank's programs will lead to a better understanding of the agency. This is critical during a time when Eximbank can play an important role in our efforts to reduce the trade deficit.

The legislation can also improve the condition of Eximbank's declining capital base. According to the testimonies received from the Congressional Budget Office and the U.S. General Accounting Office at the February 25 hearing my subcommittee held on Eximbank, the approach of annually appropriating for Eximbank's subsidy costs could in the future maintain the capital base and minimize the need for future recapitalization resulting from losses on future lending activities. The reason is that Congress will be appropriating for the cost of new assistance the Bank provides our exporters.

Eximbank's capital base has been declining primarily because of the losses incurred during the late 1970's and the early 1980's when borrowing rates were high as compared to international lending rates. Another reason for the decline is the penalties it owes FFB as result of prepayments on its borrowings. These borrowings were prepaid as result of congressionally mandated loan asset sales. While the present difficult financial condition of Eximbank does not affect its operations due to the Bank's unlimited authority to borrow from the FFB, it could undermine confidence in the Bank. Moreover, a negative capital level may threaten the independence of the Bank's operations. According to the majority of the witnesses at the February 25 hearing, one time recapitalization of $2 billion or more would be ideal, but given budget constraints it is not realistic. What is realistic is an annual appropriation equal to the subsidy costs of Eximbank.

Finally, in taking this step to improve the image of Eximbank by clarifying the costs of its programs and annually appropriating for the subsidy costs, we will be sending a positive signal to our major trade competitors that U.S. exporters have a solid commitment of support from Congress. I urge my colleagues to support this bill.

NEED FOR BORDER CROSSING IN SOUTHERN NEW MEXICO

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. RICHARDSON. Mr. Speaker, I would like to bring to the attention of my colleagues a unique joint private-Government venture to spur economic development in southern New Mexico and on the United States-Mexico border.

New Mexico has for decades sought an additional border crossing in Dona Ana County, but due to its proximity to El Paso the Federal Government has never seen the need for a new facility. Residents from New Mexico have long felt that economic development along the border has been stifled for the lack of a separate border crossing. Local interests have prevailed, starting with a cattle crossing near Santa Teresa, NM, which will soon become a formal port-of-entry.

Developer Charlie Crowder and his company, Santa Teresa International, have managed an agreement with the Mexican Government, and have secured parcels of land on both sides of the border to accommodate the port, and specified for additional development. Now the company has begun to build, and when they are finished they will have constructed a unique project—the first reimbursable port-of-entry in the State.

As such, Santa Teresa International will pay for the development of the Customs port, will build the thoroughfares that provide access to the port, and will pay for its operation, including paying the wages of the customs officials. The cost of the operation will be regained by charging the businesses that use the port.

The Santa Teresa Port will help reduce the congestion in the El Paso/Juarez area, as some of the traffic along that well-established route chooses to make the short journey to the Santa Teresa location. In addition to increasing the expediency of border crossings, Santa Teresa's location near the El Paso/Juarez Port provides a basis for economic expansion in the region. Businesses looking to expand will be attracted to Santa Teresa's proximity to an already developed port, and to the amount of land already slated for industrial development. Consequently, Santa Teresa has the potential to develop into a large industrial and commercial area utilizing resources in both New Mexico and Mexico.

At a time when great efforts are being made to reduce the Federal deficit, the Santa Teresa Port provides a novel approach to reducing Federal costs, increasing the productivity of the private sector, and utilizing a Federal service that would not normally be provided. I commend Santa Teresa International for its initiative in providing a long-needed service, for its contribution toward supporting economic development in southern New Mexico, and for working in cooperation with our good neighbor, Mexico.

TIME FOR THE ADMINISTRATION AND CONGRESS TO ACT ON THE PEDIATRIC AIDS CRISIS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. OWENS of New York. Mr. Speaker, the Presidential AIDS Commission has been the subject of much controversy, but on one thing there can be little doubt, the latest recommendations by the Chairman of the Commission, Admiral Watkins, represent a much needed step forward.

Specifically, the recommendations concerning needed programs in the area of the pediatric AIDS demonstration projects deserve our support. Many of the features of one proposed demonstration project resemble those included within "The Abandoned Infants Assistance Act," H.R. 3009. This is a companion bill to S. 945 sponsored by Senators METZENBAUM and HATCH that passed the other House by unanimous consent.

It is now time for Congress and the administration to place a realistic dollar amount to this legislation. It is increasingly evident that anything less than full funding for such programs is not only short sighted but a false economy. In testimony before the subcommittee, Surgeon General Koop stated that the administration was only prepared to spend $1.2 million this year on the problem. This derisory amount represents a gross underestimate of the scale of the problem particularly in the light of revised projections for the epidemic. Estimates for the annual cost of care of one abandoned infant with AIDS range from $136,000 to $237,000. It is clear to see that it would only take one ward full of these children before we have exhausted the funds the administration has made available. It should be more than evident to everyone who has begun to study this tragic problem that hospitals are not only not appropriate institutions for the vast majority of these children but that alternative settings can be at least 75 percent less expensive.

I commend for my colleagues attention both an article that appeared in the Washington Times, February 23, 1988, "Explosion of Childhood AIDS Cases Feared," which addresses the revised projections for the epi-

demic impact on children, as well as Admiral Watkins' specific recommendations concerning foster care needs for children with AIDS.

SELECTIONS FROM THE CHAIRMAN'S RECOMMENDATIONS TO THE PRESIDENTIAL COMMISSION ON THE HUMAN IMMUNODEFICIENCY VIRUS, FEBRUARY 29, 1988

(SYS-3) The Department of Health and Human Services should provide funding to local governments for development of foster care programs for infants whose parents are either unable or unwilling to care for them, and respite care programs, which provide intermittent relief for parents. Foster care programs should include recruitment, training, support, and incentives for foster parents. Respite care should be available to provide respite for natural or foster parents and should include substitute caregivers as well as shelter.

(SYS-4) The proposed Pediatrics Demonstration Projects (funded by FY88 Continuing Resolution and allocated to Health Resources and Services Administration) should continue to be funded through 1991. Grants should be awarded to programs which are family-focused, community based, include a coordinated, comprehensive network of services, and utilize a family case management approach.

(SYS-5) The Health Resources and Services Administration, through the Maternal and Child Health Program, should provide funding for demonstration grants for Regional AIDS Comprehensive Family Care Centers, in areas where inadequate pediatric services exist and the prevalence of HIV infection is high (this is in addition to demonstration grants mentioned in SYS-4). These centers would provide a full range of services to HIV infected children and their families including: diagnostic, treatment, and follow-up services, prenatal and well-baby care, testing, counseling, psychosocial support services, day care, respite care, education, and linkages with home care and acute hospital care.

(SYS-6) In areas where intermittent or chronic care services availability is encumbered by local restrictions or zoning requirements, such as number of exists required for a building or allowable number of occupants of a facility, local governments should provide reasonable variances to permit such care to be available. The necessity of health care, for both adults and children, should be balanced with local zoning priorities.

[From the Washington Times, Feb. 23, 1988]

EXPLOSION OF CHILDHOOD AIDS CASES FEARED

(By Joyce Price)

By 1991, at least one out of every 10 pediatric beds in U.S. hospitals and clinics will be occupied by a child infected with AIDS, a physician said yesterday.

"Pediatric AIDS is a growing problem that's killing our children and infants. It has the potential to explode into the largest problem we've ever known," said Dr. Edward Connor, spokesman for the newly formed Pediatric AIDS Coalition.

"Given the fact that 80 percent of the children with AIDS nationwide have been born to mothers who are either drug abusers themselves or sexual partners of drug abusers or others in high-risk groups, a massive educational effort is what's needed most," he said. "If we could reach these prospective parents today, we could stop this expanding problem in nine months."

As of Feb. 15, a total of 839 childhood AIDS cases were reported nationally. But by 1991, projections for the number of children with AIDS range from a low of 3,000 to a high of 20,000, coalition officials said.

U.S. Public Health Service officials said pediatric AIDS cases climbed 60 percent in 1987 and predicted the caseload will skyrocket 350 percent by 1991.

"Of the 40,000 pediatric beds in this country, at least one in 10 will be occupied by a child infected with HIV [the AIDS virus] by 1991," Dr. Connor, a fellow of the American Academy of Pediatrics, said at a news conference yesterday.

To date, 11 pediatric AIDS cases have been diagnosed in the District. But leaders of the Mayor's Pediatric AIDS Task Force have said the city may have 1,000 reported HIV-infected babies by 1991.

The goal of the new coalition of child advocacy and health groups is to focus more attention on the problems of children with AIDS. "We need money, both from government and private sources—money for research, money to treat and money to provide out-of-hospital care," Dr. Connor said.

In an article on pediatric AIDS in the April issue of Children Magazine, Dr. James Oleske of Children's Hospital of New Jersey in Newark said he believes the official pediatric AIDS estimates are too low.

Dr. Oleske, who have been battling an epidemic of childhood AIDS in Newark, said he believes there may be about 3,000 American children carrying the virus now—most of them unreported. He also believes at least half of them have full-blown AIDS.

Dr. Connor said yesterday it's likely there will be more than 3,000 pediatric AIDS cases nationally by 1991. "First of all, children develop AIDS faster than adults," he said. "Secondly, there's the problem of underreporting. Children are not always perceived as a high-risk group, and their symptoms are not always recognized."

Children with AIDS live a "brief and pain-filled existence," he said. While 20 percent to 30 percent of adults with AIDS die within five years of diagnosis, 75 percent of children with AIDS die within two years.

Typically, AIDS children have symptoms such as chronic diarrhea, abdominal distension, loss of appetite, lung disease and repeated infections.

CHIANG CHING-KUO'S LEGACY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PORTER. Mr. Speaker, I am submitting for my colleagues benefit the text of a recent speech given by Dr. Fredrick F. Chien, representative, Coordination Council for North American Affairs, before the Chicago Council on Foreign Relations. In his speech, Dr. Chien discusses the accomplishments of the late Taiwanese President Chiang Ching-kuo's tenure. I commend it to my colleagues' attention.

LEGACY OF PRESIDENT CHIANG CHING-KUO

(By Dr. Fredrick F. Chien)

I consider it a great privilege to be with you today. The Chicago Committee of the Chicago Council on Foreign Relations is one of this country's most prestigious forums. I am honored that you extended an invitation to me and gave me this opportunity to discuss with you momentous events which are occurring in the Republic of China today.

As many of you probably are already aware, my country lost its great leader and President, Chiang Ching-kuo, less than four weeks ago. He was an immensely popular figure—a populist by nature—and his death was mourned not just by those holding positions of leadership in government and business but, as you say in America, by "the man on the street," who forms the bedrock of our society.

It may be pertinent to note in this regard that an annual public opinion poll conducted by the Public Opinion Research foundation shortly before President Chiang's death showed his approval rating in 1987 at 85 per cent. This was up seven per cent from 1986, reflecting the overwhelming support he received from the citizens of my country for his bold democratization program initiated last year. An 85 per cent approval rating would cause most American politicians to turn green from envy, I suspect, and indicates that Chiang Ching-kuo must have possessed unusual qualities of leadership.

This should come as no surprise. He was schooled in leadership by his father, President Chiang Kai-shek. As the eldest son, Chiang Ching-kuo learned his lessons well and earned the high offices he held. He was elected to the presidency only after more than 40 years of service in various government and party positions, including six years as premier.

It was my personal privilege to know well both President Chiang Kai-shek and our late President Chiang Ching-kuo. I served as President Chiang Kai-shek's secretary for ten years and was privy to many of his meetings with world leaders. I saw firsthand how skilled he was in the art of diplomacy. Likewise, I knew President Chiang Ching-kuo for some 30 years and during his term as premier, I served as his official spokesman. That was a great experience for me, and I shall never forget how President Chiang Ching-kuo instructed me when I assumed my duties.

President Chiang said, "Fred, you are now my spokesman. I know you are a man of integrity and would never say anything which is untrue on your own account. Never think that you have to tell a lie on my account. Always be straightforward and tell the truth, and I will be well-served."

So, I can tell you without reservation that President Chiang was a man of high moral principles and integrity. In short, he said what he meant and he meant what he said. This characteristic, perhaps more than any other, allowed him over the years to inspire confidence and to make an indelible mark on the history of the Republic of China.

But let's not get ahead of ourselves. Let's look back to President Chiang's earlier accomplishments. Then we can appreciate even more the service he rendered his country and the vision he had for the future of the Republic of China.

I said earlier that President Chiang Ching-kuo was a "populist." He was comfortable in the presence of the powerful, but I earnestly believe he was happiest in the company of working people. He moved easily among the people he served and took pleasure in trips to factories and farms and visits with shopkeepers and laborers. He appreciated the contribution they made to creating a modern society on Taiwan and he wanted them to know it. He was determined that policies of the government would result in a continuously higher standard of living for them and greater participation in the processes of government.

He availed himself of every possible opportunity to attain those goals for the Chinese of Taiwan. As chairman of the Vocational Assistance Commission for Retired Servicemen, he understood the needs of those who had served their country on the battle field and had to make the transition

to private life. Just as you created special training and employment programs for veterans in the United States, Chiang Ching-kuo did so on Taiwan. We Chinese are known for our extended families and for making sure that relatives are cared for in their old age. But many soldiers had been unable to bring their families with them to Taiwan. In their old age, they found themselves alone. President Chiang made sure they were not forgotten by the country they had served; they were cared for.

And as he understood the peculiar problems of the old, he understood the needs and ambitions of the young. As director for more than 20 years of the China Youth Corps, he knew that China's future depended upon the development of its young people. He had the ability to instill in them his own intense nationalism, his devotion to Dr. Sun Yat-sen, who founded the Republic of China, and his dedication to the principles of democracy and free enterprise which are the foundation for what many call the "miracle" which has happened on Taiwan. He knew that young people had to keep busy. Corps projects and summer camps became outlets for the constructive energy of hundreds of thousands of young Chinese who now hold my country's future in their hands.

Let me pause for a moment to say that the Republic of China would not be the international economic power that it is today without careful planning over the years. Throughout the world, we have seen what has happened when developing countries set out helter-skelter to try to improve their lot. Not only are they not successful, usually they take steps backwards. Economic woes are followed by political woes and, all too often, domestic unrest degenerates into violence, anarchy and bloodshed.

Thanks to the vision of such persons as President Chiang, Taiwan's progress has been planned and orderly. Social and political progress have kept step with economic progress. We are always flattered when scholars hold up Taiwan's experience as an example to other developing countries.

President Chiang had the long view, and that long view is a great part of his legacy. When he became premier in 1972, the country was beginning to understand its potential as a major exporting nation. But it lacked the infrastructure necessary to achieve that goal. Times were not so good then, either. Because of the international oil crisis, the treasury was depleted and the government was operating at a deficit. The future was unsure, and the faint-hearted were arguing for retrenchment. It was in this economic climate that then Premier Chiang Ching-kuo proposed the "10 Major Construction Projects," which, while necessary to establish a viable infrastructure, would require tremendous public expenditures. He was willing to take the risk to insure Taiwan's place in world trade in the decades to come. He prevailed and all China shall be forever grateful, for he laid the foundation—carefully, block-by-block—for the "economic miracle" which was to follow.

Chiang Ching-kuo knew that Taiwan could not be a major manufacturing country unless it could easily move raw materials and finished goods about the island. So he built major highways to keep domestic commerce flowing. Taiwan could not ship its goods to world markets without deep water ports and modern shipping facilities. So he built two new world-class ports. Taiwan could not make the transition from light to heavy industry without the ability to produce a vital raw material—steel. So he launched Taiwan's modern steel industry. Taiwan could not produce goods without energy to turn the factory wheels. So he built new power plants. And Taiwan could not entice foreign investment to the island without a major new international airport. So he built one.

Piece by piece, he put the program together so each project complemented the other and formed a solid foundation for a dynamic export economy. He was not alone in his undertakings. The free Chinese on Taiwan were with him. He called for national sacrifice and the support of all the island's citizens. He got both, and his detractors shook their heads in disbelief as the projects were begun and successfully completed.

But neither he nor the country could afford to rest upon its laurels. Other countries in Asia were making progress also, though not at the same rate. It was clear that Taiwan would not be a leader for long if it were content to remain primarily a producer of labor-intensive products and be a captive of traditional industries.

When Chiang Ching-Kuo took the oath of office for the first time as President in 1978, his work was cut out for him. High-tech was just around the corner. The handwriting was on the wall: any country which could not upgrade its economy would be out of the game. Developing countries would be forced to play in the minor leagues and compete against themselves. Countries such as Japan, Germany and the United States would play in the majors.

President Chiang was not willing to accept minor league status for the ROC. He urged the people on Taiwan to shift toward a technologically-intense economy. We made a conscious decision to cede part of our share of such markets as plastics, textiles, and other inexpensive consumer goods for the opportunity to move with the major industrialized nations into the new age of computers and high-tech. As you know, that has proved to be a wise decision.

The Republic of China on Taiwan is now the fifth largest trading partner of the United States in the world. Last year two-way trade between our countries was $31.2 billion. Building the foundation for a major manufacturing and exporting nation and developing that nation into what is now one of the world's healthiest economies was no small task. It is a legacy that few leaders have ever been privileged to leave with their people.

Today, the signs of prosperity and economic well-being are evident throughout Taiwan. Today per capita income has risen dramatically to about $5000, one of the highest in Asia. A study of the distribution of wealth has showed that the gap between the top and bottom of the income scale has narrowed to one of the best ratios in the world. On Taiwan, the ratio of the average per capita income of the top 20 percent and the bottom 20 percent is an amazing 4.4:1. Another survey showed that a great majority—85 percent—of the people consider themselves "middle class," a sign of economic and social stability. Symbols of affluence and creature comforts—cars, refrigerators, televisions—are common. The fruit of Taiwan's progress has been shared by all its citizens.

President Chiang was never satisfied. The words he had written in his diary on his 70th birthday at the beginning of this decade were always fresh in his mind. He had said then, "Time flies. I know I have done too little to express my gratitude to my father or to fulfill even a small fraction of the expectations of my compatriots." He could not rest until, in his words, "Anything that must be done for the good of the people (has been) done." He still had mountains to climb.

I have mentioned that as premier he spearheaded the "10 Major Construction Projects." They had provided a solid foundation for Taiwan's economic development, but when he became president, he know, it was time to bolster that foundation. And he felt compelled to look for ways to improve the quality of life of the almost 20 million people of the Republic of China.

Working closely with the country's leadership and highly trained young Chinese professionals—now a mainstay of our development efforts—he proposed a 14-point program designed to insure Taiwan's continued progress and touch every life on the island.

So even in his 70s and in ill-health—he had long suffered from diabetes—President Chiang still possessed great energy and determination. His agenda was that of a man half his age. And remember, too, that at the same time he was having to deal each day with the serious problems resulting from the ROC's trade imbalance with the United States; maintaining a strong defense system to deter the mainland's designs on Taiwan—he was a former minister of defense; and the day-to-day problems of running a government.

But the last chapter still was not written. And it is that chapter which may be most memorable. To paraphrase the words of the American poet Robert Frost, Chiang Ching-kuo still had promises to keep—to his father and his compatriots—and miles to go before he slept.

President Chiang looked about him and saw a prosperous economy. He saw an educated citizenry. He saw hundreds of thousands of persons traveling abroad each year, expanding their horizons and their expectations. He saw a pluralistic society where people were eager to learn more about democracy and the science of self-government. Looking around him, he saw a country that was more secure than at any time since the government relocated on Taiwan in 1949. And he realized that the task before him—perhaps his last major task—was to perfect the country's democratic institutions and insure future generations of free Chinese maximum involvement in their government.

He proposed that the Emergency Decree, which had existed for 38 years, be lifted, removing the last vestiges of "martial law" on Taiwan. In fact, the decree had little effect on the citizens of my country and a survey showed that it was near the bottom of their list of concerns. But the specter of "martial law" continued to be raised in the international community and President Chiang wanted to remove it and settle the matter once and for all.

Opposition candidates had been clamoring for some time for the right to form a party and run a slate of candidates under a single banner rather than running individually as independents against the ruling party. The restrictions on the formation of new political parties were lifted, and the door was opened for a multi-party political system to challenge President Chiang's own KMT. Interestingly enough, when the first elections were over, the KMT still polled about the same percentage it had polled in previous elections (70 percent), giving a vote of confidence to the KMT and its leadership in its first head-on challenge.

Restrictions on newspapers were eased. Already licenses have been granted for the publication of new newspapers, and established newspapers have the right to expand their coverage. An educated population is an inquiring population, and Taiwan's newspapers now will be a greater source of news and opinion. The war of words has begun, for as the English writer, John Milton, said, "Where there is much desire to learn, there of necessity will be much arguing, much

writing, many opinions; for opinion in good men is but knowledge in the making."

On Taiwan, we believe, quite sincerely, that democracy must be learned. We have looked to the United States above all others as our teacher in this area just as we have looked to you repeatedly for lessons in free enterprise and market economy. The United States has outstripped every other country in the world in developing democratic instutions and creating prosperity for its people. We are grateful, and our imitation is intended as the most sincere form of flattery.

Last of all, President Chiang tackled the problem of how to make our legislative body more representative of the people on Taiwan without abandoning the Republic of China's claim to represent all China and its untimate goal of reunification with the mainland. Revitalizing the structure of the national law-making body and admitting new, younger blood has just began, but it took a bold leader to focus the attention of his countryman on this sensitive problem and, we hope, pave the way for an ultimate solution.

President Chiang Ching-kuo's democratization program, viewed broadly, as I noted, as a "display of courage and confidence in the people to whom he had brought unprecedented prosperity," drew accolades from throughout the world. And the citizens of my country have talked of little else since these dramatic reforms were proposed and, one-by-one, began to become reality.

There is one more important part of President Chiang's legacy which I think I should discuss with you.

For seven decades, members of the Chiang family—first president Chiang Kai-shek and later his son Chiang Ching-kuo—have been prominent figures in both the Koumingtang (Nationalist party) and the government of the Republic of China. Despite efforts by President Chiang Ching-kuo to dispel speculation, rumors persisted that he would somehow pass the mantle of leadership to another member of the Chiang family. Obviously, some observers did not understand his populist nature. Now, history has proved his sincerity.

Because President Chiang was in ill health for a long while, questions concerning succession constantly arose. He often pointed to the constitution and said firmly that succession would be orderly and in accord therewith. When he died January 13, there was no doubt on Taiwan what would happen. In accord with the constitution adopted in 1946, Vice President Lee Teng-hui, a native of Taiwan province and proven administrator, was sworn in immediately. Government in the Republic of China proceeded without a hitch. President Chiang's insistence that there was no place in Taiwan's modern democratic government for a family dynasty is now an important part of his legacy.

It is important to note that President Lee, who became vice president in 1984, is the first Taiwan-born president of the Republic of China. His succession blunts much of the criticism which opposition leaders have made about the participation of Taiwan-born Chinese in the government of the Republic of China. The truth is that President Chiang worked hard to make the KMT an inclusive, rather than an exclusive, political party. Today more than 80 per cent of the members of the KMT were born on Taiwan and about half of our cabinet ministers. Any person who wants to participate in the party can do so and the height to which he or she can rise depends only on the limits of their own energies, ambitions and abilities.

President Chiang Ching-kuo, shortly before his death, dictated a last testament which was witnessd by several government leaders, including then Vice President Lee. He called upon the people to continue to seek reunification with the mainland, oppose communism and, importantly, to "actively carry constitutional democratic development forward without interruption." Upon assumning the office of president, Dr. Lee Teng-hui called upon the citizens of the Republic of China "to follow without fail the final exhortations of President Chiang . . . with one heart and mind in a united effort." The torch was passed.

President Chiang's leadership will be deeply missed. But, he was a wise man. He knew he would not stay on the scene forever and planned carefully for our future. His legacy actually has two-parts: unprecedented economic progress and democratic reforms he initated during his life, and the clear path he marked for the Republic of China's democratic development after his death.

One editorialist summed up by stating, "Taiwan, which first showed Third World nations how to use capitalism, free trade and export-led growth to turn a third-world peasant economy into a sophisticated exporter with a flourishing middle class, now appears bent on demonstrating how democratization can be made to follow economic success.[1] In the long run, the extraordinary economic sucess and the democratic reforms instituted during President Chiang Ching-kuo's last years will be equally treasured by the citizens of the Republic of China.

HUMAN RIGHTS FOR ARMENIANS IN THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LANTOS. Mr. Speaker, on February 22, nearly 200,000 Armenian citizens of the Soviet Republic of Azerbaijan engaged in a demonstration—an event that is almost unheard of in the Soviet Union. They were protesting the Soviet Government's unwillingness to honor its own constitution and grant them self-determination. At issue is their 83-year forced separation from their fellow Armenians.

Mr. Speaker, I am very sympathetic to the issue that these Armenians are raising. The continuing suffering of Armenians in the Soviet Union is both tragic and unnecessary.

Earlier this month, the Armenian people petitioned the Soviet Central Committee to have their small sector of Azerbaijan—Nagorno-Karabakhskaya—incorporated into neighboring Armenia. The central committee flatly refused their request, fearing further nationalist movements, and moved in Red army tanks to crush public protests to the decision. This week's protests were met without resistance by the Soviet Government, only because of increased press coverage.

The Armenians, like the Ukrainians, Crimean Tartars, Estonians, Lithuanians, and Latvians, cry out to breath freely, without cultural and racial oppression. In 1925, Stalin divided the Armenian population, to consolidate Soviet power over the region. Today, over 60 years later, the Armenian people continue to suffer, long after any threat to Soviet control has passed.

[1] The Ledger-Star, Norfolk, Virginia, January 5, 1988.

Mr. Speaker, the Soviet Union, before the entire world, signed the 1975 Helsinki accord and ratified the 1948 Universal Declaration of Human Rights and the 1976 International Covenant on Civil and Political Rights. Each and every one of these international documents forbids member nations from coercing its citizenry, and from restricting the free expression of religion and culture. By dividing the Armenian people and placing a significant Armenian population in an Islamic area, the Soviet Union has violated these basic tenents of its own constitution as well as international human rights law.

Mr. Speaker, I call upon my colleagues in Congress to express their outrage with this continuing injustice, and to encourage the Soviet Government to deal more responsively with the demands of the Armenian people in the Soviet Union.

PROTEST OF ARMENIAN NATIONALISTS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. COELHO. Mr. Speaker, Mikhail Gorbachev's true commitment to his much hailed policies of glasnost, or "openness," and perestroika, or the "restructuring" of Soviet society, is now being put to the test by the citizens of Soviet Armenia. Hundreds of thousands of these Armenian nationalists have taken to the streets in recent weeks to protest their continued separation from their brothers in the Nagorno Karabakh region of the neighboring Soviet republic of Azerbaijan. How Mr. Gorbachev and the Politburo deal with this ethnic dispute may well decide whether the U.S.S.R. is to advance down the path of political and social reform in the future, or turn back to the methods of brutality and coercion that Mr. Gorbachev's predecessors often employed to keep order in the vast Soviet empire.

The region now known as Karabakh is a historic center of Armenian culture, and its population today remains 80 percent ethnic Armenian. Karabakh was annexed by Russia in 1805, but the czars that ruled the country during the 19th century allowed this region to remain semiautonomous. Both the Armenian people and the Azerbaijani people declared their independence from the empire following the Russian Revolution of 1917. The two nationalities fought over which would control Karabakh, though, and the conflict was ended only after the entry of the Red army in 1920. By the terms of the Treaty of Moscow Karabakh became a district of Soviet Azerbaijan rather than Soviet Armenia, in spite of the region's historic ties to Armenia and the overwhelming majority of ethnic Armenians that lived there.

Since then, the regional government of Azerbaijan has carried out a systematic policy of discrimination against the Armenian people in Karabakh, and has encouraged the emigration of ethnic Armenians from the area. In January of this year I wrote to Mr. Gorbachev

about this issue, expressing my deep concern about the discriminatory treatment of ethnic Armenians throughout his country. I also asked him to give his personal consideration to the issue of the reunification of Armenia.

Both Azerbaijan and Armenia have been under the tight control of the Soviet central government during the last several decades, but this control has not served to diminish the deep passion stirred in the hearts of the Armenian people by the artificial separation of Nagorno Karabakh from Soviet Armenia. The Armenians that are now engaged in one of the largest demonstrations of popular dissatisfaction in the history of the Soviet Union are not demanding the secession of greater Armenia from the U.S.S.R.; instead, they only want to be reunited with their brothers in Karabakh within the framework of the Soviet State.

The Soviet Union, unlike the United States, is not a melting pot. It is instead a union of more than 100 different ethnic groups speaking some 112 different languages, and many of these groups have a deep history of strife with one another. The Armenian issue is important, then, because it is representative of numerous other ethnic conflicts festering within the Soviet empire. It is clear that the Soviet Government must take steps to cleanse these deep and historic wounds, but it is not clear yet just what steps it will take. Whatever the outcome, it is likely that Mr. Gorbachev's handling of the current crisis will set the stage for how he deals with the future eruptions of ethnic strife that will inevitably occur in this forced confederation composed of competing nationalities.

I call upon Mr. Gorbachev to grant the Armenian people the simple goal that they are seeking—a single, united Armenia within the framework of the Soviet Union. This will be the only real solution to the problem. Any other means of ending the protests that are currently rocking Armenia and Azerbaijan will only put off the final resolution of this problem for the future.

Mr. Speaker, we will be watching the events in Armenia during the coming weeks closely to see whether Mr. Gorbachev is sincere in his proclaimed policies of glasnost and perestroika. He now has a historic opportunity to take steps to peacefully heal one of his country's most serious ethnic wounds. Whether he takes this opportunity or not may well determine if he is the "reformed" Russian leader he claims to be, or if he is just another authoritarian Russian wolf—but in more fashionable sheep's clothing.

A CONGRESSIONAL SALUTE TO 100 YEARS OF ADULT EDUCATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding institution in my community, the Adult Education Department of the Los Angeles Unified School District. On Saturday, March 5, the California Council for Adult Education will celebrate the 100-year anniversary of adult education in Los Angeles.

In 1887, the first night school in Los Angeles was opened, accommodating 30 students who were eager to learn to read and write. In 1896, the program was expanded to include sewing, cooking, and manual arts. In 1930, citizenship and Americanization classes were started to help the flood of immigrants assimilate in the United States. This was followed in 1911 by the organization of the first day classes for foreign women. From this point onward, the school began to be thought of as a "neighborhood adult school" rather than a "night school."

In 1927, the first parent education class was organized. This was an important milestone in the history of adult education. The focus of adult education was no longer literacy and citizenship but a comprehensive program involving all facets of adult life. Vocational training became available, along with employment preparation for the young, and gerontology classes for the elderly. Currently, the two of these classes attract both youthful and mature participants.

Over the years, the adult schools of the Los Angeles Unified School District, whether they were called night schools, evening schools, or night high schools have consistently offered a diverse program for adults seeking to better themselves through continued education. My wife, Lee, joins me in congratulating the people who have toiled to make adult education an institution in Los Angeles. We wish them all the best in the years to come.

A TRIBUTE TO POLICE CHIEF THOMAS F. ADAMS

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. SAXTON. Mr. Speaker, I rise today to ask my colleagues in the House to join with me in paying tribute to my constituent, Thomas F. Adams, who is retiring after a long and distinguished career as chief of police of Cinnaminson Township in Burlington County, NJ.

Known more popularly by fellow law enforcement officials and local residents alike as simply "Tommie Adams," he has been a dedicated police officer for 42 years, serving the last 34 years as chief of the Cinnaminson force.

Even more, Tommie has been, and continues to be, far more than a police chief. He has demonstrated a strong sense of community, participating in church functions, charitable groups and lodge organizations, and in countywide organizations formed to serve the needs of the poor, of juveniles, and of civil defense.

Never complacent, Chief Adams has over the years participated in many law enforcement programs, expanded his own training, and trained others. He has also reached into the community, and given numerous addresses on drug abuse at churches, schools, private homes, and before other organizations.

His biography is a most interesting one, revealing that he served in the Army Air Force as a medical corpsman. He served in Guam during World War II. In addition, he participated in a USO show in 1945.

Tommie Adams was hired as a Cinnaminson police officer in 1946. At that time, there was no official police force, and he—and just one other officer—worked 12-hour shifts. They had no uniforms, and used their personal cars to patrol. Nor was there any radio contact, and a local judge would alert them to calls by turning on a porch light.

In 1945, Tommie Adams became Chief Adams, and took on the task of completely organizing the Cinnaminson Police Department. He has been the chief ever since, with the exception of a 3-month stint as a Burlington County detective.

To put it all in perspective, Mr. Speaker, Thomas F. Adams has been an outstanding law enforcement officer, a concerned citizen, and a good neighbor. Tomorrow evening, his friends, family and colleagues will pay recognition to him at a testimonial dinner being held in his honor.

I am sure my colleagues in the House will want to join with me in congratulating Chief Adams on a job well done, in extending best wishes to him and his family, and, of course, in wishing him a long and well-deserved retirement.

AN EDITORIAL STATEMENT ON THE STATE OF AGRICULTURE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BEREUTER. Mr. Speaker, an editorial in the Lincoln Star of today contains some good news that I would like to share with my colleagues. The editorial uses as an example the 8.3-percent rise in the value of Nebraska agricultural land that was reported by the Federal Reserve Bank of Kansas City for 1987.

The editorial mentions a new optimism spreading through our rural communities. "Rising values are, indeed, a reflection of better times in rural America. Out on the farm these days, there is more of that old time feeling of pride and confidence."

Yes, conditions have improved and continue to improve. But, we must be cognizant of how truly fragile is our enhanced position in the world agricultural markets. The basic programs implementing the 1985 farm bill and a tougher stance on agricultural trade have helped turn the tide.

I commend the following editorial to the attention of my colleagues:

[From the Lincoln Star, Mar. 2, 1988]

AND OUT ON THE FARM

Well into the category of good news is the 8.3 percent rise in the value of Nebraska agricultural land, as reported by the Federal Reserve Bank of Kansas City for 1987. For the seven-state region of which Nebraska is a part, there was an estimated 5.2 percent rise in values.

Rising values are, indeed, a reflection of better times in rural America. Out on many farms these days, there is more of that old time feeling of pride and confidence.

Good prices for wheat and corn and a profitable situation in many cattle operation has given rise to rural optimism. How long has it been, for instance, that the price of grains in the open market equaled or exceeded the federal government price support levels?

A very long time, but such is currently the case at least with wheat and nearly so with corn. Additionally, the federal government has disposed of the great bulk of its grain reserves.

With the depletion of reserves, some 70 million acres of land held out of production and agricultural exports showing renewed strength, all the pressure on prices is upward.

All of that is good news and we hope it continues that way. But caution remains advisable when considering the future of agriculture.

Farming is a volatile business. A production drop due to drought could hurt farmers even as it pushed the price of products still higher.

Billions of dollars continue to flow into agriculture from the federal govenment and a curtailment of those funds could be damaging. Cattle prices would have a hard time keeping up with the price of feed grains if grain shortages developed.

Thus, the measured attitude of reserve bank economist Lynn Gibson is appropriate.

"We think there's room for some optimism—not wild optimism—but I think we've see the bottom. 1988 may be about the same—nothing wild and crazy—but fairly steady," said Gibson.

None of that means agriculture is out of the woods, but it is quite an improvement over conditions of the past few years.

REPRESENTATIVE MILLER SALUTES DEAN LESHER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MILLER of California. Mr. Speaker, I know that Members of the House will want to join me in saluting Mr. Dean Lesher, the publisher and chairman of the board of Lesher Communications, Inc., on his receipt of the Medal of Freedom tomorrow by the Valley Forge Freedom Foundation.

The foundation is recognizing and saluting Mr. Lesher for his outstanding record of service both to the newspaper industry and to this community through publication of several major daily newspapers.

Several of those newspapers are published in my district, Contra Costa County, and as a result, I have had the good fortune to know Dean Lesher for many years. I'm sure that every Member of this Congress will understand when I say that those years have not been without disagreements over particular issues. But throughout the years, the favorable endorsements and the scathing editorials, I have deeply admired Dean Lesher's vision of the future, and his commitment to the people of our county.

He has been more than a publisher. He has been an ardent advocate of economic development, a promoter of the arts, and a forceful voice for expanded higher education. And I believe those qualities, as well as his record as a publisher and businessman, are responsible for his receiving this tribute from the Valley Forge Foundation.

To Dean Lesher, and to his wife Margaret, I want to extend my own congratulations, and those of the Congress of the United States. I am proud to recognize his innumerable contributions to our community, which has so benefited by his energy, his vision, and his diligence.

EXTENDING THE WAR CHEST AUTHORITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GARCIA. Mr. Speaker, today, I am introducing a bill to extend the authority for the tied aid credit fund within the U.S. Export-Import Bank for 2 more years. This simple extension would express to the U.S. exporters and their foreign competitors that Congress is firmly in support of U.S. exporters in their efforts to win markets abroad.

Tied aid credits, which combine grants with export financing, is a predatory type of financing commonly used by our major trade competitors to win export markets. The practice has placed U.S. exporters at a significant disadvantage because competition is not only based on quality, technology, and service, which is the responsibility of individual companies, but on the level of government assistance. The problem of competing against subsidized tied aid credits offered by foreign competitors is particularly serious in efforts to win markets in less developed countries, because they logically prefer the concessional financing to be able to buy the foreign goods.

In 1986 Congress established a tied aid credit fund—also known as the war chest—within the U.S. Export-Import Bank to be used aggressively during 1987 and 1988 for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid for commercial purposes. Last year there was an agreement reached at the Organization for Economic Coordination and Development [OECD] by the industrialized countries that tightened the rules governing tied aid credit. This agreement basically made the practice more expensive by requiring a higher level of grant element in tied aid financing. The first phase of the agreement was implemented last July and the second phase will be implemented later this year.

Despite the agreement, the trend of using tied aid credits by other countries is increasing. Until there is a way to effectively reduce this practice, we must make sure that the U.S. exporters compete on an equal footing with foreign competitors. One way is by extending the war chest authority which expires this year. That is the focus of my bill. The key purpose is to allow us to ensure that the OECD arrangement on tied aid credits will be effectively implemented.

There is no additional budget authority required for this legislation because the funds will come out of the existing authority for direct loans. In addition, I would like to clarify that the funds will be used only if the chairman of the Eximbank certifies that the direct loan authority is no longer needed for direct loans and can be used for tied aid purposes. That means that if the OECD arrangement proves to be effective, the fund does not have to be used. In the meantime, the war chest will be an effective tool in bringing the use of tied aid credit under control. I ask my colleagues to support this legislation.

NEW MEXICO'S ANGEL FIRE SKI RESORT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to offer my support of Mr. Gary Plante, a businessman in northern New Mexico, who last year with his partner, began an ambitious project to expand the Angel Fire Ski Resort into an all-season resort, providing facilities to rival the best in the Nation. As Mr. Plante was quoted as saying in the Albuquerque Journal of February 20, "I don't think I've ever gone into a project without trying to be first at whatever I did."

In this case Mr. Plante will provide a facility that will attract thousands of skiers to New Mexico, and countless others for golf, tennis, and fishing the rest of the year. I congratulate Mr. Plante for his initiative and acumen in utilizing New Mexico's resources as a source for financial productivity, and for building a facility that will also allow visitors a unique view of New Mexico's beauty.

And of course, Mr. Plante's project also promises to offer economic stimulaton to a depressed area. During the past year, the counties surrounding Angel Fire have had a rate of unemployment of approximately 30 percent. Not only will the resort directly alleviate the unemployment problem by providing jobs for local New Mexicans, it will also encourage economic growth in the surrounding communities as a result of increased tourism. As the 5-year project develops, local residents can look forward to a positive economic growth especially in the service industry.

I am pleased to express my support for Mr. Plante and his determined endeavor to renovate Angel Fire. Mr. Plante demonstrates the initiative and spirit that are necessary to utilize the resources on New Mexico, while simultaneously providing for the New Mexican people. He deserves our commendation.

RAISING THE MINIMUM WAGE IS PROFAMILY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. OWENS of New York. Mr. Speaker, in the wake of disturbing increases in the rate of teenage pregnancies and other indicators of distress and instability in young American families, many have been quick to diagnose these problems as a simple failure of personal morality and to prescribe intensified efforts at promoting a greater sense of individual responsibility, values, and self-esteem among our youth as the cure. The message promoted by these efforts is an essential one, but by itself, it tends to ring hollow and even hypocritical because we are doing so very little to provide the economic foundation needed by our youth to build the strong and stable families we hail.

At few other times in our history has it been as difficult as it is today for a young man to start and sustain a family. Since 1973, the average real annual earnings of men aged 20 through 24 have declined by 30 percent; for young black men, the decline in earnings has been a catastrophic 50 percent. Fourteen years ago, 60 percent of our young men were able to earn enough to maintain a three-person family above the poverty line; today, just 42 percent of all young men and 23 percent of young black men are able to do so.

There are many reasons for the growth of poverty among young adults but key among them is the erosion of the real value of the minimum wage. It has been 6 years since the minimum wage was last increased and in that time its purchasing power has plummeted by nearly a third. During the 1960's, a full-time worker earning the minimum wage could support a family of three at or slightly above the poverty line; today a minimum wage worker brings home a paycheck which is only 77 percent of the poverty level income for a small family.

If we are serious about promoting strong and stable families among our young people, it is time to match our profamily rhetoric with profamily action to increase the minimum wage to a level which adequately provides for the needs of American workers and their families. As an original cosponsor of the Minimum Wage Restoration Act (H.R. 1834), I urge my colleagues to join me in supporting this much-needed legislation. H.R. 1834 would increase the minimum wage from its current rate of $3.35 an hour to $3.85 in 1988, $4.25 in 1989, and $4.65 in 1990. Most importantly, in all subsequent years the wage rate would be indexed to 50 percent of the average hourly wage in the private sector, assuring that the needs of workers who depend on the minimum wage will never again be permitted to fall through the cracks.

Under Ronald Reagan, the American economy is rapidly becoming one vast Marshalsea Debtor's Prison straight from Charles Dickens, imprisoning millions of young families, and others who hope to raise families but are unable to do so, in grinding, enervating poverty and despair. Enacting the Minimum Wage Restoration Act is one necessary step we must take tc help set those Americans free.

TAX DEDUCTION FOR FAMILY DAY-CARE PROVIDER—CLARIFICATION OF A RECENT IRS PUBLICATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LANTOS. Mr. Speaker, last fall the Employment and Housing Subcommittee, which I chair, held a hearing in San Carlos, CA, to examine the very serious problem working people face in finding affordable, quality child care. My subcommittee was greatly impressed by the testimony of family day-care providers, who are a major resource in this important area.

The Day-care Association of San Mateo County recently called to my attention an Internal Revenue Service [IRS] publication which gave inaccurate information, by reducing the allowable deduction for food consumed by children in family day care. I contacted the IRS and, thanks to the persistent efforts of my subcommittee staff, we discovered that this provision was erroneous. The IRS has issued a correction:

Report of Error in Publication 587, Business Use of Your Home, (Rev. Nov. 87)

Announcement 88-39

Publication 587, Business Use of Your Home, (Rev. Nov. 87), has a note on page 4 under the heading Day-Care Facility that states: "If you provide food for your day-care business, you can deduct as a business expense only 80% of the cost of the food consumed by your day-care recipients and employees. The cost of the food consumed by you or your family is not deductible." The first sentence is incorrect and should read: "If you provide food as part of your day-care business, you can deduct the cost of the food consumed by your day-care recipients, but generally only 80% of the cost of the food consumed by your employees."

Mr. Speaker, I believe that my colleagues will want to join me in sharing this information with their constituents who provide child care in their homes. These socially valuable small businesses should certainly be assisted in fully utilizing all legitimate tax deductions.

HONORING A TRUE CANINE HERO

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PORTER. Mr. Speaker, although it's often said that "man's best friend is his dog," we usually dismiss this as a tired adage. I would like to note the actions of one very special dog that deserves that praise.

Candy Sangster of Sepulveda, CA, may well owe her life to her dog Jet, a 6-year-old doberman pinscher. As a diabetic, Candy must take regular insulin injections to maintain her body chemistry. In late October 1987, Candy, at home alone with Jet, slipped into a life-threatening diabetic coma. Sensing that something was wrong with her owner, Jet managed to open the Sangster's door and ran outside.

A neighbor, Hazel Lavin, notice that the usually quiet Jet was running about furiously and barking loudly. Hazel called Candy, and when she received no answer, called a paramedic rescue team. They found Candy in a coma and rushed her to the hospital where she later recovered. Without Jet's action, Candy may well have died.

Jet was recently selected as Ken-L Ration's "Dog Hero of the Year" in a nationwide poll from among five national finalists. Each of those dogs had performed similar acts and are cherished by their owners. Those people would all say that their best friend was there in an emergency, reaffirming that special bond between dog and owner.

This first week in March, the dog-owning public observes "Dog Hero Week," to recognize those special pets that are much more than companions. Canine heroes such as Jet remind everyone that from the smallest poodle to the mighty mastiff, dogs are indeed "man's best friend."

CREATION OF SECOND OPEN SEASON FOR FERS ELECTION—EXTENSION OF EXEMPTION FROM GOVERNMENT PENSION OFFSET

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PARRIS. Mr. Speaker, today I am introducing legislation relating to the Federal Employees Retirement System [FERS] in an effort to restore a sense of trust and fair dealing to the valued and valuable employees who work for the Federal Government and who have been given an opportunity to take advantage of FERS. My bill would create a second election period for transferring from the Civil Service Retirement System [CSRS] to FERS, beginning July 1, 1988, and ending December 31, 1988, and would extend to December 31, 1988, the termination date for this newly created second FERS election period, the exemption from the Government pension offset—spouse/survivor offset—currently made available under the Omnibus Budget Reconciliation Act of 1987—Public Law 100-203—only through December 31, 1987.

It certainly is no secret that the percentage of Federal employees expected to transfer into FERS was grossly overestimated. The projected transfer figure was 40 percent, while the actual figure appears to be somewhere between 1 and 2 percent. How can this disparity be explained? Very simply, Federal employees chose to shun the new retirement program for two reasons. First, they were waiting for Congress to act on several proposed revisions to the plan that could have had a significant impact upon their election decisions, and, second, they frankly no longer trust their employer, the Federal Government, to provide a new employee benefit that is truly beneficial for them.

The particular provisions awaiting congressional action throughout much of the FERS election period included: First, exemption of the thrift savings plan from the nondiscrimination rule, a rule applied to private sector retirement plans similar to FERS which says that workers earning annual salaries of more than $50,000 can contribute no more than 2 percentage points above the contribution for all

lower paid workers in the plan; second, requirement that Federal workers joining FERS must remain under FERS for at least 5 years to escape application of the Government pension offset to their Social Security spouse/survivor benefit; and third, reduction of the number of years of Social Security earnings necessary for Federal, State, and local workers to be exempt from application of the windfall benefit reduction. Congressional action before yearend on the first provision, exemption of the thrift savings plan from the nondiscrimination rule, appeared extremely unlikely until the Senate included the exemption in its version of continuing appropriations legislation for fiscal year 1988 and House conferees later agreed to retain the provision in the final continuing appropriations legislation passed in both Chambers and signed into law by the President—Public Law 100-202. The House Committee on Ways and Means passed its versions of changes to the Government pension offset and windfall benefit reduction in July 1987. Each of these proposed changes, together with earlier versions of the changes, had been regularly reported to Federal employees throughout the FERS election period with admonishments to refrain from making final FERS election decisions until Congress had completed action on the measures, if the results of such action could significantly affect their decisions.

Finally, during the last days of the 1st session of the 100th Congress and just 10 days before the close of the FERS election period, Congress enacted and the President signed into law Public Law 100-202 and Public Law 100-203, two major pieces of legislation that included provisions affecting FERS. The nondiscrimination exemption was included in Public Law 100-202, continuing appropriations legislation, and a revision to the Government pension offset, never previously reported or made public, was included in Public Law 100-203, budget reconciliation legislation. No change to the windfall benefit offset was included in the December 1987 legislation.

When Congress finally got ground to acting on the FERS proposals, the resulting legislation was, at least in part, favorable for Federal employees and well reasoned. Ironically, however, the timing of the action made it virtually impossible for Federal employees to learn of their newly granted options and to take advantage of them, even if they wanted to, before December 31, 1987, the FERS election cutoff date. The proposals were tucked away in extremely complex legislation that was not even available in print for review by congressional staff members and Office of Personnel Management [OPM] staff until well after the December 31 deadline. Many Federal workers had already left their offices for the Christmas holiday when the changes became effective, and those who remained and tried to get concrete information regarding the changes were often frustrated and/or given inaccurate answers because their agencies were themselves just learning of and trying to understand the changes. Publication of the changes through congressional newsletters was for all practical purposes impossible due to the tremendous backlog of mailings faced by the congressional mailroom at the close of the year. In the end, Federal workers had only 7 business days, of which 4 were sandwiched between Christmas and New Years' Day, to learn of the FERS changes, baffling at that point even to OPM and congressional staffers, factor the changes into their retirement benefit analyses, and make the FERS election.

Is it any wonder that our Nation's Federal workers express such distrust in their employer when time after time the rules guiding their retirement options are changed and retirement options are deleted or made so confusing or unattractive that they are no longer of benefit? Compounding the inequity of such change is the fact that the changes are made with no opportunity for thorough study or comment by those affected by the action, no opportunity for Federal employees to work the changes into their retirement plans, and, at least in the case of the recently enacted FERS proposals, no real opportunity to even learn of and take advantage of the changes. The answer is no—it is no wonder that our Nation's Federal workers express such distrust in their employer, the Federal Government; the real wonder is that workers continue to join the Federal Government and that those presently under the Federal payroll continue to stay.

My bill would help to restore some sense of equity and fair dealing to Federal Government retirement benefits, while demonstrating to Federal employees that their employer is ready to stand accountable for its actions and to recognize them for the valuable employees they are. If you believe that the FERS changes enacted into law in the last days of the 1st session of the 100th Congress made good law and were truly intended to benefit Federal workers, then I urge you to support my bill in order to give Federal workers a real opportunity to take advantage of the changes. If, however, you support the notion that the Federal Government is at liberty to make empty promises to its employees, then I, regretfully, will understand that you cannot support this legislation.

CRUZ PONDERS SOLUTIONS TO NICARAGUAN MALAISE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GREEN. Mr. Speaker, the one topic on everyone's mind this week is the situation in Nicaragua. I would like to bring my colleagues' attention to an article in the December 4, 1987, Harvard Law Record which is a report of a speech by Arturo Cruz, former Sandinista and former Contra leader. It is one of the most balanced interpretations of the situation I have read and I am reprinting it here for the benefit of those Members who have not seen it:

CRUZ PONDERS SOLUTIONS TO NICARAGUAN MALAISE

(By Troy Morgan)

On Nov. 19 former Sandinista and former contra leader Arturo Cruz stood behind a podium and a line of tables placed end to end in order to address a crowd of students in the Ames Courtroom. Security officers guarded every entrance and required that bags be checked. In light of the Adolfo Calero incident of October 2, a wave of laughter washed over the audience when Professor Detlev Vagts '51, who introduced Cruz, said that he hoped the discussion would remain "within the bounds of civilized discourse." The speech proceeded without incident.

Cruz stated that after fulfilling the HLS Forum's request to explain why he left the Directorate of Unified Opposition in Nicaragua, he would expound on the "more worthy" subject of the prospect of peace in his homeland. He expressed mild resentment at being the center of attention, since "more than once [he has] played the role of slave in the Roman Circus."

Cruz explained that "Nicaraguan dissidents" like himself "believe in the Revolution," but are opposed to its orientation. "The real struggle is both poles against the center—there is a democratic center," he said.

Cruz admitted that at the "end of 1986 the Iran-Contra scandal obviously influenced [his] decision to leave" the contras, but added that it was only a "trigger." He claimed that other considerations, such as his "duty as a Nicaraguan" and as a family man, along with "self guilt" and a "fed up" feeling, were the underlying causes of his departure.

THE POLITICAL SITUATION

Cruz called his 1985 decision to join the Nicaraguan resistance a "mistake," and referred to Barbara Tuchman's *The March of Folly*, in saying that he "decided that [he] had to accept [his] errors." He explained that because the *contras* had "failed to give a political dimension to [their] cause," no one saw them as "freedom fighters," and U.S. policy foundered without domestic support. Nor does Calero favor the *sandinistas*, who, in his judgment, are "a regime based on force" and "guilty of injustice," he said.

Before his decision to leave, Cruz explained, the major faction of the *contras*, the *F.D.N.*, was divided geographically between *somocistas* (followers of the ex-dictator Somosa), *guardias* (national guardsmen) and *campesinos* (country folk), all in the North, as well as *sandinista* dissidents and *guardias* who had rebelled against Somosa in the South.

Cruz claimed to lean toward the South. He said that to the *somocistas*, anyone who believed in the revolution, for instance a *sandinista* dissident, was "a wandering dog." Because the Northern "clique" would not commit to human rights, democratic principles and pluralism, Cruz decided not to "stay in an alliance with those who [were] not [his] friends."

Cruz declared that Costa Rican President Oscar Arias is the "new reality" in the region. The Arias Plan, Cruz said, is not just "another platitude," because it "removes all pretexts for the *sandinistas* not to accept it." According to Cruz, Arias would bring to Nicaraguans the respect for human rights, democratic principles and pluralism that the *sandinistas* have thus far denied them.

RIGHTS VIOLATIONS

In particular, Cruz mentioned three violations of human rights by the *sandinistas*. First, the "right to elect and to be elected" identified in 1984 by the human rights commission of the Organization of American States is violated, he said, when the *sandinistas* put themselves in a superior position during elections.

Second, he accused the *sandinistas* of "injustice" for keeping thousands of former members of the national guard imprisoned, when only one hundred of them might be "murderers and torturers," while the rest were, he asserted, orderlies and privates. Cruz proclaimed, "The shield of protection of the revolution is not war; the shield of protection of the revolution is justice." Third, Cruz accused the *sandinistas* of "recklessly" causing food shortages and

other problems that he attributed primarily to the ideological inflexibility of the *sandinistas*. He said that "the first duty of a statesman" is to "protect people," and "we have a *duty* to work for peace."

After the speech, Cruz lamented that it is "hard for the world to believe that the dragon-slayers of 1979 [the *sandinistas*] are now the dragon." He suggested that instead of boycotting the elections of 1984, the opposition should have gone to the assembly "day in and day out," using the elections to denounce violations. They could have protested and then withdrawn from the elections the day before, he said.

Cruz stated that a "cease fire has to be negotiated." He said that "there should not be surrender on either side," but that there is "a distinction between discussing a cease fire and negotiating peace;" the former is done with the people in arms and the latter between leaders within Nicaragua.

Cruz said that the United States should comply with the Arias Plan, even though it is not a party to it, by withdrawing support from the rebels "when it becomes apparent that Arias is working." He added that "Honduras should also comply" by not allowing anything on its territory that the *sandinistas* could label a threat.

Cruz suggested that "nine-tenths of the people in Miami" who he described as procontra Cubans who fled from Castro and Nicaraguan emigres who fled from the *sandinistas* are against the Arias Plan, along with the "bourgeoisie of Managua." In the rural areas, people "probably don't know what the Arias Plan is," he said, but "sophisticated Nicaraguans" support it.

Cruz addressed two arguments commonly invoked against the Arias Plan: that only force will work on the *sandinistas*, and that with the contras there is hope, but without them there is no hope. To the first he replied that before one can use force effectively, one must "earn political legitimacy." Cruz said that the "*sandinistas* should have been left alone," that there "never should have been an insurgency," because the result has only been to weaken the "moral authority" of the opposition.

In reference to the second argument, Cruz asserted that "we must reexamine that reasoning." Arias, he said, is "the way to bring peace and democracy" to Nicaragua, but "[we must] be sincere" and show that "[we are] not just out to taunt the *sandinistas*."

FISK UNIVERSITY: AN UPDATE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. CLEMENT. Mr. Speaker, Fisk University is an invaluable member of Nashville's education community. Yet, only a few years ago Fisk faced such financial difficulties that its continued existence was doubtful.

Led by Fisk University president Henry Ponder, the university began an aggressive cost-cutting and fundraising effort. Today, Fisk is in considerably better financial health. While much work lies ahead, I want to congratulate all of Fisk's students, administrative and academic staff, alumni, and friends for their efforts to assure the future success of this fine institution.

An article in the New York Times describes Fisk's efforts in greater detail and I commend it to my colleagues.

[From the New York Times, Mar. 1, 1988]

FOUR YEARS AFTER CRISIS, FISK UNIVERSITY THRIVES

NASHVILLE, February 29.—Enrollment is up and the debt is down at Fisk University, where only a few years ago students shivered in unheated dormitories because the historically black private institution could not pay its gas bill.

When the Nashville Gas Company cut off service in early 1984 until Fisk paid a $170,000 debt, students brought space heaters to class and joined with faculty and staff members to raise funds to insure the university's survival. The overall debt mounted to $4.1 million, but classes continued.

Henry Ponder, appointed Fisk's president in July 1984, led the school on a course of austerity programs and aggressive fund-raising.

When Mr. Ponder was told, for example, that boiler repairs would cost $350,000, he found an alumnus, a maintenance expert, who did it for $60,000.

"HELP IS STILL NEEDED"

Mr. Ponder acknowledged that things are better at Fisk, but he added, "You have to get the public to understand that help is still needed to get the resources to move this institution to the forefront of educational institutions in this country."

"I don't say that lightly," the educator said. "That's where we've been, and we will get back." Mr. Ponder said the school did not lower its academic standards when it was in financial trouble.

Today, debt at Fisk has been reduced to $200,000 and its endowment has reached $3.9 million. An unrestricted gift of $1.3 million by Bill Cosby, the entertainer, in December 1986 was a big help. Officials say they have received substantial grass-roots support, too.

The turnaround has not been free of problems. Three of the university's 23 trustees announced last week that they would resign at the end of the school year. One trustee said the resignations were related to the accountability of those charged with day-to-day administration. Fisk's financial aid director and assistant director were dismissed in December for allegedly failing to fill out forms to receive financial aid.

SALARIES UP SHARPLY

Faculty salaries have increased 30 percent over the last three years, to an average of $32,000 for a tenured professor, although that is still below the $35,000 to $40,000 Mr. Ponder said is appropriate.

Aggressive recruiting of students brought enrollment, which dipped to 500 at one point, up to 644 students this semester, an increase of 27 percent over the 1987 spring semester, said Harrison DeShields, director of the office of admissions and records.

Bryon Cobb, a student from Huntsville, Tex., said Fisk's role in black history in America was important to him.

"Fisk introduced the black spiritual to the world; it was active in the civil rights movement; W.E.B. DuBois went to college here," Mr. Cobb said.

The financial crisis at the school had some positive benefits for the Fisk community, said Roland Hayes Robinson, now a graduate student.

"The student body handled the crisis well," Mr. Robinson said. "It united us. We were able to confront a problem and come through it."

The university, founded in 1867 by the Freedmen's Bureau, is no stranger to struggle. The campus was purchased with $150,000 raised by the college's Jubilee Singers during a European tour in the 1870's.

The earnings of the singers, whose tours still bring $60,000 a year to Fisk, also paid for building Jubilee Hall, whose exterior was recently restored with a $150,000 Federal grant.

James Weldon Johnson, a poet who was a diplomat and an early organizer of the National Association for the Advancement of Colored People, was a professor at Fisk in the early 1930's. W.E.B. DuBois, a philosopher and writer who graduated from Fisk in 1888, also helped found the N.A.A.C.P. and was the first black to earn a doctorate from Harvard.

"I think students are attracted here because it has the reputation of a good community," Mr. Ponder said. "When they get here, they find out we have a dynamic science faculty, and many of our students go to medical and dental schools."

Revais Mitchell, executive assistant to the president and a history professor, said Fisk's financial problems mirrored those of other liberal arts college, but were worse.

"In the 1960's and 1970's the philosophy of supporting a liberal arts education dried up, and the interest shifted to business degrees," Mr. Mitchell said.

NEW ADVANCES IN COMPUTER TECHNOLOGY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. ACKERMAN. Mr. Speaker, I rise to take this opportunity to acquaint my colleagues with a breakthrough in computer information technology which has a significant bearing on certain issues of concern to each of us in this Chamber.

It is the story I read recently in Barron's Weekly about a young innovative computer software company and what it is doing to help resolve some of our major national problems.

Mr. Speaker, as I was reading the intriguing story of this nearby Arlington, VA, company, IDMI—Information Design and Management Inc., a subsidiary of Classic Capital Corp. of New York I could not help but reflect on how much the technology achievements of a small private sector enterprise can contribute to certain of the goals we seek here in the Congress.

I refer in particular to the effort to eliminate waste in Government procurement, especially in the military, and to the search for answers to the ever-growing AIDS crises. Both of these issues have been addressed by IDMI—and the results are proving to be remarkable.

IDMI has developed an information technology system known as PM-2000 which enables program managers to track and report administrative, logistical, and budgetary data. This system fulfills a tremendous and unserved need for program management information and controls throughout the Government, including materials acquisition and logistics operations worldwide.

Mr. Speaker, we are only too familiar with the startling revelations of the outrageous costs of such items as ashtrays, toilet seats, nuts, bolts, tools, et cetera, et cetera—not to mention the immeasurable waste of millions in military hardware procurement.

These exposures have called for a strong demand to tighten on-going oversight of the purchasing process. PM-2000 is designed to assist in this effort through its extensive

system of automated management and controls. It is anticipated that this newly developed information technology will go a long way in helping to resolve this long-overdue need. Unquestionably, the end result will be vast improvement in efficiency and a significant savings of taxpayer dollars.

I should point out that the U.S. Navy is currently utilizing the PM-2000 program and the system is under review by the Army and Air Force for application to their program management requirements.

Now, Mr. Speaker, I want to cite another timely example of IDMI's diversity of software technology as described in Barron's. I refer to the company's development of an automated system especially designed to speed up the development and approval of new drugs for the treatment of AIDS victims.

This system, known as ADTS—AIDS Data Tracking System—is designed for use by pharmaceutical firms to facilitate new drug development and provide the information tools to hasten FDA approval to get breakthrough drugs to the market under the FDA's recently implemented approval-process policy.

Mr. Speaker, we are all aware of the long and tedious process heretofore required for FDA approval of new drugs for testing and treating. Commendably, last June, the FDA and the NIH, responding to public and congressional demands to accelerate drug availability for AIDS patients, adopted a new policy known as the "treatment Investigational New Drug" process. This policy requires extensive tracking of patient data and detailed reporting by the drug company. In turn, IDMI took the initiative and developed its ADTS program to help expedite this new policy.

The information contained in this IDMI system is based on the data-tracking of thousands of AIDS patients and the monitoring of various bio-medical criteria in many cases on a daily basis.

It is significant to note that IDMI's ADTS system is the first and only system utilized in gaining FDA's recent clearance for the only approved prescription drug currently available for AIDS victims.

Burroughs-Wellcome used IDMI's ADTS program to help obtain approval to administer and test nationwide the drug AZT. And now, under the FDA's investigational new drug policy, with implementation by such automated tracking information, the way is open for wider AIDS drug development and quicker determination of availability.

I understand further that the new FDA treatment IND program also applies to non-AIDS-related drugs being developed to test and treat other life-threatening diseases such as cancer, Alzheimer's and multiple sclerosis among others included in the FDA's treatment IND policy.

To accelerate progress in the required processes to bring these vitally sought drugs as quickly as possible to the gravely ill, IDMI has designed, and is further developing, other data-based tracking systems, similar to ADTS, to provide the necessary information specified by the new policy.

Mr. Speaker, I feel a special commendation is due IDMI for concentrating its computer softwear expertise and advanced information technology on such issues of national concern as those I have described here today. This company has set an example of what private sector partnership with the Government is all about.

CHINESE GULAG

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. EDWARDS of California. Mr. Speaker, upholding basic human rights should always be a central theme to this country's foreign and domestic policies, and in fact, is a clearly stated objective of the foreign policy of the United States (Public Law 100-204, section 1245).

With this in mind, I would like to refer my colleagues to a February 21, 1988, Los Angeles Times editorial entitled "Chinese Gulag." This editorial references the recently released report by Asia Watch on the human rights situation in Tibet. This report outlines the continued human rights violations against Tibetans in their own country as well as the disparity of economic, educational and religious opportunities available to Tibetans as compared to Chinese immigrants residing in Tibet.

As stated in Asia Watch's report, there are a number of internationally accepted standards of human rights that are knowingly violated by the authorities in Tibet. "These include such provisions of the Universal Declaration of Human Rights, such as freedom from torture or cruel and inhuman punishment—article 5; freedom from arbitrary arrest—article 9; freedom of thought, conscience and religion—article 18; freedom of opinion and expression—article 19; And freedom of assembly—article 20."

Violations of internationally accepted standards of human rights bears evidence to the fact that the current human rights situation in Tibet is of global concern. All nations need to recognize that the issue of human rights extends beyond national borders and must be addressed by all people.

I urge you to take the time to read the Los Angeles Times editorial, and the report by Asia Watch and help to ensure the people of Tibet have their human and civil rights restored.

The editorial follows:

[From the Los Angeles Times, Feb. 21, 1988]

CHINESE GULAG

For a decade the Chinese government has insisted that there are no political prisoners in China, that unlawful arrests and midnight interrogations and torture ended with the Cultural Revolution in 1976. That position was never credible: Chinese jails and prison camps may not be as crowded as they once were, but anyone who challenges the supremacy of the Communist Party or speaks too candidly to a foreigner is likely to be branded a counterrevolutionary and shipped off to prison, often without even a perfunctory trial.

The exact dimensions of the Chinese *gulag* have been impossible to measure, however. China's extreme secrecy has made it hard for journalists to penetrate the system, and most foreign governments, including the United States, have been so eager to woo Chinese trade and strategic support that they have been reluctant to raise human-rights issues. It has been easier to accept China's contention that widespread abuses were a thing of the past.

But a disquieting new study by Asia Watch offers proof that in Tibet, the most troubled corner of its kingdom, China still engages in "systematic human-rights abuses." With chilling documentation, Asia Watch charges that the Chinese authorities in Tibet maintain a close surveillance of the entire population, discriminate against Tibetans in housing and education, brutally repress all political dissent, make arbitrary arrests and run prisons where "torture is part of the . . . routine." Former prisoners have told Asia Watch that jailers usually use cattle prods on anyone who resists during "struggle sessions."

To be sure, Tibet's 2 million people have been a thorn in China's side ever since they rebelled against Beijing's rule in 1959. The People's Liberation Army quickly put down the rebellion, but the Chinese Communist Party remains so sensitive about Tibetans' continuing loyalty to the exiled Dalai Lama, the political and spiritual leader who fled to India just ahead of the liberation army, that even owning the traditional Tibetan flag is cause for arrest. Tibet's best-known dissident, Geshe Lobsang Wangchuk, had been imprisoned almost continuously since 1962 for daring to write about the years in which Tibet was independent; blind and often tortured, he died in captivity in December, Asia Watch says.

China succeeded in shielding what happens in Tibet from the rest of the world until last Oct. 1, when Lhasa police officers fired on unarmed Buddhist monks and other demonstrators who chanted independence slogans and attacked a police station to free political prisoners; China acknowledged six deaths in the incident, though Western observers reported 14 dead. The Chinese promptly banned foreign journalists and most tourists from Tibet in an attempt to throw a veil around the region once again.

Both houses of Congress have denounced human-rights violations in Tibet, but the Reagan Administration's response has been characteristically limp. First it applauded China's efforts to restore order in Tibet, then it criticized the killings and in recent months has fallen silent again despite reports of continuing arrests. That silence is disturbing in an Administration so firmly committed to self-determination for the people of Central America. The danger is that, unless the Administration takes some concrete step like linking trade and improved bilateral relations with China to progress on human rights, the United States will lose whatever chance it has to affect events in Tibet. One may disagree with Tibetan dissidents' demands for independence, as the United States does, and yet firmly believe that they should not be tortured for expressing them.

IMPROVING ENERGY MANAGEMENT IN FEDERAL BUILDINGS

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. SHARP. Mr. Speaker, today I am introducing the Federal Energy Management Improvement Act, which I am jointly sponsoring with several of my colleagues. This bill will strengthen the Government's efforts to reduce energy use in its own buildings and facilities.

Reducing the Government's energy use will have several benefits. First, it will reduce Government spending and we all know how important it is to keep expenditures down in this

time of large budget deficits. Second, any energy saved will help reduce our dependence on foreign imports. Third, by vigorously pursuing energy conservation, the Federal Government provides leadership to the rest of the country. Such efforts not only send the message that "This is still important!" but also provide a good example to private sector firms and State and local governments.

The energy used in Federal buildings is not trivial. In 1986, the last year for which figures are available, the Government spent $3.3 billion on energy for its roughly 500,000 buildings and facilities. The energy used by those buildings was the equivalent of 120 million barrels of oil.

The concepts embodied in this bill are simple. The bill sets minimum goals for agencies to reduce their energy use by 1995. It also authorizes a modest study of a representative sample of Federal buildings to determine the maximum potential energy savings that can be obtained. Finally, the bill provides an economic incentive to agencies to encourage them to go beyond the minimum goals toward the maximum potential.

HISTORY OF ENERGY CONSERVATION GOALS IN FEDERAL BUILDINGS

A little history is needed to demonstrate the need for the goals in this bill. In 1976 the President issued Executive Order No. 11912, which set a goal for agencies to reduce their energy use. That goal was a 20-percent reduction of energy used per square foot of building floor space between the years 1975 and 1985.

By 1985 the Federal Government, on average, had done a good job by cutting its energy use 16.6 percent, on a per-square-foot basis, compared to 1975. Some agencies exceeded the 20-percent target, while some fell short.

The 10-year goal which expired at the end of 1985 was not renewed. Consequently, there is currently no overall goal or directive to agencies telling them they should continue to conserve energy.

In 1986, energy use per square foot of building space was up 2.8 percent over 1985. Figures are not yet available for 1987, but the expectation is that they will be up over the 1986 levels. In other words, the progress the agencies made from 1975 to 1985 is now being eroded. We need to let these agencies know that Congress wants to see progress, not backsliding.

Hence the need for this modest goal of an additional 10-percent savings by the year 1995.

STUDY OF MAXIMUM ENERGY EFFICIENCY POTENTIAL

It is not good enough just to set minimum goals for agencies. Minimum goals often have a way of becoming maximum ceilings. Therefore this bill authorizes a study of a representative sample of Federal buildings, of different types in different climates, to determine the maximum, cost-effective level of energy savings that can be achieved. The study would be carried out by employees of DOE's national laboratories who have expertise in energy conservation and building systems technology.

This is to show Federal building managers that it is possible to go well beyond the minimum 10-percent goal, in buildings similar to the ones they manage. Many building professionals believe that savings on the order of 20 to 30 percent are practical and cost-effective just by applying existing technologies to existing buildings.

The more agencies are willing to go beyond the minimum, the more the Government will save. The $250,000 authorized for this study should be a very good investment indeed.

INCENTIVES FOR ENERGY SAVINGS

The incentives section of this bill allows agencies to keep some of the savings that result from energy conservation measures. They can then use the savings for additional investments in conservation to help them achieve their goal or for other purposes authorized by the Congress for their agency.

THE ROLE OF PERFORMANCE CONTRACTING

A common excuse for not undertaking conservation programs is that money is not available in capital budgets to make the needed improvements, even if the investment would more than pay for itself over the next few years. One way to deal with that problem is through the use of private capital and performance contracting.

Performance contracting is a method whereby private firms survey a building, make recommendations on energy saving measures and install the measures at little or no cost to the "host" building owner. The contractor gets paid back from a portion of the energy savings that result. While there are many different ways to set up performance contracts, typically the building owner starts saving money from the first month, rather than having to wait a number of years or months for the payback to occur.

Many private building owners have taken advantage of these arrangements as a relatively easy way to get control of their energy costs and generate a positive cash-flow immediately. A number of State and local governments have taken the lead in this area. They see it as a way to reduce their energy use without having to resort to increased capital budgets.

Congress gave Federal agencies the authority to enter into performance contracts in the Consolidated Omnibus Budget Reconciliation Act of 1985, but agencies have been slow to take advantage of this opportunity. Two years later, the Postal Service has entered into one limited performance contract and no other agency has done so.

Performance contracting is an excellent tool to help agencies achieve the goal set out in this bill. The goals, incentives and the study of maximum potential contained in this bill should help agencies overcome their timidity in exploring this option.

SUMMATION

In closing, Mr. Speaker, I would like to add a final thought. As a nation our energy problems are not as bad as they used to be, but they have not disappeared either. Energy prices are down, to a great extent because of how much energy has been saved by using it more efficiently. But, now is not the time to forget where we have been.

This bill is good energy policy. More importantly, it is sound fiscal policy. I urge its swift consideration and passage.

ALLEGATIONS OF DRUG TRAFFICKING WITHIN HONDURAN ARMED FORCES

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DONALD E. LUKENS. Mr. Speaker, allegations have been made that the Honduran Armed Forces are connected with drug trafficking. The New York Times recently reported that "senior Honduran Army officers * * * are setting up major drug operations in Honduras." (February 12, 1988).

A February 18, 1988, New York Times article reported about the State Department's response to these allegations, State "praised the Honduran Government and armed forces for demonstrating their opposition to drug trafficking. * * *"

I would like to bring to the attention of my colleagues press guidance text from the State Department. It sends a clear message that the Honduran Armed Forces have "demonstrated both through public statements and their actions their opposition to drug trafficking."

FEBRUARY 16, 1988.

HONDURAS: REQUESTS FOR DEA OFFICE

Q. Does the Department have any comment on allegations that the U.S. Embassy in Tegucigalpa may have prevented investigation of drug trafficking in Honduras by other USG agencies?

A. The allegations are not correct. In fact, in 1987, Honduran authorities—including the highest levels of the armed forces leadership—informed us that they were becoming increasingly concerned about drug trafficking in Honduras and sought U.S. assistance in contending with this problem. From that point, both the Department of State and the Government of Honduras sought the establishment of a DEA office in Honduras.

We expect that a DEA office will be operating in Honduras within weeks.

In the interim, DEA officials have been working in Honduras on temporary duty for the past several months until their office is established and fully operational.

FEBRUARY 12, 1988.

HONDURAS: DRUG TRAFFICKING

Q: Has the U.S. Embassy protected traffickers in the Honduran Armed Forces by preventing investigation of their narcotics activities?

A: No. To the contrary, the U.S. Embassy and the State Department have urged the Drug Enforcement Administration to reopen an office in Honduras. The government of Honduras joined in that request. DEA has provided temporary duty personnel since November and is scheduled to open a permanent office in Tegucigalpa this month.

Q: Does that mean the Department and the Honduran Government have suspicions about the Honduran Armed Forces?

A: The Department and many Honduran officials—including the senior leadership of the armed forces—became seriously concerned about the possibility of significantly increased drug trafficking when Juan Ramon Matta Ballesteros returned to Honduras from Colombia. We believe he (is attempting to) created a drug trafficking network in Honduras, undoubtedly with the cooperation of some corrupt officials. However, we do not believe that such corruption

has yet become pervasive. We anticipate that the new DEA office in Honduras will be able to substantially improve anti-trafficking cooperation with the Honduran Government.

The Honduran Government and armed forces have demonstrated both through public statements and their actions their opposition to drug trafficking. Much remains to be done, however, to raise Honduran technical means to match the threat.

THE SCALES OF ANTICOMMUNISM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mrs. SCHROEDER. Mr. Speaker, justice is blind but anticommunism shouldn't be. I commend to my colleagues a thoughtful commentary on the scales of anticommunism.

[From the Rocky Mountain News, Feb. 13, 1988]

THE DRUG OF ANTI-COMMUNISM

The U.S. indictment of Panama's military strongman, Gen. Manuel Antonio Noriega, on drug and racketeering charges puts a fine focus on the Reagan administration's policy in Latin America:

The United States will deal with any dictator or despot—even knowing of his devilries—if the Reagan White House believes him to be an anti-communist.

In Noriega's case, there were obviously strong suspicions he was, at best, only a part-time anti-communist, exchanging favors and information with Cuba's Fidel Castro. But top officials of the Reagan administration maintained cordial contact with Noriega, ignoring both the criminal odor and the Castro contacts.

Those Reaganites, it's now said, included such powerful men as William J. Casey, who until his death last year served as President Reagan's director of the CIA.

In the mindless implementation of Reagan's anti-communist policy—which since 1981 has targeted the Sandinista government of Nicaragua—the administration could ignore years of warnings and evidence that Noriega was not just a brutish lout who since 1983 ruled over a puppet civilian government, but was actually a thief of enormous audacity.

A lengthening list of witnesses inside and outside the Reagan government are now saying that while efforts were made at the White House level to persuade Noriega to take an active military role in Reagan's crusade to unseat the Sandinistas, it was known—or ought to have been known—at the same levels that Noriega was aiding and profiting off huge illicit drug transfers into the United States.

But even in the years of accumulating information that Noriega was involved in the lethal deliveries of drugs into this country, the president and his aides chose to warn, instead, of the imaginary capture of all of Central America by the Nicaraguan Sandinistas.

That Reagan and his chief aides would indulge Noriega's suspected criminality to cultivate his on-and-off anti-communism displays not just the blindness of the administration's policy but its bankruptcy.

Revelations concerning Noriega and the prior knowledge of his activities among some in the Reagan administration also serves—if anyone in the White House has the wit to see it—as an insult to the president's wife. Nancy Reagan has done her goodhearted best to turn young people away from the temptations of drug use, while aides close to her husband were aware of reports of Noriega's activities to harm the very children the president's wife sought to protect.

The federal indictment of Noriega presumably signals the White House disenchantment with the thuggery of the Panamanian dictator. But it also presents new cause to wonder at a Reagan Latin-American policy that separates good guys from bad guys only on a test of anti-communism until—as in Noriega's case—the criminality became notorious on an international scale.

Just as Americans have been damaged by the drug trafficking that Noriega is said to have encouraged while the Reagan administration blinked, Americans have as surely been damaged by lies and untold truths that have been wrapped into the Reagan policy in Latin America.

It has not been a wise anti-communism calculated to block Marxist expansionism and win commitment to those democratic principles the president has espoused.

It is fanatical, senseless anti-communism whose function has been to open the nation to ridicule and hatred every time the foolishness is exposed.

THE INSPECTOR GENERAL ACT AMENDMENTS OF 1988

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BROOKS. Mr. Speaker, I am introducing today the Inspector General Act Amendments of 1988. By all counts the Inspector General Act of 1978 has been a resounding success. It is now time to further that success story, by extending the provisions of the Inspector General Act of 1978 to other major departments and agencies of the Government that stand to benefit greatly from improved internal audit and investigations.

My bill would establish Offices of Inspector General, with the full authorities, duties, responsibilities, and protections provided by the Inspector General Act of 1978, in the Departments of Justice and Treasury, and in the Federal Emergency Management Agency. In addition, it would strengthen existing audit and investigative offices in agencies without statutory inspectors general by consolidating those offices in each agency, requiring that they report to the head of the agency and to the Congress, and giving that office the same duties and authorities as are provided to the statutorily established inspectors general.

In addition, my bill would provide greater independence to the heads of these audit and investigative offices by, (1) requiring that the agency head report to the Congress the reason for any removal or transfer of them and, (2) prohibiting the agency head from stopping or interrupting any planned or ongoing audit or investigative activity.

Mr. Speaker, this is exactly the same bill that I introduced and the House passed in the 99th Congress. The Senate acted on an amended version of that bill only in the waning hours of the 99th Congress, leaving no time to go to conference on the differences in the two measures. The issues are still the same. According to the President's 1989 budget submission, the Departments of Treasury and Justice, together with FEMA, employ over 200,000 people and have a budget authority of over $18 billion. The smaller agencies that are covered by this bill together employ over 60,000 people and have a budget authority of over $65 billion. Yet the audit and investigative groups in these offices are still unconsolidated and largely uncoordinated; and most of them report to and receive direction and control from officials lower than the head of the department or agency.

Other provisions of my bill would authorize inspector general personnel to administer oaths, provide uniform salary levels for statutorily-established inspectors general, and assure more uniform reporting of audit results in order to eliminate the reporting of inconsistent data and inflated claims of savings that have misled the American public in the past.

Mr. Speaker, the passage of this bill will improve Government accountability and congressional oversight of Government activities. I hope it will have the support of every Member.

THE MEGACITIES PROJECT

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GREEN. Mr. Speaker, I want to bring to the attention of my colleagues the megacities project, based at the Urban Research Center of New York City. This project is addressing the opportunity presented by and the problems brought on by the remarkable growth of cities around the world. Dr. Janice Pearlman, senior research scientist at the center, characterizes this project as a strategy "to accelerate the generation of effective social and technological innovation" will concentrate on 10 of the most populous cities in the world, megacities with populations of over 10 million by the year 2000.

Projections indicate that by the year 2000 there will be 23 such cities, most of them in Asia and Latin America. New York City and Los Angeles are the only two in the United States, and London and Moscow are the only two in Europe. As Dr. Pearlman says: "the world is becoming predominantly urban * * * and the locus of growth is shifting from the developed to the developing countries," yet 90 percent of all international development assistance is directed toward rural areas—the areas which people are leaving.

The people who are coming to cities throughout the world are looking for a better life, a way of life with opportunities which they have been unable to find in the rual areas from which they come. Yet, the current systems for providing housing, jobs, and services are often inadequate and city budgets are, in many instances, stretched to the breaking point. Innovative approaches must be found to make the best use of currently underutilized human and natural resources.

Yet there are opportunities to be found in the midst of these difficulties and Dr. Pearlman, through the megacities project, is in search of them. Happily, it is a seach for which she is well qualified. In 1977, Dr. Pearlman's book on favela life in Rio de Janiero won the C. Wright Mills award for the most outstanding social policy book of the year.

"The Myth of Marginality: Urban Politics and Poverty in Rio de Janiero," studies the remarkable growth of Rio de Janiero and offers the conclusion that the hope for the city's future lies with ambitious and hard-working squatters who left the countryside to find a better life for themselves.

Mr. Speaker, I know my colleagues will agree with me that in order to live together well in this world, we must solve the problems in our cities and the only way we can solve them is to work together—to communicate to each other our ideas for and successes in finding answers. This communication must be across borders, a form of communication that great megacities such as my city of New York have always encouraged. I know my colleagues will join me in wishing Dr. Pearlman good luck, and we shall all look forward to the results of her work.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MAZZOLI. Mr. Speaker, for the past several years, I have participated in the Congressional Call to Conscience Vigil in an attempt to draw attention to the plight of Soviet Jews and other prisoners of conscience who are seeking freedom and emigration from the Soviet Union. This is a specially worthy effort to draw the world's attention to the plight of those who are still in the gulags and behind the Iron Curtain yearning to be free.

As chairman of the Subcommittee on Immigration, Refugees and International Law, I have closely followed the emigration of Soviet Jews to the United States and Israel. And, each year as a consultative member on the President's Refugee Admissions Program, great attention is paid to assuring that numbers of admissions and funding for the resettlement of Soviet Jews are forthcoming.

Several years ago I had the opportunity to consult with the voluntary agencies in Vienna with regard to assuring that the Soviet Jews transmitting through Austria are given the opportunity to exercise the freedom of choice either to go to Israel or to the United States.

In Rome, I observed the meticulous care given by Italy to the transmitting of Soviet Jews, and especially, the hospitality of the Italian Government over the years in allowing these refugees to complete their processing with a minimum of interference.

Despite these efforts, and those of Members of Congress and concerned American citizens in recent years, there still is room for considerable improvement in Soviet emigration policy toward its Jewish citizens.

Soviet Jewish emigration reached a peak of about 51,000 in 1979, when Soviet officials placed more stringent restrictions on emigration. In 1986, fewer than 1,000 were allowed to emigrate. And, while the number exceeded 8,000 in 1987 for the first time since 1979, it is still appallingly low.

This year I would again like to bring to the attention of my colleagues the plight of the Yakov Beilin family. Yakov Beilin is a forestry technician who lives in a small Jewish community in Tula. Most of his family, eight aunts and uncles who previously lived in Vilna, were exterminated with their young children during World War II.

In 1973, Beilin's father died after a long illness. Before he died, his last stated wish was that his family move to Israel where his only sister resided. This request the widow Beilin decided to fulfill.

Yakov Beilin's mother was granted permission to emigrate to Israel, but Yakov Beilin, his wife and two children were refused. Despite her age and fragility, Yakov Beilin's mother decided to make the move.

His mother remains most distressed by being separated from her family. She writes:

I have but one desire. I beg you to help me bring my son and his family to Israel. The few years that I have left to live, I would like to spend together with him.

As one of many concerned Members participating in this year's vigil, I hope the Soviet Union will exhibit respect for basic human rights and privileges, as guaranteed under the Soviet Constitution and the Helsinki Accords, and reunite the Beilin family and other Soviet families in similar circumstances.

Mr. Speaker, it has often been said that the flow of immigration from the Soviet Union depends on the status of our government's relationship with each other. We are now experiencing a period of comparatively better relations.

In this regard, we must make sure that we can meet our part of the bargain by assuring that our admission numbers and financing are adequate to receive those fortunate persons who succeed in obtaining exit visas.

INTRODUCTION OF BILL TO PROHIBIT RAILROAD EMPLOYEES FROM LEAVING THEIR POST IN THE EVENT OF A TRAIN ACCIDENT

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. WELDON. Mr. Speaker, as a frequent rail traveler, I was alarmed to learn that there is no Federal law prohibiting railroad employees from leaving the scene of a train accident. On January 29 of this year, an Amtrak employee fled his post as a control tower operator after an Amtrak train slammed into a work vehicle injuring 25 passengers. The employee in question could not be interviewed by investigators until 3 days after the accident. He later admitted to having caused the accident by failing to take the train off a stretch of track undergoing maintenance. This incident occurred just outside of my district on the same trains and track that I and many of our colleagues use to travel back and forth between our districts.

That is why I am introducing today legislation to prohibit certain railroad employees from leaving their post in the event of a train accident. Specifically, my legislation prohibits any railroad employee who may have caused or contributed to the occurrence of a rail accident from leaving the scene of the accident without proper authorization. This legislation also provides for a prison term of up to 3 years and a fine of up to $250,000 if convicted of violating this act.

Mr. Speaker, the safety of rail passengers and workers everywhere is at stake here. I urge my colleagues to support this legislation and take prompt action to ensure its passage.

THE ARCHAEOLOGICAL RESOURCE PROTECTION ACT AMENDMENTS OF 1988

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. UDALL. Mr. Speaker, today my colleague from Connecticut [Mr. GEJDENSON], has introduced the Archaeological Resource Protection Act Amendments of 1988. I am pleased to be a cosponsor of this bill.

The desecration and looting of ancient Indian ruins on public and Indian lands seriously threaten the loss of historical data which present and future generations may use to understand and appreciate our forbearers. Once this valuable information is lost, it is lost forever. The original Archaeological Resource Protection Act [ARPA] passed by Congress in 1979 began the long process of protecting these irreplaceable artifacts. Experience over the last 8 years has made it apparent that a few changes in ARPA would help prosecutors carry out the intent of this law.

The bill that we introduce today will make it illegal to "attempt to violate" or to hire someone else to vandalize archeological sites. It will change the threshold for determining felonies and misdemeanors, clarify what constitutes a violation of law and enable those who testify in court to do so based on clear standards and terms, when violations occur. In short, this proposed legislation will make the existing law more easily understood.

Mr. Speaker, changes in ARPA are needed and I look forward to the opportunity to work with my friend from Connecticut as this bill works its way through the legislative process. We ask our colleagues in the House to join us in protecting the historic remains left by previous generations.

A TRIBUTE TO DR. BARRY BERLIN AND ARC/OAKLAND COUNTY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LEVIN of Michigan. Mr. Speaker, one of the true marks of a compassionate society is the ways in which it assists its citizens who are mentally handicapped. This is an area in which I have had a keen interest throughout my years of public service. It is therefore with great pleasure that I rise to recognize an individual from the district I represent who has excelled for many years in community service to the mentally handicapped.

Dr. Barry Berlin is the supervisor of the Oak Park SMI/SXI Center. This center serves persons from infancy through age 26 who are diagnosed as severely mentally or multiply handicapped. It is the only program in Oakland County which integrates severely handicapped students into regular elementary,

middle school, and high school classrooms. Dr. Berlin plays a variety of roles to ensure the center's operation. He must be a motivator, a teacher, a cheerleader, a supervisor. Above all else, he is an advocate for and with those he works with in the community. Often, this means overcoming many frustrations and obstacles in order to witness small, incremental victories.

The Association for Retarded Citizens of Oakland County has seen fit to recognize Dr. Berlin for him many accomplishments at their annual award dinner on March 4, 1988. It is a choice I heartily commend. I join with ARC and Dr. Berlin's colleagues, friends, and family in saying "well done." I know that each victory, however small it appears, is a major triumph for those who accomplish it. I wish Dr. Berlin, ARC/Oakland County and the individuals and families they work with many additional victories in the years ahead.

TO ARCH MacDONALD

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. SWIFT. Mr. Speaker, Arch MacDonald is a friend to a great many people, but he has helped give indigestion to many as well. The latter is not exactly his fault, though he is an accomplice.

Arch has been an important figure in Snohomish County in my district for many years. While he makes his living—and a good one—as a developer, he has taken much greater interest in the people of the communities in which he works than is typical of most.

He has worked with a variety of community groups. He has worked with local Indians. He has helped many different charitable organizations. He has built a wonderful facility called simply Arch's Barn which has become a community meeting place in a rural area that really had none.

Now, Arch isn't perfect. He's been known to allow politicians to use the barn too. What's worse, he's done it for both parties. And therein lies the heartburn I mentioned before. Every year I sponsor a big chili cookoff at Arch's Barn. It is always hard to tell whether the good chili or the bad chili gives the most gastric disturbance, but there is a fair amount of it. Arch must share the responsibility for this because of the indiscriminate way in which he lets the community use his barn.

Aside from that failing, he's a great asset in Snohomish County.

Mr. Speaker, I insert in the RECORD at this point a resolution passed by the Snohomish County Council and another currently before the Washington State Legislature. I might also add that Arch was made a deputy sheriff by the Snohomish County Sheriff's office and was recently adopted by the tribal council of the Tulalip Indian Tribes making him an honorary Indian—the first such honor ever extended by the Tulalips.

These resolutions speak eloquently of the contribution Arch MacDonald has made to our community.

RESOLUTION

Whereas Arch MacDonald as a community and state leader has made a positive difference in the lives of many people and communities in the State of Washington.

Whereas Arch MacDonald has been an admirer and a contributor of both major political parties and is a believer in our democratic process of government

Whereas Arch MacDonald's foresight and vision have brought about great changes and improvement in the quality of life in the State of Washington and more particularly in Snohomish County, Clark County and the Tri-City area.

Whereas the original development of Arch MacDonald and his partner, Donald MacKay, known as Cascade Park, has turned into one of the finest residential communities in Clark County and the State of Washington

Whereas the Clark County Economic Council acknowledged at its annual meeting in 1983 that Arch MacDonald and Donald MacKay have provided more economic stimulation to Clark County than any two people, past or present.

Whereas Arch MacDonald's personal involvement has played a major factor in having Hewlett-Packard and Tektronix local high technology plants in Clark County.

Whereas Arch MacDonald was instrumental in bringing Hewlett-Packard into Snohomish County and has been working in that county to help develop the economic potential that exists there.

Whereas Arch MacDonald and Donald MacKay, developed one of the finest large cattle ranches and irrigation projects (Lewis & Clark Angus Ranch) in the Tri-Cities, which was incorporated into the City of West Richland to allow for development into compatible multiple uses.

Whereas Arch MacDonald has continually stressed the importance of transportation (highways and major airport facilities and carriers) to our economy and has worked toward their development and improvement within the State of Washington.

Whereas Arch MacDonald's sphere of influence has touched all aspects of the quality of life in the State of Washington and has made Washington State a better place to live.

Whereas Arch MacDonald recently was one of the moving parties in a major land use case heard before the United States Supreme Court that has brought about greater protection of property rights for property owners of all states.

Whereas Arch MacDonald is the first non-Indian to be selected an honorary Indian of the Tulip Indian Tribe.

Whereas Arch MacDonald is now 76 years old and still going strong and is too busy thinking of others to have time to think of himself, even though he has had a setback with the discovery of cancer; now therefore be it.

Resolved, That Arch MacDonald be officially recognized as a man who has left his mark not only in the hearts of the people but in the hearts of our communities by quietly and methodically pursuing a vision which benefits very peson who lives in the State of Washington: Be it further

Resolved, That the people of the State of Washington publicly thank Arch MacDonald for his dedication, encouragement, and long-term vision which has benefited all aspects of our quality of life in the State of Washington.

SNOHOMISH COUNTY COUNCIL, SNOHOMISH COUNTY, WA, RESOLUTION NO. 88-001

A RESOLUTION HONORING ARCH MACDONALD

Whereas, the County of Snohomish has been exceptionally fortunate to benefit from the generous spirit of Arch MacDonald during his residency in Snohomish County, and

Whereas, his presence and his contagious enthusiasm for the beauty and the future of this county has been a major force in the development of new jobs here while maintaining our unmatched quality of life, and

Whereas, that commitment to our community resulted in his developing the unique "MacDonald's Barn" for the use by all citizens for various functions, without charge, bringing to the attention of people throughout the state and country the many attractions of Snohomish County, and

Whereas, he is a virtual one-man Chamber of Commerce for our county, bringing top representatives of U.S. industry and government, including U.S. Senator Robert Dole and the late U.S. Senator Henry M. Jackson, and foreign nations, including the Peoples Republic of China and Japan to "the Barn" for special events, and

Whereas, Arch MacDonald's commitment to our community, including his close relationship with the Tulalip Indian Tribe, has resulted in Snohomish County being a better place to live and work: Now therefore be it

Resolved, That the Snohomish County Council assembled, in recognition of his contributions, does extend its heartfelt appreciation to Arch MacDonald for his lasting and generous service to our community.

NATIONAL SAFE KIDS WEEK

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GARCIA. Mr. Speaker, nearly 10,000 children die due to accidental injuries each year while an additional 50,000 are permanently disabled. The tragic fact is that the vast majority of these deaths and disabilities could have been prevented. This is why I am introducing a resolution today to designate the week of May 16–22, 1988, as "National Safe Kids Week."

Accidents are the leading cause of death among children. Nearly 50 percent of deaths of 1-year-old to 14-year-olds are caused by injuries. There are as many injury-related deaths as there are noninjury deaths, such as those from cancer, AIDS, and congenital problems. Yet it is estimated that 90 percent of these deaths could have been prevented.

The best prevention is education and it is for this reason that the 1988 National Safe Kids Campaign was launched. This campaign is designed to educate parents, teachers, and other adults who interact with children on how to best prevent accidents in such major risk areas as traffic, water, fire, falls, and choking/poisoning.

Among those organizations participating in the campaign are the American Red Cross, the American Academy of Pediatrics, the National PTA, the National Association of Children's Hospitals and the U.S. Conference of Mayors, as well as the Departments of Agriculture, Health and Human Services, and Transportation. I hope my colleagues will join me in helping to end needless deaths due to accidents.

OMB CONVENIENTLY DELETES PERTINENT FACTS FROM BUDGET SUBMISSION

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MONTGOMERY. Mr. Speaker, supporters of legislation that would elevate the Veterans' Administration to a Cabinet-level Department have argued that the Office of Management and Budget literally runs the agency. VA input into the budget process is very limited. I believe that when differences of opinion occur between the VA and OMB on major policy questions, VA is told what its official position will be. We know this occurred when the enactment of the Montgomery GI bill was being debated. Before we put a stop to it a few years ago, the VA was required to send answers prepared in response to questions asked at congressional hearings to OMB so that the VA's answers could be edited to reflect the views of OMB.

Even small requests of the agency are often ignored. Let me cite you a specific example. Late last year I informed the controller of the VA that I wanted certain statistical information on the Montgomery GI bill included in the budget documents submitted for fiscal year 1989. I thought Members of Congress and the general public would want to know the amount of money that has been saved by the Federal Government through reductions in service members' basic pay required in order to participate in the new education program. New enlistees must agree to have their basic pay reduced by $100 per month for 12 months in order to be eligible to receive the benefits. I wanted the budget documents to also show the amount of money saved by not having to borrow the funds to pay a higher rate of basic pay.

In order to comply with my request, the VA included the following information in the budget documents which it submitted to OMB:

The veteran participant contributes $100 a month for each of the first 12 months the individual is in the service. These funds are deposited into the Treasury general receipt account. In 1987 a total of $195.5 million has been deposited into the Treasury account. Since the inception of this program, over $312 million has been deposited into the Treasury account. If these funds were not deposited into the General Treasury fund, the interest costs to borrow $312 million would be $32 million. It is estimated that annual collections into this account will total $210 million in 1988 and 1989.

When the budget documents arrived on February 18, I learned that OMB had chosen, without the VA's knowledge, to delete all of the language in the above paragraphs except the first two sentences. No explanation was given, and OMB keeps wondering why our committee gets involved in its business.

JOHN L. DeSMET, GEICO PUBLIC SERVICE AWARD WINNER

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DEFAZIO. Mr. Speaker, it is with great pleasure that I rise today to honor an exemplary Federal employee. John L. DeSmet is one of five public servants to be awarded the 1987 Employees Insurance Company Public Service Awards. John has been chosen to receive this honor because of his important contributions to the quality of life in our country.

While in the military and as a civilian, John has served in the field of alcoholism treatment and prevention. Currently, he is chief of the Alcohol and Dependency Treatment Program at the Veterans' Administration Medical Center in Roseburg, OR.

Since 1979, John has served on the Douglas County Council on Alcohol and Drug Abuse Prevention and Treatment. As chairman of the council, he was influential in broadening community services and quadrupling the budget. Among his many accomplishments is the establishment of an informal network among the VA alcohol and drug treatment programs in the local medical district. He was also asked to participate on a State task force which helped make sweeping reforms in alcohol and drug treatment programs in the Oregon penal institutions.

John donates much of his free time to provide alcohol education in schools and other community settings. Tapes of his lectures are used throughout the State to help train allied health professionals, nurses and family therapists. In addition, he offers the use of his home for free counseling and recreational activities to youth who have completed chemical dependency programs.

Mr. Speaker, it is with pride that I congratulate John on this award. I also thank him for the work he has done for the veterans, youth, and citizens of Oregon.

HONORING MAJ. GEN. AMATO A. SEMENZA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GILMAN. Mr. Speaker, all Americans are proud and grateful for the unselfish devotion of our National Guard forces. In great part due to their diligence, we can all sleep more soundly at night, knowing that they are at the ready to protect our Nation.

The devotion of State guard units is often personified by their outstanding leaders. One such leader is Maj. Gen. Amato A. Semenza, commander of the New York Guard and, currently, president of the State Defense Force Association of the United States.

Regrettably, Major General Semenza will be retiring later this month. Although General Semenza has worked long and hard for this well-deserved rest, the New York Guard will not be the same without him.

Amato Semenza, like so many of us, began his military service during the early months of American involvement in World War II. During that conflict, Amato was assigned to the 32d Signal Center Team and the Psychological Warfare Branch in North Africa and Italy.

General Semenza joined the New York Guard as a first lieutenant on April 6, 1960. Subsequent to that date, he worked his way up the ranks until his appointment as commander by then-Gov. Nelson A. Rockefeller on July 20, 1973.

Maj. Gen. Amato Semenza has received so many awards and honors over the years that space and time prevent our listing them all here. A partial list would include: the Good Conduct Medal; Merit Citation; American Campaign Medal; the European-Africa-Middle Eastern Campaign Medal; World War II Victory and Occupation Medals; the New York State Meritorious Service Medal; the New York State Commendation Medal; the Humanitarian Service Medal; the 25 Year Long and Faithful Service Medal; and the award for Aid to Civil Authority.

On the board of directors of the State Defense Force Association of the United States, Major General Semenza serves with distinction, working closely with other outstanding board members from throughout the Nation.

On March 19, guardsmen and women from throughout New York State—indeed, from throughout the Nation—will be joining at a dinner honoring Gen. Amato A. Semenza on the occasion of his retirement. I invite all of our colleagues to join in congratulating this outstanding public servant.

EAGLE SCOUT MICHAEL W. BURNS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Michael Burns. He will be recognized on Sunday, March 20 for achieving the highest rank in Scouting, "Eagle Scout" in Boy Scout Troop 414.

To become an Eagle Scout, Michael earned 10 skill awards, 24 merit badges, numerous other Scouting honors, and organized and conducted a program to obtain and install smoke alarms in the homes of senior citizens living in the area as his Eagle Scout project. During his tenure with Troop 414, Michael has also attended six summer camps at the Owasippe Scout Reservation and High Adventure trips at the Philmont Scout Ranch in Cimmaron, NM, the Florida Sea Base in Islamorada, FL, and the Boundary Waters Canoe Area in Ely, MN. As a member of Troop 414, Michael has served in various leadership positions including patrol leader, troop historian, troop quartermaster, leadership corp member, and senior patrol leader.

Michael is joining the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological, and more. His accomplishment becomes even more notable when it is viewed cumulatively. That is, the entire sum of achievements and the persever-

ance of character demanded illustrate just what high caliber young man Michael is.

In today's society, our youth are truly bombarded with a variety of lifepaths to choose from. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though credit is certainly due to the family of this young man and to the Scout leaders who provided support, Michael today knows that he can participate independently in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing Michael the best of luck in his future endeavors.

THE DEFENSE PRODUCTION ACT AMENDMENTS OF 1988

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Ms. OAKAR. Mr. Speaker, the House Subcommittee on Economic Stabilization—which I have the honor of chairing—has conducted an extensive series of hearings on current problems facing the U.S. industrial base and whether it can supply critical materials in times of national emergency. These hearings were held in conjunction with the subcommittee's jurisdiction over the Defense Production Act of 1950.

To perhaps the surprise of no one, an array of witnesses from business, labor, public organizations, and an Undersecretary of Defense concluded that the U.S. industrial base is eroding and that actions must be taken to reverse its deterioration and restore U.S. industrial strength. This jeopardizes our national security.

Specifically, the subcommittee hearings revealed that the U.S. industrial base is developing a strong dependency on foreign sources for products, parts and components and other materials used in manufacturing and that such a dependence, especially in times of national emergency, would weaken our national defense. Moreover, the inability of U.S. industry, especially small- and medium-size subcontractors and suppliers, to provide vital parts and components and other materials would prevent the United States from meeting production surge demands should a national emergency arise. Additionally, the U.S. industrial base is being eroded by a growing dependence on imported parts, components, and raw materials. Clearly, this is a serious threat to our national defense.

Mr. Speaker, this is not a partisan issue; it affects all of us equally. Today, I am introducing legislation designed to get us started in that direction.

I include for the RECORD an explanation of the legislation following my remarks:

SECTION-BY-SECTION ANALYSIS OF THE DEFENSE PRODUCTION ACT OF 1988

Sec. 1. Short Title: This section cites the title of the bill as the "Defense Production Act Amendments of 1988".

Sec. 2. Amendments to the Defense Production Act of 1950: This section amends the Declaration of Policy (Section 2) of the Defense Production Act of 1950. It updates the policy to reflect that our defense mobilization preparedness effort continues to require the development of preparedness programs, defense industrial base improvement measures, the expansion of domestic productive capacity and supply beyond the levels needed to meet the civilian demand, and some diversion of certain materials and facilities from civilian use to military and related purposes. This section also repeals Section 720 (National Commission on Supplies and Shortages) of the Defense Production Act of 1950 which is obsolete.

Sec. 3. Findings: This section provides for Congressional findings. Included is the finding that the U.S. Defense Industrial Base is developing a growing dependency on foreign sources for key parts and components and other materials used in manufacturing and assembling major weapons systems for our national defense. This dependency is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities.

Sec. 4. Strengthening of Domestic Capability: This section amends Title I of the Defense Production Act by adding a new section 107 for the purpose of preserving and strengthening the capability and capacity of the U.S. industrial base to produce all materials and related services needed for the national defense of the United States. It requires the President to limit, to the maximum extent practicable, the national defense production of existing and new weapons systems, to domestic manufacturing and assembly sources within five years following the date of enactment of this section. This requirement shall remain in effect until the Secretary of Defense determines that domestic sources can meet Defense production needs for at least six months following the onset of a war or other hostilities. In addition, this section permits the President to waive the domestic-source only production on any contract but only after considering (1) the effects on U.S. industrial capability to provide the same materials and services and, (2) the actual costs of off-shore purchase when lost Federal, State, and local tax revenues are considered contrasted with bids submitted by domestic sources and their estimated costs of complying with U.S. laws.

Authorization to Use Existing Authorities for Purposes of This Section: To implement the Buy-American only requirement, the President is authorized to utilize incentives in the form of loan guarantees, price supports, direct loans and purchase agreements.

Designation of Critical Industries: This section also provides that the President shall designate industries critical to the U.S. Defense Industrial Base. They would be given priority for assistance for the modernization of manufacturing facilities and equipment and the production of materials. If any materials, services, or skills affecting such an industry are unavailable or in short supply, the President must seek to develop them.

Assistance for Small and Medium-Sized Businesses: Assistance under this section is provided only to small and medium size businesses, unless the President transmits to the Congress an exception to this limitation.

United States Defense Industrial Defined: This section also defines the term "U.S. Defense Industrial Base" for purposes of this Act.

Coordination with Memoradums of Understanding: Additionally the requirements of this section constitute an exception or exclusion to any existing or future memorandum of understanding.

Borrowing Authority Subject to Ultimate Net Cost Limitation: Funding for any assistance would come from existing authorizations, but could be leveraged on an ultimate net cost approach subject to appropriations.

MILLENNIUM ANNIVERSARY CELEBRATION OF DUBLIN, IRELAND TO INCLUDE LA CANADA HIGH SCHOOL BAND

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MOORHEAD. Mr. Speaker, it is with a great deal of pleasure that I announce to my colleagues in the U.S. House of Representatives that the La Canada High School Spartan Band will soon join with the Honorable Bertie Ahern, Lord Mayor of Dublin, and the residents of Dublin, Ireland, in the millennium anniversary celebration of that proud and enduring community.

In the United States we have never celebrated the 1,000th birthday of any city or town so it is with a special awareness and gratitude and not a wee bit of awe that we recognize and take part in such a venerable and historic celebration.

I know that the members of the La Canada High School Spartan Band, Entertainment Groups and String Quartet have worked very hard to raise the necessary funds so they can experience a once-in-a-lifetime event—the Dublin millennium celebrations of 1988.

The band and its auxiliary teams will compete for 6 days with musical groups from all over the world. They will march in the March 17th St. Patrick's Day Parade. They will no doubt feel a powerful bond with all the people of Dublin as they celebrate an occasion made unique by time and history.

Mr. Speaker, as the Representative from the 22d Congressional District of California, I would like to say "Well Done" to the members of the La Canada High School Band. Because of their initiative, they will soon embark on an adventure that will never be forgotten.

And, Mr. Speaker, I would like to send, on behalf of the band, the community of La Canada and the House of Representatives, special congratulations to the Lord Mayor of Dublin and all his constituents as they begin an historic celebration. I trust it will be as grand and colorful, as vigorous and enchanting as the 1,000-year history of Dublin itself.

THE 25TH ANNIVERSARY OF COMSAT COMMEMORATED

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MARKEY. Mr. Speaker, this year marks the 25th anniversary of Comsat, a publicly traded company which links the United States by satellite with more than 160 other nations and 6500 ships at sea and offshore facilities.

Since the company's inception, Comsat has been instrumental in laying the groundwork for the success of satellite communications worldwide.

In recognition of Comsat's 25th anniversary, and for the acknowledgment of persons associated with its success, I am submitting the text of remarks made by Irving Goldstein, chairman and chief executive officer, at Comsat's 25th anniversay gala.

COMSAT 25TH ANNIVERSARY GALA

(By Irving Goldstein)

Deputy Secretary Whitehead, distinguished members of the Diplomatic Corps, Members of Congress and distinguished guests. In a moment I want to say something about the future. But before I do that I want to make sure you meet some of the people who were important to our, and your, future 25 years ago.

When we began to plan this evening, I thought it would be appropriate to recognize a few people who are or have been extremely important to the development, nurturing and success of Comsat and the entire satellite communications industry that grew out of the Act. Then I thought "you can't do that Irv, because everybody you're inviting falls in that category." And you do.

Obviously I can't call the roll of everyone here . . . though you are all very special to us. There are, however, a few people here who played such pivotal roles in the development of the industry and of Comsat that I would like them to stand and be recognized.

Nicholas Katzenbach, who as Deputy Assistant Attorney General of the United States formed the coalition that steered the Act through Congress;

Ambassador George Feldman, one of the original incorporators appointed by President Kennedy;

Byrne Litschgi, also one of the original incorporators appointed by President Kennedy;

Joseph McConnell, Chairman Emeritus of Comsat and former President of Reynolds Metals, former President of Colgate-Palmolive, former President of NBC and, with the rank of Ambassador, headed the U.S. Delegation to the Conference on Satellite Frequency Allocation in 1963. He was Chairman of Comsat from 1970 to 1979;

Ambassador Jacob Bean, who was the State Department representative on the U.S. Delegation to the Satellite Frequency Allocation Conference in 1963;

Ambassador Ted Brophy has just been named by President Reagan as Ambassador to the World Administrative Radio Conference in 1988, and is retiring Chairman of GTE;

Ambassador Abbott Washburn, as a member of the Nixon Administration was the Chief negotiator for the Definitive Arrangements which established INTELSAT;

Dean Burch, former Chairman of the FCC and now Director General of the International Telecommunications Satellite Organization;

Olof Lundberg, Director General of the International Maritime Satellite Organization;

Andrea Caruso, Director General of the European Telecommunications Satellite Organizaton;

Fabrizio Serena, Chairman of the Board of Societa Telespazio which is the only satellite communications organization in the world that is older than Comsat—it was formed in October, 1961; and a man that is truly special to me;

Joe Charyk, one of the incorporators appointed by President Kennedy, hired as President of Comsat. He ran this Company for 23 years. He retired as Chairman of the Board and CEO and is a continuing member of our Board of Directors. If Arthur Clarke is considered the father of satellite communications, then Joseph Charyk has to be considered the father of the communciations satellite industry.

The American writer Ambrose Bierce once defined the future as that period of time in which our affairs prosper, our friends are true and our happiness is assured. Mr. Bierce could've said those very things about the future of Comsat on its creation 25 years ago. Over the last quarter century, our affairs have prospered; as your presence here tonight shows, our friends have remained true; and our happiness and pride have been assured by our progress.

And I believe the future of satellite communications is even more exciting today than it was 25 years ago. The first 25 years, as important as they are, represent only our booster stage.

The poet Coleridge said that the Earth with its scarred face was the symbol of the past; the Air and the Heavens were the symbol of the future. I genuinely believe that, not because I believe in the predictions of poets, but because I believe in science and technology and because I know the Air and the Heavens is the province of the satellite. Comsat is excited by the 1990's. We're excited by the changes that are coming, and indeed Comsat intends to be at the forefront of those changes.

The combination of dramatic technological improvements and economically driven demand for services will spark tremendous growth in worldwide communications.

To those who are still amazed by today's technology, I believe "you ain't seen nothing yet." And to those who say that fiber optic cables sound the death knell for satellites. I say you are wrong. In fact, satellites and fiber optic cables are more compatible, than copper cables ever were.

My crystal ball will have an even greater impact on our lives than the introduction of satellites did.

Consider, for example, that less developed countries will have the communications infrastructures necessary to economic growth and development without the huge capital outlays for earth-bound systems.

Consider smaller, less expensive, low earth orbiting satellites made possible by flat antennas the size of a magazine. And that these antennas don't need to move physically to track the satellites because they can be pointed or steered electronically.

And consider worldwide communications networks that don't break down because with artificial intelligence they will have learned to repair themselves.

Within the next five to seven years we're expecting the day when mobile satellite communications will make taxi and truck fleets, personal vehicles, airplanes, and ships instantaneously reachable no matter where they are. No more escapes on cruises to the Caribbean or South Seas. On the land most remote areas will have direct access to any place else on earth. Wireless, solar-powered telephone booths will make it as easy to call the office from an arctic outpost as from New York City.

Ladies and gentlemen, a leader has been described as a dealer in hope. Our industry is such a leader. I believe we offer not only the cold hope of technological advancement, but the warmer hope of vision. We are still guided by President Kennedy's initial vision that the peoples of the world can be brought closer together. What can be more powerful than a technology driven by a generous ideal? This is still our dazzling hope.

Thank you.

HUECO SCHOOL QUILT PROJECT SHOWS CIVIC PRIDE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. COLEMAN of Texas. Mr. Speaker, it is with great pride and admiration that I would like to bring something very special to the attention of my colleagues.

As part of their bicentennial celebration, the students and faculty of the Hueco School have produced a magnificent work of art in the form of a quilt that commemorates our national historical heritage. The Socorro Independent School District in El Paso County, TX, which includes the Hueco School, also celebrates its 25th anniversary this year.

This large quilt, which measures approximately 4 feet by 10 feet, displays one stirring bicentennial theme after another. The handsewn squares feature the Founding Fathers, the Constitution, the Declaration of Independence, the Liberty Bell, James Madison, Independence Hall, and other important themes of our national heritage.

The quilt was signed by those who built it, and it presently hangs in the lobby of my office in the Cannon Building, where visitors from Washington and west Texas alike will no doubt be impressed by the dedication of the students and faculty at the Hueco School to our Nation's heritage and the principles upon which it was founded.

On behalf of the people of the 16th Congressional District of Texas and on behalf of the House of Representatives, I would like to commend the Hueco School for this noteworthy accomplishment, and I invite my colleagues and their staffs to visit my office and view the quilt.

AFFORDABILITY OF FIRST-TIME HOMES FOR AMERICANS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DONNELLY. Mr. Speaker, I rise today to point out an alarming fact of which every Member of the House needs to be aware: despite the fact that we remain a well-housed Nation, the rates of homeownership among young, moderate-income Americans are on the decline.

On January 23, the Washington Post ran an article which discussed the fact that builders are constructing new homes for trade-up purchasers, not for moderate-income first-time homebuyers. While no one can blame builders for seeking to maximize their markets, this situation will only exacerbate the decline in homeownership we are facing. Mr. Speaker, I ask that this Post article be added to my remarks.

Last session, I, along with a majority of my colleagues on the Committee on Ways and Means, introduced legislation, H.R. 2640, which goes far toward stemming the erosion of homeownership for moderate-income Americans. Today, that bill has more than 200 cosponsors. I urge those of my colleagues

who have not joined us in cosponsoring to do so. Extending the sunset date for mortgage revenue bonds is tantamount to extending the opportunity for homeownership to many of our citizens.

The article follows:

[From the Washington Post, Jan. 23, 1988]

BIG, COSTLIER HOMES FILL THE MARKET

BUILDERS AIM NEW HOUSES AT "MOVE-UP" BUYERS

(By Kenneth Bredemeier)

DALLAS.—In a significant shift, nearly two-thirds of American home builders are now constructing houses for homeowners looking to move into bigger, more expensive homes rather than for first-time buyers.

In a survey of 615 builders taken here at the National Association of Home Builders' annual convention, 65.7 percent said they are building homes for so-called move-up buyers, those who are moving from a first or second home into one with more space or more amenities, or both. A year ago, in a similar survey, 53 percent of the builders said they were building for move-up buyers.

Conversely, 29.4 percent of the builders in the latest survey said they are building cheaper houses for the first-time buyer, down from 43 percent a year ago. A total of 4.9 percent of those polled said they build housing for the elderly, up slightly from last year.

"It's really a direct trade-off," said Kent W. Colton, executive vice president of the home builders' trade group, of the shift away from construction for the lower end of the housing market. "That's where the market is going."

Several studies have shown that as the price of housing has steadily risen in recent years, would-be first-time home buyers have had to delay buying a house or forgo buying altogether.

As of the third quarter of 1987, 64.2 percent of all households in the United States own their homes, down slightly from the peak figure of 65.6 percent reached in 1980, but up a notch from the dip to 63.8 percent two years ago.

What the overall figures mask, however, is that home ownership among younger adults is declining. Home ownership among 25- to 29-year-olds has dropped from a peak of 44 percent in 1979 to 36.9 percent in the third quarter last year, while the figures show a dip from 62.4 percent (in 1976) to 54.5 percent for 30- to 34-year-olds.

In a policy statement approved here, the builders said the young home buyers' plight was in part the fault of the Reagan administration because of its 70 percent reduction in federal housing spending since 1980. But the NAHB also blamed local governments for "imposing excessive fees that in many cases add tens of thousands of dollars to the price of a home and go far beyond the actual costs associated with new development."

Colton said the organization "in a policy sense [is] very concerned about the first-time home buyer" and, among other measures, favors creation of savings incentives in the federal tax code that would encourage would-be young buyers to set aside money for housing down payments.

Asked if the association's membership, by building more homes for the move-up buyer, is at odds with the stated goals of the group's leadership, Colton replied, "They're reacting to the demographics of where the market is going. The membership are building homes where they can sell them. They're concerned about those issues. They're concerned, but they're not dumb. We're telling them to build where they can sell."

Anthony Natelli, Sr., president of the Suburban Maryland Building Industry Association and the developer of the expensive Avenel residential and golf course complex in Montgomery County, said the national trend of more construction for move-up buyers is mirrored in the Washington area. The builder survey here showed that the typical builder last year constructed a home that cost $185,200, a figure Natelli said he believes Washington area builders matched or topped. The builders predicted the median price of a new home would rise about 5 percent this year.

With land prices skyrocketing in the Washington area, Natelli said new homes for first-time buyers increasingly will be those offered at the ever-expanding fringe of the metropolitan region.

In other findings the survey showed:

Slightly more than half of the builders believe the number of housing starts this year will equal 1987's 1.6 million total, which would be about 100,000 more than most housing industry groups, including the NAHB, are projecting.

Almost half of the builders (48.4 percent) said the stock market plunge last October has had no impact on their businesses, although 40.7 percent said it did.

The decline in mortgage interest rates after the stock market collapse boosted home sales for 37 percent of the poll respondents.

JUSTICE FOR MERCHANT SEAMEN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MANTON. Mr. Speaker, I take this opportunity today to honor our Nation's valiant merchant seamen. The U.S. merchant marine, often referred to as our country's fourth arm of defense, perform a vital service for our great Nation, both in times of peace as well as war. Unfortunately, our merchant marine is a service that is too often overlooked or taken for granted. Even though they serve unselfishly to ensure the safe transport of waterborne cargoes.

Recently, our merchant mariners won a great and long overdue victory. Thanks to the unfailing dedication of C.E. "Gene" DeFries, president of the National Maritime Engineers Beneficial Association, and our colleague, the Honorable MARIO BIAGGI, the U.S. merchant marine finally has been fully recognized for their valuable service to their country. The U.S. Government has agreed to grant veteran status to the merchant seaman.

On January 19, 1988, the Secretary of the Air Force determined the service of the group of individuals known as the "American Merchant Marine in Oceangoing Service during the period of armed conflict, December 7, 1941, to August 15, 1945," shall be considered active duty for the purpose of all laws administered by the Veterans' Administration. The U.S. Coast Guard is the agency which will issue certificates of release of discharge from active duty. These certificates will serve as documentation of a merchant seaman's veteran status.

The Coast Guard estimates approximately 200,000 citizens or their survivors may now be eligible for veterans benefits. This decision comes too late for many of those brave men who served their country on merchant ships during World War II to take full advantage of veterans status. However, this is a strong symbolic victory of their dedicated service. The myth that somehow merchant seamen had an easy life during the war and were not deserving of veteran status has finally been laid to rest.

The American merchant marine was called upon to serve their country during war time, and they answered that call. They sailed through zones of hostility at great cost. An estimated 145 merchant ships were sunk in American coastal waters alone, with a loss of over 5,662 dead or missing in action over the entire war. They were an integral part of our war effort without which the Navy could not have carried out its mission.

At a time when our merchant seamen are under attack both at home and abroad, this ruling will help to restore their faith in the American Government and their value to our country. They have Gene DeFries and MARIO BIAGGI to thank for this, and we can all thank our merchant seamen for their dedicated service to our country.

Mr. Speaker, Mr. James J. Kilpatrick recently wrote an excellent column in the Washington Post entitled "Justice for Merchant Seamen," which I commend to my colleagues attention. I include this article in the RECORD following my statement:

[From the Washington Post, Feb. 2, 1988]

JUSTICE FOR MERCHANT SEAMEN

(By James J. Kilpatrick)

More than 40 years after the end of World War II, the merchant seamen who served so bravely in that conflict finally are to get the recognition that injustice so long has denied them. At last they are to be counted as veterans.

The decision has been a long time coming, but two weeks ago the Defense Department caved in. It will not appeal an order from U.S. District Judge Louis Oberdorfer granting surviving seamen the same rights and privileges that have been extended to other wartime civilian groups.

The court's order will have only limited effect, however. More than 250,000 merchant seamen served their country. It is thought that perhaps 70,000 to 80,000 of them are still alive, but they are beyond the age for such GI benefits as college tuition. A government witness conceded that the benefits now available to them will be mostly symbolic, "really minimal." Most of them will get "only a flag and a headstone" in a military cemetery.

The merchant seamen wrote a valiant chapter in the history of warfare at sea. More than a year before Pearl Harbor, the Coast Guard began training merchant seamen in gunnery and other military subjects. In October 1941, President Roosevelt lifted the ban on arming merchant ships: they would be sailing "on missions connected with the defense of the United States."

With the outbreak of war, merchant seamen received additional military training. Shipping articles were changed so that seamen could be ordered "to such ports and places in any part of the world as may be ordered by the U.S. government." A War Shipping Administration took over the merchant ships for service consistent with "strategic military requirements."

The merchantmen then set about the dangerous business of transporting Army and Navy cargoes. The great majority of 7 million soldiers went overseas on merchant ships. "Without this support," said Adm.

William King, "the Navy could not have accomplished its mission."

For all practical purposes, the merchant steamers were under the Navy's control. Military authorities assigned their places in convoys, regulated shore leave for seamen and supervised discipline for misconduct. A seaman who attempted to resign was subject to court-martial.

Tantamount to military service, theirs was a harsh service indeed. In the first three months of the war, German U-boats sank 145 merchant ships in American coastal waters, killing 600 seamen. Over the entire war, Judge Oberdorfer noted, 5,662 merchant seamen lost their lives or were declared missing in action. More than 600 seamen became prisoners of war.

Other civilian groups also served in the war effort. Not until 1977 did Congress move tangibly to recognize their service. Sen. Barry Goldwater added an amendment to the GI Improvement Act making benefits available to the WASPs (Women's Air Force Service Pilots), and it was expanded to include other groups that had received military training and were susceptible to assignment for duty in combat zones.

Veterans' benefits were extended to 14 groups, including female telephone operators in Europe, engineer field clerks, female stenographers with the American Expeditionary Force and "reconstruction aides and dietitians." The merchant seamen were repeatedly turned down, largely because of the dog-in-the-manager opposition of the regular Navy and such organizations as the American Legion. They complained that the civilian merchant seamen were paid better than enlisted sailors. In fact, as Judge Oberdorfer noted, studies found that their total remuneration "was approximately comparable."

President Roosevelt linked "the beleaguered men of the merchant marine" with our soldiers, sailors and pilots. They carried out "a vital part in this global war." So they did, and if it should cost the taxpayers a few million dollars for their medical care, gravestones and flags, the money will be well spent.

COAST GUARD SINKING IN A SEA OF RED

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DAVIS of Michigan. Mr. Speaker, it is with regret that I find it necessary to introduce today this urgent supplemental funding bill for Coast Guard fiscal year 1988 functions. The budgetary crisis the Coast Guard is experiencing is not only a regrettable situation, but one that is a dire emergency for the U.S. Coast Guard and our Nation.

During the fiscal year 1988 appropriations process, culminating in the continuing resolution which was passed in the last moments of 1987, the Coast Guard found itself facing a severe cut in its operating expenses. In fact, the cut was so severe that the Coast Guard was confronted with the necessity of closing down or decommissioning many vital resources all across the country. Any time an agency must curtail its congressionally mandated missions by 55 percent and begin closing those very facilities that are the lifeblood of the organization. I believe there is an urgent need to restore adequate funding to continue operations. This is especially true for the Coast Guard, which shoulders the responsibility for drug interdiction and safety of life at sea, among other missions.

For the past 5 years the Coast Guard has taken repeated cuts in its budget until it can no longer be expected to absorb further cuts. Conceptually we may expect budget reductions to be absorbed by increasing efficiency in operations, but there is no other Federal agency that has produced greater results from every single dollar than has the U.S. Coast Guard. There is no fat left in this agency.

Under the so-called Summit Budget Agreement, supplemental funding requests are appropriate only in cases of dire emergency. I, and all of the Members who have joined with me as cosponsors on this bill, consider the situation urgent when the Coast Guard must cease all routine patrols for search and rescue, reduce drug interdiction and fisheries enforcement patrols by 55 percent, and begin closing facilities. I am introducing this bill to provide $105 million in supplemental funding for Coast Guard operations simply to restore their operations to the modest level requested by the President, and to prevent the closure of facilities that is taking place at this very moment.

I believe it is a false economy to attempt to save money by reducing Coast Guard operations when it is weighed against the economic losses from violations of our fisheries laws by foreign nations, the social destruction caused by the entry of illegal drugs into our country, or the loss of even a single life in frigid seas because the closest Coast Guard air support was 2 hours away.

I urge my colleagues to take action to ensure early enactment of this important legislation.

TRIBUTE TO DR. G. OTHELL HAND

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. VANDER JAGT. Mr. Speaker, I am delighted to have this opportunity to pay tribute today to a very good friend, and an outstanding individual, Dr. G. Othell Hand. Dr. Hand is the director of government relations of the American Family Corp. A recent article in the Columbus Ledger-Enquirer captured some of Dr. Hand's many exceptional qualities and efforts. I would like to commend this article to my colleagues' attention. As this article attests, Dr. Hand is well known for his dedication to his church, his community, and to his country. Those who are fortunate to know him have found their lives enriched by his loving concern for others.

The article is as follows:

[From the Columbus Ledger-Enquirer, Jan. 27, 1988]

OTHELL HAND: A NEW THRUST TO CITY'S SPIRIT

(By Glenn Vaughn)

Things have never been the same since Othell Hand came to town.

Even as he began in 1962 his 11-year senior ministry at Columbus' First Baptist Church, his inspired eloquence attracted widening notice and tongues were set to wagging.

He is flamboyant, they said. His highly-colorful sports jackets are "a bit much," they said. He puts artificial flowers in his yard, they said. Later, with relish, came the topper: He has started to wear a hairpiece, they said.

But there was something infectious about his exuberance and flair which made things begin to happen. He tackled a long-overdue, major restoration at his church * * *. He launched in the community an interfaith worship series and was the first Protestant minister ever to preach from the pulpit at Holy Family Catholic Church * * *. He spearheaded a community beautification program * * *. He constructed a handsome fountain at First Baptist, encouraged the development of others and dubbed Columbus "the Fountain City" * * *. He focused his zest on a successful rejuvenation of the Springer Opera House.

Othell Hand's "can do" freshness helped ignite a spirit in Columbus that still grows.

In 1973 he moved his motivating ministry to the marketplace as senior vice president of American Family Corp. Today, at a youngish and nimble 66, he is the firm's director of government relations, spending about half his time in the nation's capital.

No one, who has been touched by his ever-present cheer or heard his seemingly effortless golden voice lilting from the pulpit, will be surprised that he opens with ease the doors of Washington officialdom. Nor would any doubt that he knows all 100 U.S. senators, and they know him, and has a first-name relationship with half of them. It's the same for most congressmen and others high in government.

His eye-catching involvements include being a Washington Opera Company trustee, a member of the board of governors for Ford's Historic Theater and a member of the "Golden Circle," which is a Kennedy Center support group. He is a member of the prestigious Senate Trust Committee which often meets in the White House and has been guest chaplain for the U.S. Senate. He is highly active with the American Cancer Society and serves as a trustee for Macon's Mercer University.

In his Washington circles everyone knows the dapper Dr. Hand, including clerks, bellmen, waiters and waitresses at hotels he visits. Fashionable dressers often ask the name of is tailor. (He is David Garrison of Tifton.)

That he, a quintessential gentleman, grew up on a one-horse cotton farm without electricity in Mississippi astounds many. After working his way through Mississippi College at Clinton, he earned masters and doctorate degrees at Southern Seminary in Louisville, Ky., the same way. He taught religion for five years at the University of Richmond and pastored churches in Jacksonville, Fla., and Hickory, N.C.

He and his wife of 42 years, the former Martha Pillow, have two sons—Kerry of Columbus and Mark of Jacksonville—and four grandchildren, two in each son's family.

G. Othell Hand, whose hobbies are gardening, cooking and collecting antiques, is one of those rare individuals who seems to savor, and be thankful for, life's every moment. His reassuring demeanor comfronts the humble as well as the mighty in the same warm way.

In Columbus once-wagging tongues today say he's a marvel and he's our own.

USING MEDICAL MARKETS TO STIMULATE THE RURAL ECONOMY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. TALLON. Mr. Speaker, the economic realities now confronting our States and Nation have compelled those of us in Government to rethink our spending policies. For too long, we've spent first and thought about it afterwards. It hasn't worked. Now we're trying the reverse approach of cutting back first and thinking later: yet the results are the same.

I believe it's high time we gave some serious, long-term consideration to our spending priorities, particularly in the programs that matter most to our people, such as Medicaid. The popular perception of Medicaid is as a State supplier of health services for the poor. Most view it as a one-sided process: State dollars directed to the needy. In reality, there are two sides to the equation.

On one side, Medicaid provides vital, often preventive health care to those who otherwise could not afford it. At the same time, however, State Medicaid dollars are returned four times over through Federal matching funds while saving an indeterminable amount on the costs of neglect. There is no doubt that by providing basic health services early, we avoid the enormous expense of extensive, life-saving services later.

For example, South Carolina's decision to eliminate the Medically Needy Program will save $4.8 million in the short term, but it will eventually cost South Carolinians up to $25 million neonatal intensive care for low-income babies born of mothers who do not receive adequate prenatal care.

In short, the need for basic funding health care will not go away and somewhere the costs must be absorbed. States can invest in Medicaid now and benefit from a Federal match that may eventually be reduced or eliminated; or they can reduce Medicaid, ignoring the health care needs of the poor, damaging the financial stability of hospitals, clinics and nursing homes, shifting staggering costs to paying patients and State and local governments. The old adage holds true: we can pay a little now or a lot more later.

Dr. Joseph Prinzinger and Dr. George Uhimchuk have conducted an important analysis of the role of Medicaid in the economic development of South Carolina. Their study further confirms that Medicaid is one of the soundest investments States can make. I believe it bears reading and rereading.

USING MEDICAL MARKETS TO STIMULATE THE RURAL ECONOMY

(By Joseph M. Prinzinger, Ph.D., and George A. Uhimchuk, Ph.D.)*

Medicaid is an entitlement program that supplies health care to persons who meet monetary and medical eligibility criteria. Most of the Medicaid clients are either the very young or the very old. Medicaid was established Nationally in 1965 through Title XIX of the Social Security Act. Three years later South Carolina Government started providing Medicaid services to 39,900 people. Today the State Health and Human Services Finance Commission contracts for Medicaid services for approximately 235,000 clients with a annual budget of nearly a half a billion dollars.

South Carolina Governor Carroll A. Campbell's 1987 State of the State address set the pursuit of economic development as a major goal for South Carolina. This article addresses economic development through the market for medical services. Medical care in South Carolina is a major sector of the State's economy, and of that, Medicaid is a significant proportion. Common opinion is that Medicaid is strictly an entitlement program that pays for medical care for the poor with no other effects on the State's economy. Our hypothesis is that Medicaid expenditures go beyond the payment for medical care and permeate the State's economy creating jobs and income.

THE THEORY

Income is derived from the production of goods and services. A basic tenet of economic theory is that as additional demand (called "aggregate demand" because it is a demand for all goods and services) enters a particular geographic area, income and employment will rise in that specific area. The opposite effect is equally true. Income and employment will continue to rise in surrounding areas, known as the Cantillion Effect, eventually rippling out into the overall area much like the circles which expand out when one throws a pebble into a pond. This influx of demand can come from many sources. Of course, in the conventional economic development model it comes from the production of goods or services that are then, at least in part, exported out of the state. With Medicaid, aggregate demand flows into the state from the Federal Government. Under Medicaid rules, the Federal Government supplements Federal dollars to state dollars at a given rate, known as the "Medicaid match rate." Federal dollars coming into South Carolina are an injection into the state's economy. Aggregate demand rises inside of the state receiving Medicaid expenditures and circulates creating decreasing waves of increased income changes.

A new dollar spent in a local economy eventually creates more than a dollar's worth of income and jobs. This is due to the fact that after that dollar is spent it winds up being someone else's income. The person receiving that dollar spends part of it (part of that dollar is saved and part is taxed) which in turn winds up being someone else's income. This process continues until all of the original new dollar leaves the local economy through either savings, taxation, or buying of goods and services imported from outside of the local area. Economists call this a multiplier effect. The originator of this concept as applied to both local and national economies was Sir John Maynard Keynes. It is, therefore, known as the Keynesian Multiplier.

EMPIRICAL ESTIMATION

For South Carolina the Keynesian Multiplier was estimated using various measures of taxation, sales, value added, the saving rate, and income levels. The data for calculating the South Carolina multiplier was collected and compiled from several sources. The base data for the calculations are: Nominal Personal Income for South Carolina (supplied by the State Budget and Control Board, Division of Research), South Carolina Retail Sales (from "Survey of Buying Power", by Sales and Marketing Management of New York City), Value Added by South Carolina Manufacturers (from "Economic and Related Statistics for South Carolina," U.S. Bureau of Census, Department of Commerce, South Carolina Tax Collections (from the "South Carolina Statistical Abstract"), Federal Government Tax Collections (from Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service), and the Consumer Savings Rate for South Carolina (from "Estimating State Sales Taxes on Business Purchases: Methodology and Validations" by Sarah J. Uhimchuk, 1986).

We estimated that the simple Keynesian multiplier for 1982 was 3.47. Although for 1983, the most recent year that complete data was available at the time of our investigation, our calculations result in a Keynesian multiplier of 3.78. The weighted average of these two (3.62) is used for the calculations that follow.

The Federal Government matches each dollar of state money spent on Medicaid with an additional $2.70. Therefore, for each additional dollar of state money a total of $3.70 is spent purchasing health services for South Carolina Medicaid clients.

To calculate the full economic impact of additional Medicaid spending, it is necessary to treat the state dollars separately from the Federal dollars. South Carolina is a balanced budget state, every dollar expended on Medicaid by the State is equally matched by a dollar taxed by the State. This exactly describes a special case of the Keynesian mutiplier known as the balanced budget multiplier (BBM).

As noted earlier, the Keynesian Multiplier is bidirectional. Therefore, the monies collected by taxes reduces aggregate demand and lowers income and employment in the State of South Carolina. It would first appear that a dollar spent by a balanced budget government would exactly offset the dollar taxed by the same government with the net effect being zero. But that is not the case, because by definition, a balanced budget government spends an amount exactly equal to the revenue it collects therefore, there are no funds leaking out of the system (Keynesian leakages) associated with balanced budget governments. As it turns out, the mathematics associated with this spending pattern calculate out to a BBM of 1.0. In an intuitive sense, this is because government merely interrupts a step in the geometric progression (which is what the Keynesian multiplier is). When the government levies taxes, it takes money out of the local economy thereby reducing aggregate demand. By purchasing an equal valued amount of goods and services, aggregate demand is increased by exactly the amount that it was reduced in the taxing process (the normal leakage in each step is hence removed). This leaves the geometric progression the same but with an addition of an increase in government services. As you can see, the overall effect is an increase exactly equal to the amount of government purchases brought, or 1.0. Of course, there is a rearrangement of the mix of public and private goods, and the government purchases must came from nonutilized resources.

Thus, the dollar spent by the State Government will create one more dollar in income in the local economy. However, when the Federal Government matches it by $2.70, this expands the economy by the whole Keynesian Multiplier (the Federal Government is not a balanced budget government) because changes in Federal Government spending on South Carolina Medic-

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*The authors (both Economists) are respectively, Director of the Office of Medicaid Program Development and the Coordinator of Research and Planning for the State Health and Human Services Finance Commission. The authors want to thank both Dr. Gavin Appleby and Mr. Frank Adams for their helpful comments. Of course all mistakes in this article are the sole responsibility of the authors.

aid are not directly related to the Federal taxes collected in the State of South Carolina. Indeed the Keynesian multiplier states that the $2.70 will create 3.62 times that amount of money of $9.77 of local income for the Federal Government portion of the income expansion. That is, the dollar spent by the state will eventually create $1 of added income to South Carolina residents for the State part of the match and $9.77 for the Federal Government part of the match or a total of $10.77. If that is not enough of a bargain, South Carolina received that additional income by treating sick poor people who qualify for Medicaid.

If this process creates additional income, then doesn't it also generate additional tax dollars, Indeed it does. The tax rate that the State Government receives from the residents of this state (includes individual income tax, corporate income tax, and the retail sales tax only) is 5.1% Thus the State Government gets back 55 cents (5.1% × $10.77) for every state dollar it spends on Medicaid. That is, on net, the State Government has to only spend 45 cents to receive these benefits. If this seems like a bargain, then including local taxes as another tax-enhancing factor in this Medicaid scenario seems like a steal. For both state and local taxes, the tax rate for South Carolina is 7.5%. Therefore, for each state dollar spent on Medicaid, State and local governments get back 81 cents (7.5% × $10.77). Therefore, looking at tax revenues as a whole, for a net cost to the taxpayer of 19 cents, the State receives $3.70 worth of health care for Medicaid clients and also receives an increase of $10.77 to the income of South Carolina residents.

CONCLUSION

A major concern for South Carolina State Government is how to develop the State's economy. Rural development is particularly stressed because rural development is very hard to accomplish. It is because of this simple fact that all alternatives to rural development must be explored. Of these, expanding Medicaid services is often ignored. Yet the infrastructure to exploit this form of economic development is already in place. By taking advantage of this existing infrastructure, income and jobs can be created quickly in some of the poorest and most rural parts of the State with little cost to South Carolina State Government. Indeed, taking account of the favorable Federal match dollars, a labor intensive Medicaid medical market, and counting enhanced tax collections for both state and local governments, a policy of economic development through expansion of the Medicaid program, is for all purposes, a real bargain because it increases State income, jobs, and health care to the poor for a relatively low cost to South Carolina citizens.

RETIREMENT OF A LEGEND

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DYSON. Mr. Speaker, today I rise to praise a distinguished member of my constituency, Mr. Richard Jamard "James" Holt, who has recently retired after 17 years at the helm of Chesapeake Bay Maritime Museum. Almost singlehandedly he has taken a minuscule assortment of local knicknacks and turned it into a nationally recognized museum encompassing 32 buildings over an expanse of 18 waterfront acres. The museum has become one of the most famous tourist stops on Maryland's Eastern Shore, and this is tribute of Mr. Holt's skill.

The Chesapeake Bay Maritime Museum is a memorial to, and a celebration of, the life along America's greatest estuary, the Chesapeake Bay. The museum is located on a peninsula in the harbor of St. Michaels. Contained within the grounds of the museum are exhibits tracing the development of ship building, commercial fishing, and navigation along the bay. The museum's library is a valuable source of scholars of the bay. Also located there is an important collection of bay smallcraft types, an impressive decoy and waterfowl display, and a 100-year-old "screwpile" lighthouse, which has become one of the major tourist attractions on the east coast.

Mr. Holt has been an inspiration all of his life. At the young age of 15, he signed up with the merchant marine. He later attended the University of Pennsylvania, graduating with a degree in economics. Fresh out of school, he joined the Navy and served as a gunnery officer in southern France. He began a 25-year career with the Honeywell Corp., where he managed the company's operations throughout Latin America. Mr. Holt has even been a member of the Olympic Committee, handling the sailing events during the Mexico City summer Olympics. His proven commitment to excellence has immensely aided the growth of the Chesapeake Bay Maritme Museum, and Mr. Holt's efforts will have a lasting effect, helping to keep the Chesapeake Bay Maritime Museum strong even after his retirement.

Mr. Holt's dedication to the Chesapeake Bay Maritime Museum has made it one of the most important maritime museums in the country. In 1978, the museum was accredited by the American Association of Museums. When Mr. Holt took over the museum, attendance stood at a paltry 3,900 visitors a year. Under his tutelage, the number of tourists who have come to learn from the museum has risen to over 100,000 a year.

Mr. Speaker, because of the efforts of James Holt, the citizens of Maryland, the east coast, and the Nation can learn about the history of the Chesapeake Bay. For his devotion and untiring efforts in making this possible, we all salute him.

THE PRESIDENT TALKS ABOUT THE FIGHT AGAINST NARCOTICS: A WAR WE MUST WIN

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a recent speech by President Reagan concerning illegal drugs and America's war on that menace to our society. The President is to be commended for his leadership on this vital national issue. While reducing America's demand for illicit narcotics is critical if we are to win this battle, we must also continue to focus our resources on the overseas sources of illegal narcotics, the drug producing countries. We must never forget that our enemies in this struggle, the international drug traffickers, are formidable adversaries with incredible resources. The Latin American narco-traffickers have been particularly active.

Recent revelations about the activities of the Medellin cocaine cartel—a Colombia-based organization—the indictment of General Noriega of Panama, and the activities of a "drug lord" in Honduras have shown the financial power, the ruthlessness, and the organizational skills of the so-called drug kings of Latin America.

The brutal assassination in Colombia of the Attorney General is the latest in a string of murders committed by the Medellin cocaine cartel. In the last 4 years, the cartel has murdered 20 Colombian judges. In 1984, the Minister of Justice was murdered in Bogota and the next year the terrorist group, M-19, following orders from the cartel, attacked the Palace of Justice in that country. Eleven of the twenty-four justices of the Colombian Supreme Court were massacred, including its president. The Colombian cartel also enjoys close relations with Cuba and the Sandinistas.

In December, a Colombian, reputed to be one of the world's leading cocaine smugglers, was freed from a Colombian prison after having "bought off" the prison warden. He is reported to be worth over $1 billion. The drug lord was awaiting extradition to the United States. After massive pressure from the cocaine cartel, the Colombian Supreme Court annulled a 1979 extradition treaty between the United States and Colombia.

From an equipment point of view, the Colombian and other drug traffickers have a high-technological advantage. The traffickers often use encrypted communications systems and monitor U.S. Government frequencies. They also use night vision equipment and remotely piloted vessels in some areas.

In recent weeks, Mexican authorities have intercepted large quantities of modern arms and seven light airplanes destined for the Colombian cocaine traffickers. The weapons and aircraft were being shipped to the Medellin cartel for use in that organization's war on the Colombian Government.

While drug traffickers in Mexico are not yet as powerful as the Colombian groups, Mexican officials have expressed growing alarm about their destabilizing potential.

The recent indictment of General Noriega in Panama by two Federal grand juries for aiding drug traffickers and laundering millions of dollars in illicit profits from U.S. drug sales, clearly illustrates the power and influence of the drug traffickers.

General Noriega was reportedly paid $10 million per month for his help in turning Panama into a major cocaine-smuggling and money-laundering center in this hemisphere.

More recently, Congress learned of the activities in Honduras of Matta Ballasteros, a ruthless narcotics trafficker, who escaped from a Colombian jail and was implicated in the murder of a DEA agent in Mexico a few years ago. As a member of the Medellin drug cartel, Ballasteros is already trying to corrupt members of the Honduran legislative, executive, and judicial branches of government.

It is evident that the drug traffickers operating against our society are tough adversaries who constantly challenge our efforts to eradicate and interdict illegal narcotics destined for the United States. While all Americans appreciate the deep personal commitment that our President has in the fight against drugs, this battle will not be won overnight. The United States must commit even more resources in

this vital struggle against those who would undermine the basic fabric of our society.

I commend the following Presidential speech on narcotics to my colleagues in the Congress:

REMARKS BY THE PRESIDENT TO SEMINAR ON "SUBSTANCE ABUSE IN THE WORKPLACE—STRATEGIES FOR THE 1990's," FEBRUARY 8, 1988, DURHAM, NC

The PRESIDENT: Thank you very much. (Applause.) Thank you, Governor Jim Martin, and thanks, too, for that great music by the Duke University Pep Band. (Applause.) I understand I'm the backup speaker today. You had a real star this morning—Secretary of Labor Ann McLaughlin. (Applause.)

Governor, Dr. Brodie, distinguished guests, Duke students—(Applause)—I figured that was the best way to find out if you were here. (Laughter.)

Well, this has been a week of champions for me. Last Wednesday the Redskins came to the White House. (Applause.) And today I am visiting the home of Coach K's Duke Blue Devils. (Applause.) I met them out at the airport when we arrived.

You've got a champion Governor in Jim Martin, and a champion Senator in Jesse Helms. (Applause.) And North Carolina has given our administration champion leaders—Jack Matlock, our Ambassador to the Soviet Union; Jim Burnley, our Secretary of Transportation; and Bill Bennett, our Secretary of Education. (Applause.)

But today, we're here to talk about drugs in the workplace, as you've been doing. As I mentioned, earlier today I had the opportunity to hear from some people who know firsthand about what drugs in the workplace can mean. And I've been very impressed, as well, with what our panel here has told me.

As you know, Nancy and I have both taken a personal interest in the crusade for a drug-free America. Like so many Americans, we watched with greater and greater apprehension during the years when too much of our media and too many of our cultural and political leaders sent out the message that using illegal drugs was okay.

Well, thank God those days are over. (Applause.) Those days of scenes in a movie where you would get laughs out of someone who was high on marijuana—those scenes where everybody—the first thing they did was open a bottle before the scene began on the screen—well, this conference proves that we no longer shrug off illegal drug use. Yes, Americans in all walks of life have seen the truth about drugs. Workers, employers, students, teachers are all saying "no" to drugs and alcohol.

A few weeks ago we learned that America's students are saying "no" as never before. For 13 years we have conducted annual surveys of thousands of graduating seniors in high schools across our country. What drugs have they used? How often? What do they think about drug abuse? Well, just last month, the survey of the class of 1987 came out, and the news was the best ever.

For the first time since the surveying began, a substantially smaller proportion of high school seniors—one-third smaller—acknowledged current use of cocaine than did the year before. Use of marijuana and amphetamines is also dropping. And almost all students said it was wrong even to try a drug like cocaine. So America's students are getting the message—drugs hurt; drugs kill. And let me add, I can't help being proud of the role someone close to me has played in teaching our young people to stay away from drugs. Nancy's doing a great job. And by the way—(applause)—I'm the only one in the family the government's paying, but I think she's working more than I am. And by the way—(laughter and applause)—she's asked me, as she always does when I speak to an audience that includes young people, please, for your families, for your friends, for yourselves, do what so many others are doing and "just say no" to drugs and alcohol. (Applause.)

But if we're to achieve our goal of a drug-free America, we must reach outside the schools and into the workplace. Now, the professional basketball court may seem like a long way for the average office or factory. But as I heard those personal stories before I came out here, I couldn't help thinking how similar they were to a story about drugs in the workplace that I was planning to tell you.

A few years ago, here in North Carolina, North Carolina State had one of the nation's most promising young basketball stars. David Thompson led North Carolina State to an NCAA championship before signing a pro contract for over $2 million. After three seasons of brilliant play, he was the highest-paid player in the National Basketball Association and then he got into drugs. Over the next two seasons, his game deteriorated. He became injury- and accident-prone. He started showing up late for practice and got into fights on the court. So he was traded, and eventually cut. Two years ago he filed for bankruptcy—millions and a brilliant career squandered on drugs.

Today, David Thompson is pulling his life together—we all pray for his success—and he has this warning: In his words, "You never feel like you're going to be the one to get hooked," he says. And he added, "I knew that it was harmful both for me and for my career, but I couldn't stop." And he offers this advice about drugs: "Never try it. It's easy to get involved with, and it's very hard to get out of."

David Thompson was an extraordinary athlete but an all-too-typical on-the-job drug user.

Game deteriorating? Studies show that drug users are two-thirds as productive as non-users. Lost productivity because of drugs costs America nearly $100 billion a year—and that's like having a pulled hamstring in the race of international commerce.

Injury- and accident-prone? Drug users are three or four times as likely to be involved in accidents. For example, a study of airline pilots using flight simulators showed that they had trouble performing standard landing maneuvers as long as 24 hours after smoking a marijuana cigarette. I have heard that the amount of time that marijuana stays in the fat in the body—unlike alcohol leaving so quickly—that it can be up to four days that the body is still being affected.

Missing work? In one national study drug users reported skipping work two or three times as often as non-users.

Difficut to get along with? Ninety-two percent of all Americans say they don't want to work around someone who gets high during the day, perhaps because drug users act the way they tell researchers they feel—they don't want to be at work, period.

One other thing. As I heard first-hand today, when it's all over, and drug users look back on the wreckage of their careers and their lives, like David Thompson, their advice is "never, never" try it. They wish they never had. They wish someone had discovered their habit earlier and given them help.

Well, that's why we're here. Now I've heard critics say employers have no business looking for drug abuse in the workplace. But when you pin the critics down, too often they seem to be among that handful who still believe that drug abuse is a "victimless" crime.

When I hear those critics, with their new version of an old discredited theory, I remember the story about the man who took the train ride. This is my way of getting to tell you a story. (Laughter.) The man noticed that the fellow across the aisle was making strange and elaborate gestures and grimaces and then laughing. And finally the man leaned over to ask if anything was wrong. "No, no" the fellow said. "It's just that when I travel I pass the time telling stories to myself." And the man said, "Well, then why do you make faces and gestures as if you were in pain?" And the fellow answered, "Well, everytime I start a story, I have to tell myself that I've heard it before." (Laughter.)

But we've heard the story of victimless crime before, and it's a bad one. The drug user is a victim. His employer is a victim. His fellow employees are victims. The family that depends on his wages are victims. And America, which is only as strong and as competitive as all of us together, America is the victim. It would be hard to find any crime with more victims than drug abuse.

Almost a year-and-a-half ago, we announced a federal campaign for a drug-free workplace. To accomplish this, we proposed to put the federal government in the lead, moving toward a drug-free workplace for federal employees. We're encouraging state and local government to follow our example, as well as federal contractors, and all of the private sector. That means you—and I know that the companies represented here have already moved ahead.

I'm proud of the progress we've made—particularly in the military and other areas where an alert mind can mean the difference between life and death. We got a head start with the military. And since the drug program started there, illegal drug use has gone down by two-thirds.

But I know we have a long way to go. The companies here today are leaders, but I know hundreds of others are making progress, too. We in Washington have a lot to learn from you. You're showing how compassion and campaigns for a drug-free workplace go hand-in-hand.

The crusade for a drug-free America is being waged on many fronts. In the last six years, for the first time ever, we have set up a nationally coordinated attack on drug smuggling. Drug seizures are at an all-time high. Federal drug arrests have increased 66 percent. Arrests of major traffickers have tripled.

But in the end, the crusade against drugs will be won not on the shores, but in the heart of America. If students, workers, executives, professionals—if all of us decide that there's no place for the enslavement of illegal drugs in this land of the free, then we will win and drugs will lose.

And that's our challenge. That's the crusade that you're helping to lead. You know, there's a great deal of emphasis and people talking about—when I heard a phrase about throwing money at drugs, the idea that it can all be done if we have enough people out there on the borders intercepting. Well, we have intercepted, tons and tons. We have fleets of airplanes and boats and trucks that have been confiscated. And I told some people earlier today, I saw for the first time in my life what $20 million looked like. It was piled up on a table down in Florida, confiscated from drug dealers. And yet, as long as there is a profit in it, that isn't enough. The real answer must come from taking the customer away from the drugs, not the other way around. (Applause.)

Then, to those of you—and like some who've spoken here today—who have resolved their problem and cured, they are the greatest exponents. I found that out back, Jim, in my Governor days when I would try to talk to young people about this when it was first beginning—the emphasis then was on marijuana. And I found out that I might stand there and talk all day and I wasn't as effective as one individual who could stand up in front of them and say to them, "I've been there. I used to do that." And he can solve more problems in 10 minutes than, as I say, as I could all day. And those are the people, so many of them, who are so unselfishly now joining the crusade. And God bless them and—for all of that—you're doing to help—you, to your fellow Americans. I thank you and God bless you. (Applause.)

THE RETIREMENT OF POLICE CHIEF JIMMY D. KENNEDY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DORNAN of California. Mr. Speaker, it is with mixed emotions that I rise today to announce the retirement of a good friend and long time public servant, Police Chief Jimmy D. Kennedy. Chief Kennedy is retiring as chief of police of the largest city in Orange County, CA, Anaheim, which is in my 38th Congressional District.

Like Disneyland, and the California Angels and Rams, all of whom call Anaheim home, Chief Kennedy has grown to be a respected and well-known local institution. Chief Kennedy, who joined the Anaheim Police Department in 1958, served in various positions before being appointed chief in May 1983. His dedication and commitment to the people of Anaheim and California goes beyond his job as chief peace keeper in Anaheim. Chief Kennedy served as a member of Governor Deukmejian's Task Force on Juvenile Arson and Firesetting; president of the Orange County Chiefs of Police and Sheriff's Association; former district chairman of the Ahwahnee District for the Boy Scouts of America; president of the California Juvenile Officers Association; past vice president of the Southern California Community Relations Officers Association; former member of the Governor's Advisory Committee to the California Youth Authority; member of the International Association of Chiefs of Police; member of the California Police Chiefs Association; and a member of the California Peace Officers Association.

Chief Kennedy has a master of arts degree in management from the University of Redlands and is a graduate of the prestigious FBI Academy and the FBI National Executive Institute. For the past 17 years, Chief Kennedy has shared his wealth of experience in law enforcement with students at Fullerton College where he taught police science.

On behalf of the citizens in my 38th Congressional District, who have all benefited from Chief Kennedy's 30 years of service, I want to extend my best wishes for a happy and rewarding retirement.

JOURNEY TO NICARAGUA

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. RAHALL. Mr. Speaker, I would like to submit for the record the following report detailing a trip to Nicaragua last March taken by United Methodist Bishop William Boyd Grove of my home State of West Virginia. Bishop Grove is the chair of the board of church and society of the United Methodist Church.

Bishop Grove draws some very insightful conclusions from his observations of the situation in Nicaragua and his discussions with the people of that country, and I would encourage every Member of the Congress to read this report carefully.

JOURNEY TO NICARAGUA, MARCH 1-8, 1987

(By Bishop William Boyd Grove)

I write this report while en route from Nicaragua to the United States. I want to collect and compose my reflections while the images of the country and its people, the words of those who spoke with us, and my emotional and rational responses to those words are still vivid in consciousness.

I went to Nicaragua with twelve other representatives of the West Virginia Annual Conference and two from the Western Pennsylvania Annual Conference. We went to this beautiful and ravaged country as representatives of the church of Jesus Christ and as citizens of the United States of America. We went to learn; to "see for ourselves"; to seek to penetrate the wall of propaganda that now stands between Nicaragua and our own country. We went to have fellowship with Nicaraguan Christians, to hear their story and to share our story. We went hoping to implement a decision made by the West Virginia Annual Conference at its 1985 Session to establish a covenant relationship with a congregation in Nicaragua.

Our itinerary was prepared by Peggy Heiner who, with her husband Howard, is a missionary of our church assigned by the World Division of The Board of Global Ministries. Our schedule was carefully planned so as to engage us with all points of view concerning the conflict in Nicaragua and to enable us to be present with the people of Nicaragua. The planning was well done and the objectives outlined above were achieved. We spent four days in Managua, the capital city, and two days in the smaller city of Jinotega in the northern mountains. Our night in Jinotega was spent in the homes of Christians in that city—an unforgettable experience for all of us.

Nicaragua is a small country of 3,000,000 people positioned approximately midway on the land bridge between North and South America. The country has a tropical climate in the southwest around Managua, the capital city. To the north the terrain is mountainous, to the east there is deep jungle with few people. The Miskito Indians live along the east coast and are relatively isolated from the majority population to the west.

Nicaragua, like the rest of Latin America was strongly influenced or dominated by the United States during the late 18th and 19th centuries. Between 1900 and 1934 the United States sent the Marines into Central America thrity-five times. Since 1932 the Samozas, backed by the United States, have imposed tyrannical dictatorial rule in Nicaragua. (The U.S. Government now acknowledges that Samoza was a tyrant.) In 1979 the Samoza regime was overthrown in a revolution carried on by groups that were politically diverse but united in their resistance to Samoza. One of the groups was the FSLN (Frente Sandanista Liberacion National) popularly known as the Sandanista Party. After the victory in 1979 a coalition government was formed with the FSLN as the dominant party. That government was committed as the government says that it is today to:

1. Self determination.
2. Political nonalignment.
3. A mixed economy.
4. Political pluralism.

As we all know, it is the conviction of the Reagan administration and the United States Government that the revolution has been betrayed and that a repressive government that is aligned with the Soviet Union has become a threat to the neighbors of Nicaragua, and to the security of the United States. That conviction has led the United States to support with massive financial aid the war being waged against the government of Nicaragua by counter-revolutionary forces (Contras), an economic blockade, the attempted mining of the Nicaraguan harbor, activities that have been found by the World Court to be in violation of International Law.

The United Methodist Church has declared its opposition to such American intervention on a number of occasions: in a resolution adopted by the 1984 General Conference, and in more contemporary and specific resolutions by the Council of Bishops, the General Boards of Church and Society and Global Ministries, and many of the annual conferences, including the West Virginia Annual Conference. The National Council of the Churches of Christ in the U.S.A. and many other religious groups have taken similar actions. Our trip to Nicaragua should be seen in continuity with this denominational and ecumenical history and involvement.

To test the validity of U.S. government policy toward Nicaragua and our church response to it, we talked with representatives of all groups available to us. Interviews/briefings were held with the following:

1. The United States Embassy: Luis Moreno—Second Political Secretary.

2. The Nicaraguan Government:

Ray Hooker—a member of the National Assembly and Chairman of the Foreign Affairs Committee. (Ray Hooker is a former professor at Ohio University.)

Alejandro Bendana—Secretary General of the Foreign Ministry and former ambassador to the United Nations. (Alejandro Bendana has a doctorate from Harvard University where he served as professor of history prior to 1979.)

Alberto Martinez—a member of the National Committee and Director of Government in Jinotega.

3. The Liberal Independent Party (PLI): Joaquim Mejia and Jaime Bonilla.

4. Persons from the private sector—Representatives of COSEP—an umbrella organization comprised of persons from business, the professions, agriculture, etc.: Nicholas Bolanos and Gilberto Coadra.

5. Representatives of the Churches:

The Roman Catholic hierarchy—Father Uriel Reyes.

The Roman Catholic "Peoples Church"—Father Rafael Aragon.

CEPAD—A council of 46 protestant denominations organized for relief and development: Gilberto Aguirre—Executive Director and Pedro Antonio—Regional Director in Jinotega.

CENPEN—A council of evangelical protestant pastors: Felix Rosales—President.

The Reverend Norman Bent——a Moravian pastor who has been vitally involved in reconciliation between the government of Nicaragua and the Miskito Indians.

In addition to these formal meetings we attended an evangelical (protestant) worship service in Jinotega and talked with common people and stayed in their homes. We talked with two members of the "Mothers of Heroes and Martyrs", a strong women's organization comprised of those who have lost sons in the war. We visited the home of one of the mothers. We visited a class of young persons in a Roman Catholic Church in Managua. There we met 20 twelve-fourteen year olds who were being taught by their priest. Several of them are "Catechists", and are being prepared to teach reading and writing to illiterate adults in the community. On a long wall around their chapel they have painted a beautiful mural that portrays the biblical salvation story from creation to resurrection. The mural flows into a pictorial depiction of the liberation of Nicaragua with vivid scenes representing agrarian reform and the literacy campaign. At the center of this part of the mural was a picture of the revolutionary hero Sandino.

We also visited a Cooperative south of Jinotega where 30 homes are being built for resettled campesinos, victims of the war, who will together own and farm the land (a symbol of the revolution was the outdoor workbench of one carpenter containing carpenter's tools, a rifle, and a New Testament).

Criticisms of the present government and responses to those criticism are as follows.

1. Nicaraguan society is experiencing social disintegration and conditions are worse than before the revolution.

Only representatives of business (COSEP) made this charge. No one else whom we met supported it.

Response. Representatives of the government pointed to the reduction of illiteracy from 55% to 12% since the revolution; Land distribution leading to more private ownership of land today than ever before in Nicaragua's history. Acknowledged shortages of goods and services were ascribed to the embargo imposed by the U.S.A., the cost of the war, and priority given in the early years to social development (education, health care, etc.) over production.

2. The government has betrayed the revolution, is politically repressive, and does not have the support of the people of the country. This charge was made by the American Embassy, COSEP, representatives of the Liberal Independent Party, and the representatives of the Roman Catholic hierachy.

Illustrations: The closing of La Prensa, the opposition newspaper, the closing down of a Catholic television station and the exile of Bishop Vega.

Response. Representatives of the Government maintain that Nicaragua, a small country, is involved in a war for its life against opponents who represent the U.S.A. They point to the fact that nations have often had to suspend certain civil rights in war time to protect national security. (The U.S.A. resettled and confined thousands of Japanese-American citizens during World War II in the name of national security. Although this was not mentioned, I remember that President Abraham Lincoln suspended the right of Habeas Corpus during the Civil War.)

La Prensa, financially supported by outside sources openly advocated support of those who were at war with the nation. "Would the U.S.A. have permitted an American newspaper to openly advocate support for Germany during World War II?" (Secretary Bandano). "Bishop Vega could have been charged with sedition. Instead we escorted him to our border." (Secretary Bandano). "All restrictions will be lifted immediately upon the cessation of U.S.A. support for our enemies." (Secretary Bandano.)

Aside from Father Uriel Reyes, representing Cardinal Abando y Bravo, and Mr. Luis Moreno of the American Embassy, no one claimed religious persecution. Gilberto Aquiro (CEPAD) indicated that he and other representatives of CEPAD have regularly scheduled meetings with government officials and are encouraged to be critical. Reverend Norman Bent, who was under house arrest for five months in Managua, reported that the government had formally apologized to him for its mistake. He also reported that the government had formally apologized to the Miskito Indians for their forced resettlement. (Secretary Bandano listed the resettlement of the Miskitu as a mistake.) Reverend Felix Rosales (CNPEN) said that he has not seen the government as oppressive of the church. "There have been some incidents but they were the result of misunderstanding and were quickly corrected. Let those who believe otherwise come and see." (Felix Rosales) "We need a responsible political opposition. The other parties are making no attempt to do the hard work of organizing the people and not because of lack of access." (Ray Hooker)

3. The Nicaraguan Government has built he largest standing army in Nicaragua and is a tool of the Soviet Union and is a threat to its neighbors. This charge was made only by Luis Moreno of the American Embassy. We heard it no where else.

Response. The government believes that it must be prepared for invasion of the U.S.A. military forces as a result of the political and military failure of the Contras. "Our country has hurt no one. No other country has been hurt by us." (Pedro Antonio—CEPAD). "The U.S.A. is building landing strips and hospitals in Honduras. There are regular spy flights by the U.S.A. over our air space. U.S.A. troops are now permitted by Congress to mass within twenty miles of our border. There are U.S.A. battleships off both coasts." (Secretary Bandano). "The Soviets are sending us trucks and machinery to help build our country. The Contras are trying to burn us down." (Secretary Bandano).

OUR OBSERVATIONS AND CONVICTIONS

1. The Nicaraguan people are incurably religious, and their religious faith is a vital ingredient in their commitment to a new and independent Nicaragua. Except for the instances of conflict with the Roman Catholic hierarchy referred to above religion is free and unfettered. The churches have open access to the government, and criticism is permitted. What is not permitted is support for or identification with the country's enemies by the churches.

2. The Nicaraguan people and government are totally committed to self-determination and to non-alignment with any super power.

3. The Soviet Union, whatever its motives, is responding far more positively and creatively to a struggle for freedom than is the U.S.A. For instance in response to our question "Why are there so many Marxist/Leninist books around?", Secretary Bandano said "Our people are gaining the ability to read. The Soviet Union is sending us books free. We would love to have the works of Jefferson and Lincoln. If you or your government will provide them, we will make them available to the people gladly!"

4. The people are suffering terribly by the shortages caused by the embargo and from the war.

In Jinotega the brother-in-law of my hostess, who was the President of a rural cooperative had been killed and mutilated nine days before, leaving a wife and eight children. "Proportionately, the people of Nicaragua have endured more suffering during the last seven years then Britain did during World War II." (Ray Hooker).

5. The American press has been lazy and ineffective in its coverage of the Nicaraguan conflict. We are astounded by the failure of the American press to examine objectively the premises of our nation's policy. We desperately need some outstanding journalism in relation to the issues in Nicaragua.

6. The current policy of the U.S.A. is morally bankrupt. We are clearly working to destabilize and overthrow the government of a soverign nation for illegitimate reasons. Our actions are illegal and immoral and are a betrayal of our own national history and our identity as a people committed to freedom.

I call upon all members of the Congress of the U.S.A. to stop financial aid of any kind to the contras. I urge members of Congress to visit Nicaragua and to talk with persons representing all points view.

I call upon the West Virginia Conference, the United Methodist Church and all Christian people to continue and to intensify prophetic response to the crisis in a small country, a crisis caused and manipulated by our government.

LEGISLATION TO STOP THE TRANSFER OF LAUNDERED DRUG MONEY FROM PANAMA THROUGH THE FEDERAL RESERVE SYSTEM

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MANTON. Mr. Speaker, two U.S. grand juries indicted Panamanian Gen. Manuel Noriega last month on drug trafficking and racketeering charges. General Noriega has been charged with conspiring to import tons of elicit drugs into the United States and using Panama's banks to launder the proceeds from these sales. Taking full advantage of Panama's bank secrecy and incorporation laws, Noriega has made Panama a safe haven for drug trafficking and money laundering. Let me give my colleagues just a few examples.

First, Panama's incorporation laws guarantee anonymity to corporate organizers. Corporations are easily formed by those who want to keep their "business dealings" in the dark. A 1983 investigation by the Drug Enforcement Agency revealed a Miami based drug czar had formed approximately 800 separate corporations in Panama to facilitate drug trafficking and money laundering.

Second, Panama's banking laws permit numbered and coded bank accounts and impose penalties on the unauthorized disclosure of bank account information. These laws make it very easy for drug traffickers to launder their proceeds. Panama's banks hold more than $50 billion in dollar deposits and the banking industry accounts for almost 10 percent of the country's GNP. Although Panama's bank secrecy laws are covering up money laundering from drug trafficking, Panama's bankers appear to be working together to undermine any attempt at open disclosure of bank records.

Without a doubt, massive amounts of laundered drug money is being transferred to the

United States from Panama through the Federal Reserve Payment System. In 1983, more than $1 billion was sent to the United States by 14 Carribean nations. Panama accounted for over half of that amount. Now 5 years later those figures have skyrocketed.

Along with the drugs from Panama that are crossing our border, billion of dollars in laundered drug money is flowing into United States banks. In June 1987, the Federal Reserve Bank in Atlanta alone had deposits of $1.3 billion cleared through Panamanian banks. Undoubtedly, much of this is laundered drug money. We simply cannot allow the United States Federal Reserve System to be a tool in Panama's sleazy drug operation.

In that regard, today I am introducing a resolution expressing the sense of the Congress that the Board of Governors of the Federal Reserve should take every step necessary to stop the transfer of funds from Panama to banks in the United States through the Federal Reserve System. The resolution states the Board should deny any resumption in payment transfers through the Federal Reserve System until the President certifies the Government of Panama is actively cooperating in our war against illegal drug trafficking.

Mr. Speaker, illegal drugs are killing our Nation's youth and having a devastating impact on every segment of our society. Just 3 days ago, Edward Byrne, a 22-year-old uniformed New York City police officer, was murdered in cold blood in Eastern Queens. Officer Byrne was sitting alone in a patrol car guarding the house of a witness in a drug case. This murder is just the latest in a series of violent deaths in our cities resulting from attempts to stop these drug dealers.

According to the House Select Committee on Narcotics Abuse and Control, the estimated social and economic cost of drug abuse prevention programs, treatment, related crime, violence, death, property destruction, lost productivity, and drug enforcement totaled $100 billion in 1986. We must take every action available to stamp out this cancer.

Under General Noriega, the Government of Panama has been a major center for assisting international drug trafficking. We must not allow Panama to use the United States Federal Reserve System to promote its deadly trade.

I urge my colleagues to join me in cosponsoring this important resolution.

TRIBUTE TO FALLEN POLICE HERO EDWARD BYRNE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BIAGGI. Mr. Speaker, every other day in our country a police officer is killed in the line of duty. Another 600,000 risk their lives for our protection every hour of every day. Yet, no matter how true those facts may be, the brutal assassination of New York City Police Officer Edward Byrne is simply beyond the realm of human understanding.

Sitting alone in his patrol car last Friday morning, guarding the home of a narcotics witness in Queens, 22-year-old police officer Edward Byrne was gunned down with three shots to the head at point-blank range. The apparent motive for the cold-blooded killing? Officer Byrne's father, Matthew, himself a retired New York City Police Lieutenant, said it best when he blamed his son's death on drug dealers who are "telling us they've declared war on society. When Eddie died a little of all of us died because Eddie represented decent people of this world and his death becomes a responsibility of the decent people.

The war on drugs is indeed as bloody a war as this Nation had ever fought, and it's the police officer who risks his or her life every day on the frontlines of that war. As much as we value those men and women as our protectors, we are reminded by Officer Byrne's death that they are also very vulnerable; they often become the victims of the war they are fighting for all of society's sake.

Mr. Speaker, more than 10,000 police officers attended Officer Byrne's funeral on Monday. It was the largest turnout at a police funeral ever remembered. It was an emotional tribute to a brave, young comrade. It was also a loud and clear signal by law enforcement that they are more than prepared to respond decisively to the declaration of war that has been issued by the crazed drug dealers that prey on our streets.

But, the war against drugs requires more than committed and courageous soldiers. In a statement by Matthew Byrne that was filled with emotion and truth, he declared:

An aroused citizenry is the only thing that will generate the kind of response we need. If we don't get immediate and drastic action the streets will be as they are in Beirut or Bogota. If our son Eddie, sitting in a police car, representing and protecting us, can be wasted by scum like that, then none of us is safe—and I don't care where you live.

Mr. Speaker, Matthew Byrne added something else and it was intended for our ears. He challenged government officials to "put their money where their mouth is" in the war against drugs. Simply put, we have an absolute responsibility to our constituents and our police officers to focus more resources on the war against drugs. A good place to start would be to get tougher on the foreign governments that refuse to crackdown on the drug supplies originating in their countries. We must also ensure that the $250 million in drug-fighting Federal aid for our local law enforcement agencies is restored. Further, we must work to ensure that every State in our country has a death penalty statute on the books for would-be killers, like the ones responsible for the murder of New York Police Officer Edward Byrne.

Mr. Speaker, I would like to join the millions of other New Yorkers and Americans everywhere in saluting Officer Byrne. As a former New York City police officer myself, I have very special feelings about his sacrifice and the tragic loss his family is now experiencing. I know I speak for my colleagues when I say we share that sense of loss and we will work to ensure that Officer Byrne's death is never forgotten.

A little more than 3 years ago, we authorized a National Law Enforcement Memorial to be built in Washington, DC. I was proud to lead that successful effort. That long overdue and richly deserved tribute to the service and sacrifice of Officer Byrne and thousands of other law enforcement officers is well underway. The memorial will serve as a constant reminder of the tremendous risks our law officers take on our behalf. It will also remind us all of their tremendous need for our support in the war against crime.

Two years ago, this august body passed the toughest antidrug law in our Nation's history. That legislation provided more than $4 billion over 3 years for drug eradication, enhanced law enforcement efforts, drug interdiction, drug education and drug abuse treatment. That bill included more than $1 billion to help police authorities fight the drug problem at the local level. Obviously, that was not enough. We must do more and I am confident we will.

Mr. Speaker, at this time, I wish to insert a March 1 New York Times article reporting on the funeral for Officer Byrne:

10,000 AT SLAIN OFFICER'S MASS DISPLAY RESOLVE

(By Sarah Lyall)

SEAFORD, Long Island, Feb. 29.—In a turnout that veteran officers said was the largest they had ever seen at a police funeral, more than 10,000 police officers today mourned one of their own who was killed while guarding a narcotics witness in Queens.

The officers stood six deep along Hicksville Road in a line that stetched the length of at least eight city blocks. They came from as far as Texas to pay their respects to Officer Edward Byrne of the 103d Precinct.

That so many police officers came to the funeral for Officer Byrne, a 22-year-old rookie who was slain while guarding the South Jamaica home of the witness, was an expression of the officers horror at what they called an assassination. And it was a sign of defiance meant to show that similar acts must not occur again.

"BECAUSE HE WAS SO YOUNG"

"This is an action which will convey how seriously we take this," said Officer Michael Fandall of the Sixth Precinct, who took a train from Manhattan after his shift to attend the funeral. "We always turn out when a police officer dies. But this was different, because of the way he died, and because he was so young."

A police funeral is a reminder to other officers and their families that they, too, are highly vulnerable. But what distinguished this death, officers said, was that it pointed out the difficulty of trying to wipe out the crack business that is taking over some neighborhoods. The officer said the death made the police want to fight back against the people responsible for the slaying—not just the people who pulled the trigger, but the entire drug trade.

That attitude was also reflected by the increase in the number of officers sent out after the slaying. Officers stepped up efforts in the 103d Precinct to make arrests in suspected crack dens and other crack-selling locations. The arrests were in part an effort to obtain information in the case, but they also showed the frustration in dealing with crack, several officers said.

Officer Pete MaGinnis of the 71st Precinct in Brooklyn, who is 23, said: "It could have happened to anyone out there, any time. We can't let it happen again."

"We've always been angry, and this has helped bring it out in the open," Officer Fandall said. "This provides us with a moment to do something dramatic to reverse the disease."

With the large turnout, he added, "we can try to get the attention of the people committing the crimes."

CLUES ARE SCANT

Police officials said today that .38-caliber bullets were used to kill Officer Byrne. The

weapon has not been recovered, and no other hard evidence was developed to connect people identified as drug dealers in Queens to the slaying, the officials said.

Federal agents have become deeply involved in the case, with agents of the Drug Enforcement Administration talking to their informers and trying to develop leads that local detectives might use. The killing, the special agent in charge of the D.E.A. office in New York, Robert Stutman, said.

Detectives are focusing on several people charged with having tried to intimidate the homeowner who had complained of the drug dealing—in two cases by firebombing his house and in two others by verbally threatening him.

One of those charged in the firebombings, which occurred last November, is Claude Johnson, 27, who lives in the area where Officer Byrne was killed. Mr. Johnson is in custody on Rikers Island, awaiting trial on arson and other charges. His lawyer, Ronald J. Gesten, said yesterday that Mr. Johnson had "nothing to do" with the officer's death or the firebombing.

ENTIRE FORCE OF 103D PCT.

After the 90-minute Mass for Officer Byrne at St. James Roman Catholic Church at 80 Hicksville Road, a number of officials on hand, including Senator Alfonse M. D'Amato, Republican of New York, and United States Attorney Rudolph W. Giuliani, called for a Federal crackdown on drug trafficking and stricter penalties for dealers. Mr. Giuliani also said he favored the death penalty for criminals convicted of murdering a police officer.

During the service, friends and relatives of the slain officer, the entire force from the 103d Precinct and a host of officials, including Mayor Koch and Police Commissioner Benjamin Ward, filled hundreds of seats and spilled into the church aisles. The officers stood outside in formation, as the day turned colder and the mood more somber.

As the officers from the 103d Precinct, wearing white shirts as part of their ceremonial uniforms, bowed their heads, some crying softly, the Rev. Thomas DeVita, associate pastor, said: "We commit him back to our God and our Father who gave him life 22 years ago. If only it could have been a little longer."

GREETINGS FROM MACDONALD

After the service, family members and police officials followed the coffin, draped in a green, blue and white Police Department flag, out of the church. The officers, representing every precinct in the city, stood at attention as one played taps. Five police helicopters flew low overhead and disappeared.

Sitting in his uniform in a wheelchair at the church door was Officer Stephen MacDonald, who was paralyzed in a gunfight in the summer of 1986 and who breathes with the help of a respirator. Officer MacDonald, overcome with emotion, greeted members of the funeral party leaving the church.

After the service, Mr. Ward, looking drawn and tired, left quickly for Manhattan. But several other officials spoke briefly to reporters.

Officer Byrne's oldest brother, Lawrence, is an assistant United States attorney in Mr. Giuliani's office in Manhattan, and Mr. Giuliani called on the Reagan Administration to spend more money combating drugs. He said:

"When a police officer is killed, the death penalty should be available. I think that would get the message across to the drug dealers. Maybe the people who oppose the death penalty don't understand that you're dealing with uncontrollable behavior."

The hearse, escorted by eight officers, inched past the line of officers from New York City, Syracuse, Maryland, Boston and Ohio. The officers disbanded, many to return to their posts. Officer Byrne's family followed the hearse to Farmingdale, where he was buried.

MARCH 1988: AMNESTY MONTH A TIME TO "COME OUT OF THE SHADOWS"

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BROWN of California. Mr. Speaker, I would like to remind my colleagues and my constituents that the month of March has been proclaimed as Amnesty Month, and urge all individuals eligible under the provisions of the Immigration Reform and Control Act of 1986 to come out of the shadows and establish themselves as legal residents of this great Nation. With only 2 months remaining in the amnesty period, it is my hope that all qualified illegal aliens will come forward to take advantage of the freedom and pride afforded by legalized status.

Upon passage of the Immigration Reform and Control Act of 1986, it was estimated that over 2 million illegal aliens resided in the United States. Since the beginning of the Amnesty Program in May 1987, over 1¼ million of these individuals have applied for temporary legal status. As we rapidly approach the end of the amnesty period, however, it is even more important that we reach out to the hundreds of thousands of individuals who have yet to come out of the shadows to obtain the benefits of legalized status.

The amnesty provision of the Immigration Reform and Control Act applies to individuals who entered the United States prior to January 1, 1982, and who have continuously resided in an illegal status since that date. This Amnesty Program is not a "sting" operation or an attempt to locate and register illegal aliens. Confidentiality provisions included in the act prohibit the use of information from amnesty applications in the deportation of applicants or nonqualifying family members. The Amnesty Program ends on May 4, however, and no applications will be accepted after that date.

It is crucial that qualified individuals step forward to take advantage of this unique, once-in-a-lifetime opportunity. Obtaining amnesty under the Immigration Act promises freedom from the fear and insecurity of life in the shadows. Those who apply have everything to gain, and nothing to lose. Thus, during Amnesty Month, I urge all qualified illegal aliens not to be left behind: Apply for amnesty now, while you still can. Take advantage of the law, and enjoy the freedom that can be yours.

SALUTE TO TEXAS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BARTON of Texas. Mr. Speaker, I rise today to inform Members of Congress not fortunate enough to represent that great State of Texas about the significance of today, March 2, Texas Independence Day. On this date in 1836, settlers gathered at Washington-on-the-Brazos, which borders my district, to sign a declaration of independence. Thirteen days later, Col. William Travis and his loyal band of 187 men sacrificed their lives holding off a larger Mexican forces of 4,000 soldiers at the Alamo.

Several weeks later, on April 21, 1836, the Texas Army of 800 surprised Gen. Santa Anna and his force of 1,600 at what is now San Jacinto. This decisive battle finally freed Texas from Mexico and for the next 10 years Texas existed as an independent republic.

On this great day in Texas history, it is also fitting to recognize the birthday of the Lone Star State's most outstanding statesman, Sam Houston. Born this day, March 2, in 1793, Houston served the Union as a Congressman from Tennessee. However, Houston is most renown for this role in Texas independence as the Commander of the Texas Army. It was under his command that the Texas Army defeated Santa Anna at San Jacinto.

Because of Houston's military accomplishments, he was elected the Texas Republic's first President. He was later elected as one of Texas' first two Senators to serve in the U.S. Senate after statehood was approved in 1845. The city of Houston was named to honor this great man, and his statute is one of two that represents Texas in our capital building.

Mr. Speaker, along with you, I share great pride with all Texans in remembering this special day in Texas history. This day serves to mark both the former Republic's independence from Mexico and the birth of one Texas' and the Nation's finest leaders; Sam Houston. It is, indeed, a great day for all Texans and Americans.

THE BUDGET LEGACY OF THE REAGAN YEARS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 2, 1988, into the CONGRESSIONAL RECORD:

THE BUDGET LEGACY OF THE REAGAN YEARS

With the submission of President Reagan's final effective budget, it is an appropriate time to review the President's federal budget legacy.

Under President Reagan, annual federal spending has increased by $377 billion, to more than $1 trillion. Federal outlays, which were 22.7% of the gross national product (GNP) in 1981, rose to 24% in 1985 before dropping back to 22.5% of GNP in 1988. At the same time, federal revenues have not kept up, increasing $298 billion over the same period.

The result has been that President Reagan has overseen the creation of more new debt than the combined deficits of all previous presidents. President Carter's largest deficit was $73.8 billion in 1980, but under President Reagan the deficit reached $220.7 billion in 1986. The last few years have shown us that there is no way to cut taxes sharply, increase defense spending strongly, promise not to touch various enti-

tlement programs, and still pay interest on the debt without creating enormous deficits. Reflecting the large increase in public debt, federal interest payments have risen from $69 billion in 1981 to $148 billion this year. Interest payments now eat up 14% of all federal spending, and exceed the combined budgets of the Departments of Agriculture, Commerce, Education, Energy, Interior, Justice, Labor, State, and Transportation.

The most enduring fiscal legacy of the Reagan period will be a heavily indebted government. To finance the changes brought about during the Reagan presidency, the government has added $500 million a day to its debt. So far, this deficit spending policy has not caused dramatic economic problems. During the President's watch, inflation and interest rates have come down, the civilian unemployment rate has fallen to 5.8%, and we are in the midst of the longest peacetime economic expansion in U.S. history. The concern about the deficits is more long-term. The deficits entail massive governmental borrowing that mortgages the nation's economic future. They have also weakened the government's ability to undertake important initiatives. The large deficits will make it more difficult for the government to increase spending if the economy falls into a recession and the unemployed and others hurt by such a downturn need government aid.

President Reagan has not dismantled many government programs. Basically his approach has been to consolidate federal programs, and to pare programs rather than eliminate them. Eligibility has been tightened and benefits reduced. The President killed 18 programs in his initial 1981 budget but many of them were later restored. Revenue sharing—federal funds provided directly to the states and cities—was the only major domestic program repealed in the Reagan years that stayed repealed. At the same time, various new programs have been added, including the Strategic Defense Initiative, AIDS research, and aid to the homeless.

While total government expenditures have reached historic highs during the Reagan years, the portion of the budget going for domestic discretionary spending has shrunk. Overall, the poor have been harder hit than others under the Reagan budgets. Education and training, community development, welfare, nutrition, housing, and other anti-poverty programs were reduced the most. The young have been hit harder than the old. Today we spend four times as much per capita for the aged than for children, and the gap is growing. State and local governments have also received less help under the Reagan budgets. The President has shifted many responsibilities to the states while reducing federal aid to state and local governments by 30% in constant dollars. Some middle-class benefits were reduced, but large federal funds continue to flow to programs that benefit Americans of all income, such as social security, medicare, and farm price supports. Outlays for these programs have far outstripped inflation during the President's tenure, while federal outlays for poor families with children and for food stamps have declined in real terms. This represents a sharp change from the past when spending on poverty programs rose more rapidly than spending on middle-class entitlements.

Although the President has failed to stop the growth of government spending, he has significantly changed the composition of the federal budget. Measured in dollars adjusted for inflation, what has happened in the federal budget from 1981 to 1987 is as follows: Interest on the national debt has risen 59%, defense spending has risen 46%, social security, medicare, and other retirement programs have gone up 26%, while other domestic spending, such as for energy, transportation, and economic development, has declined 21%. The programs receiving the greatest increases during President Reagan's years have had some successes. Our defense capabilities have been strengthened, social security has been rescued from the threat of insolvency, the medicare payment system has been restructured, and there has been a turnaround in the farm sector.

The President's rhetoric about government spending as the source of the ills of the economy masks the results of his presidency. In many respects the federal establishment that he leaves behind is remarkably similar to the establishment he found when he came to office in 1981. The basic programs of the New Deal and the Great Society endure even at the end of his administration, and several, including social security, medicare, and medicaid, have been significantly expanded. So clearly, the legacy of the Reagan budgets is that many of the federal programs created in previous decades will continue in the post-Reagan period. Huge budget deficits will also survive, and the next president will have very little room to maneuver to address pressing problems. Public opinion polls show that the public wants to spend more on poverty, homelessness, child care, and long-term health care, but it is hard to see where the money will come from.

The next president faces a bleak fiscal outlook with defense and domestic discretionary spending squeezed. The leaders and the taxpayers in the post-Reagan period will inherit the burden of paying for the debt if not paying it off.

IN SUPPORT OF THE NATIONAL SILVER-HAIRED CONGRESS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. RAHALL. Mr. Speaker, today I am introducing a piece of legislation that will recognize an increasingly influential sector of society, not only in my home State of West Virginia, but all over the United States. The purpose of this concurrent resolution is to express the support of the Congress for the upcoming 1989 "National Silver-Haired Congress."

These senior citizen legislatures began convening in 1972 and are now established in nearly half of the States in this country. In their 14 years, "silver-haired" legislatures have provided a wealth of information and assistance to their State governments concerning the ever-changing face of issues on aging. Their effectiveness lies in their experience: they live with the daily problems faced by all aging Americans yet they refuse to succumb to the stereotypical stigmas heaped upon them by the rest of society. They choose instead to channel their wisdom and their vigor into championing their cause. This energy has resulted in the birth and success of the "National Silver-Haired Congress."

Since 1984, the National Silver-Haired Congress has been incorporated as a nonprofit organization. Their national steering committee is now at work to establish guidelines for the election of legislators to attend the 1989 National Congress in Washington, DC. They do not ask for, nor do they desire, funding from their State or the Federal Government, but prefer to rely on assistance from the private sector. Their goal is to work alongside the Government and national organizations as an independent advisory group on aging issues.

At present, more than 12 percent of the Nation's population is over the age of 65. In just four decades, when the last of the "baby boomers" are reaching 65, 1 out of every 5 persons will be over 65. As a "baby boomer," the reality of those statistics has hit home with me. It is with this in mind that I urge my colleagues to take a good look at this piece of legislation. In the years to come, our senior citizen population will continue to increase at an alarming rate. This increase will serve to intensify the problems we are facing right now with regard to medical costs and insurance coverage. We cannot face these problems ourselves. We need not face these problems ourselves when there are organizations like the "National Silver-Haired Congress" are willing and able to help.

In supporting this national meeting of the "Silver-Haired Congress," we not only provide ourselves with an expert grassroots forum for national aging issues, but we also provide the opportunity to bring these issues to national attention. I urge my colleagues to realize the wealth of wisdom to be gained from such an extraordinary group and ask for your support in recognizing the National Silver-Haired Congress.

PERSONAL EXPLANATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LEWIS of Florida. Mr. Speaker, while in my district on March 1, 1988, conducting official business, I missed two votes. Had I been present I would have voted "nay" on rollcall No. 13 in opposition to approving the Journal of February 25, 1988, and I would have voted "yea" on rollcall No. 14 in support of the motion to instruct conferees on H.R. 5.

COMMUNITY BANKS AND FARMER MAC

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. STALLINGS. Mr. Speaker, I would like to make a short statement and insert for the RECORD an article which recently appeared in the January issue of the Independent Banker.

This article, by Mr. Weldon Barton of the Independent Bankers Association, centers on the developments and importance of the recently passed Farm Credit Act of 1987 concerning the secondary market for agricultural real estate.

As the chief sponsor of the secondary market in the House, I am pleased with the progress to date of this new market for agriculture real estate, intended to provide competitive long-term, fixed-rate financing to qualifying farm borrowers. This new market should help stabilize land prices and benefit farm and rural communities. I urge my colleagues to take a look at this article and to follow the de-

velopment of this exciting area in agriculture financing.

[From the Independent Banker, January 1988]

COMMUNITY BANKS AND FARMER MAC

(By Weldon Barton)

As the new Farmer Mac secondary market, enacted last month, assumes its place alongside Fannie Mae, Freddie Mac, and other federally sponsored markets, Farmer Mac may change the financing of production agriculture dramatically. Local banks in agricultural communities will probably use the market primarily for originating and selling farmland mortgages after Farmer Mac becomes operational. However, independent bankers can ill afford to ignore the start-up period for this new market, because decisions during start-up will have a major effect on how originating lenders are able to use the market after it becomes operational.

For local agricultural banks, Farmer Mac should give smaller banks the capacity to offer "one-stop" financing to farmers and ranchers, and thus to strengthen their farm customer base. Banks will be able to offer long-term real estate financing to their customers routinely alongside of operating credit, without exceeding the bank's lending limit or jeopardizing its liquidity. For real estate mortgages, the valuable long-term, fixed-rate mortgage option can be offered for the first time.

Real estate mortgages sold through Farmer Mac will involve not only new mortgages for financing turnovers in ownership of farmland, but also refinancings where borrowers convert variable rate loans or "balloon" notes into long-term, fixed-rate mortgages.

The refinancing can occur with the borower's existing real estate lender, or with a new lender. Because fixed-rate mortgages will represent a new option for farmers and ranchers, the pent-up demand may be large. The window of opportunity for refinancings will depend upon the prevailing level and expected future levels of interest rates. Agricultural banks should postion themselves to use Farmer Mac aggressively whenever those opportunities occur.

The secondary market program authorizes the sale of securities backed by pools of real estate mortgages only and will not include farm production or operating loans. Farmer Mac may also securitize rural housing mortgages. Long-term real estate mortgages are backed by rather standardized collateral, and the costs of securitization (the pooling of loans and underwriting of the loan-backed securities) can be spread over many years. Farm borrower acceptance of having their debt securitized appears to be greatest for real estate mortgages. For those reasons, portfolio lending should continue to predominate for short and intermediate term farm financing, with the secondary market specializing in real estate mortgages.

As indicated, local agricultural banks have important potential advantages with Farmer Mac. To realize those advantages in the tug-and-pull of the marketplace, local bankers must get involved early while the other participants in this new market are being determined to position themselves for best use of Farmer Mac for the origination, sale and servicing of farmland mortgages.

FARMER MAC PARTICIPANTS

A new federally sponsored agency created by Congress, the Federal Agricultural Mortgage Corporation, will have general purview over the Farmer Mac market. However, the Mortgage Corporation will not purchase, pool, and sell mortgages and mortgage-backed securities. Other participants will perform those functions.

In addition to the coal lenders who originate, sell and service the mortgages and the farmers and ranchers who borrow from those originators, Farmer Mac will involve institutions that assemble loans into pools, issue certificates or securities collateralized by those loan pools, and broker, deal in, underwrite, and invest in those securities. Of course, more than one of those functions may be carried out by a single institution. The Farm Credit Administration will be the primary regulator of the secondary market, for safety and soundness, the Securites and Exchange Commission (SEC), and broker-dealers for the securities must register with the SEC.

Very importantly, one type of player is not an essential participant in Farmer Mac: the private credit enhancer. The Mortgage Corporation will guarantee the timely payment of principal and interest to investors in the mortgage-backed securities. The Mortgage Corporation's guarantee is backstopped with $1.5 billion of borrowing authority from Treasury. Consequently, although guarantee fees will be charged by the Mortgage Corporation based upon risk incurred, and the securities will not enjoy "government securities" status. Farmer Mac's status as a federally sponsored trading market should enable the securities to be priced so as to allow the pass-through of competitive interest rates to farm borrowers. Such competitive pricing is an ultimate test of whether the secondary market will work for local banks and their farm customers.

ROLE OF THE MORTGAGE CORPORATION

The Farmer Mac market will revolve around the Mortgage Corporation. No other participant can use the market until the Mortgage Corporation becomes operational with a permanent board of directors, establishes loan underwriting and appraisal standards and other guidelines for the market, and certifies specific institutions to pool mortgages that can be packaged, submitted to the Mortgage Corporation for its approval and guarantee, and then sold as securities in the market.

To make the Mortgage Corporation operational, the President must first appoint interim directors within 90 days of enactment of the secondary market legislation. The role of the interim board is roughly analogous to that of incorporators under state business corporation laws. The interim board will issue the initial voting common stock, with open class of stock offered to commercial banks, insurance companies, and other financial institutions and another class offered to Farm Credit System institutions.

As soon as at least $20 million of voting stock is sold, the interim board will oversee the selection of permanment directors and then turn over the affairs of the Mortgage Corporation to the permanent board. The Mortgage Corporation can then proceed with establishing underwriting standards, certifying loan poolers, and taking the other steps necessary for the market to function.

Who will control the Mortgage Corporation? The 15-member permanent board will have a balanced, mixed membership composed of five members selected by the Farm Credit System and five from the other institutions holding voting stock (banks, insurance companies and other financial institutions), and five public members appointed by the President. The presidential appointees will include persons with a farming or ranching background. The President will designate the chairman. Only loan originators and pooling institutions may hold voting stock.

No entity may be required to hold stock in order to participate, unless the Mortgage Corporation requires additional capital for administrative expenses and determines that financial contributions from participants are necessary to raise that capital. In that event, common stock would be issued to the contributors. Dividends may be paid to stockholders. However, although the Mortgage Corporation will charge a guarantee fee, the fees will be based upon risk of loss and retained initially to build a reserve. Consequently, the Mortgage Corporation is unlikely to pay substantial dividends, except over the long term.

It is unlikely that local agricultural banks, acting individually, will consider it practical to purchase substantial amounts of voting stock. Blocks of stock are likely to be purchased by larger institutions that expect to receive "dividends" in fee income and other benefits derived from high-volume participation in Farmer Mac. However, two factors should help to protect the interests of local banks in originating loans for sale to the market, and the interests of farm customers.

First, three balanced segments represented on the Mortgage Corporation's board should prevent any particular segment from dominating the board's decisions. Second, smaller banks should be able to gain equitable entry to Farmer Mac because the loan poolers and securities dealers must somehow reach the local lender's customer base.

The legislation creating the secondary market provides that the Mortgage Corporation, within 120 days of the selection of its permanent board, shall establish uniform loan underwriting, security appraisal, and repayment standards "in consultation with originators." It should be in every Farmer Mac participant's best interest that local lenders who originate loans for the market fully participate in the development of those standards.

Local lenders will need to conform their loan documents to the requirements of Farmer Mac for specific mortgages to qualify, and Farmer Mac will attract newly originated mortgages only to the extent that the terms and conditions are mutually workable for all participants, including originators and farm borrowers.

THE IMPORTANCE OF POOLER-ISSUERS

Aside from the Mortgage Corporation itself, those institutions that receive prior approval of the Mortgage Corporation to buy and assemble farm mortgages into marketable pools, submit them to the Mortgage Corporation for its guarantee, and issue securities to investors backed by those mortgage assets, will be central players in the Farmer Mac market. Called "certificate facilities" in the statute, the pooler-issuers must meet certain statutory requirements including adequate capitalization and management capability to perform the functions involved. The Mortgage Corporation must establish the complete standards for pooler-issuers, and approve institutions for certification within 120 days of receiving an application, if the applicant meets the qualifications.

Some financial institutions that become pooler-issuers will have the in-house capability to handle the entire "deal," including purchase and pooling of the mortgages and borrowing the offsetting funds through the issuance and sale of the collateralized securities. This could include the securities underwriting function. In other instances, separate institutions from the pooler-issuers may perform underwriting and other func-

tions. Of course some pooler-insurers may also originate loans and purchase the Farmer Mac securities as investments.

One major reason that the pooler-issuer is critically important to local agricultural banks' interests as originators of mortgages for Farmer Mac is that the pooler-issuer is responsible to the Mortgage Corporation for the statutory 10 percent reserve. No pool of mortgages will qualify for the Mortgage Corporation's guarantee unless the pooler-issuer assures that a capital reserve or a subordinated participation interest equal to at least 10 percent of the principal amount of the loans in the pool is maintained. That reserve or participation interest is at risk, up-front, to absorb any losses on loans in the pool.

The reserve amount, or participation interest, may be actually contributed or held by the loan originators and pooler-issuers, respectively, in any combination that they agree upon.

It will be very important that originating lenders have flexibility regarding their reserve contribution or participation interest. Except for any participation interest that they may retain, originators will sell the farm mortgages without recourse. Depending upon a bank's specific circumstances, it may be practical for the bank to retain the full 10 percent interest, no interest at all, or some percentage of participation between zero and 10 percent.

The bank's individual loan lending limit, the borrower's total credit owed to the bank, the bank's primary regulator's stance on how much capital must be held behind the subordinated participation interest, the bank's (and the borrower's) attitude toward the bank's relationship with the pooler-issuer (that is, will the originator's role be essentially one of agent servicer, or joint participant, in relation to the pooler-issuer?)—all of those factors will affect how much (if any) participation in the loan the bank should retain. Obviously, it will be beneficial for the local originator to have as many options available, as much flexibility, as the arrangement with the pooler-issuer can provide.

The terms of handling the 10 percent participation interest or reserve is probably the most important of many terms and conditions to be determined between originators and pooler-issuers, which will vitally affect the agricultural bank's role as originator and servicer of mortgages.

How might local agricultural banks best secure the proper terms and conditions from pooler-issuers? One way is through competition. Originators should be better situated if at least two or more institutions certified as pooler-issuers are competing for the purchase of farm mortgages in an originator's region. Another way is to have pooler-issuers such as bankers' banks that may be particularly alert to an originator's concerns.

Another consideration is whether a pooler-issuer intends to originate loans for Farmer Mac himself, in direct competition with local banks as originators. During the start-up period for Farmer Mac, community bankers may be in a position to influence which and how many institutions seek certification as pooler-issuers, and should be in a position to develop relationships with institutions that are becoming involved as pooler-issuers by being alert to those developments.

CONCLUDING COMMENTS

To reiterate, the Farmer Mac secondary market is structured to be potentially advantageous to local agricultural banks and their customers for several reasons. Farmer Mac will specialize in farm real estate mortgages (rural housing mortgages). The secondary market will be restructured so that local banks may originate (including refinance) farmland mortgages, sell them without recourse, and retain the servicing with the farm borrower. The Mortgage Corporation is authorized to guarantee the mortgage-backed securities with a $1.5 billion Treasury backstop to keep interest rates to farmers competitive in the marketplace. Given that structure, agricultural community banks should be able to participate in Farmer Mac in a substantial way, serving and strengthening their farm customer base.

In order to actually realize Farmer Mac's potential for themselves and their customers, community bankers must be alert to the tug-and-pull of the market-place during Farmer Mac's start-up period and must position themselves to make the secondary market work best for them. I have discussed some of the leverage points in doing that.

100TH BIRTHDAY OF NORWELL, MA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. STUDDS. Mr. Speaker, I rise today to commemorate the 100th birthday of the town of Norwell, MA, which I am honored to represent in the U.S House of Representatives.

The town of Norwell, which is located in the northern part of Plymouth County, actually dates back 350 years. In 1637 Cornet R. Stetson obtained a grant for a large parcel of land called Church Hill. Because of its location on the North River, the early settlement thrived on a booming shipbuilding industry.

Ships such as the *Mount Vernon,* the *Helen M. Forster,* and the *Columbia* which later circled the globe—were built in Norwell. As smaller ships, stagecoaches, and railroads became more popular, many boatyards and sawmills were forced out of business. The town survivied on farming, leather working, and shellfishing.

The town was originally incorporated in 1849 as South Scituate. Thirty-nine years later, the Massachusetts State Legislature chartered Norwell as a separate town. Residents agreed to match $2,500 per year for 10 years for highway maintenance, and on March 5, 1888, the town of Norwell was officially incorporated. The townspeople proceeded to build a town hall and school, and nearly 2,000 local people attended the incorporation ceremonies.

Norwell brings to the 10th District a history rooted in the colonial traditions of our country. I am pleased to join the people of Norwell in this centennial commemoration and offer my best wishes for a successful celebration.

MIKE RICHTER, GOALTENDER, U.S. HOCKEY TEAM

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. COUGHLIN. Mr. Speaker, I wish to take this occasion to congratulate a constituent of mine from Flourtown, PA, who was one of the many fine young men and women who represented the United States at the XV winter Olympic games in Calgary, Canada.

Mike Richter, a goaltender for the U.S. hockey team, performed well under difficult circumstances. Though his team did not make it to the medal rounds, Mike played furious defense, stopping 26 of 29 shots in the game against Austria.

Mike, who is a 21-year-old student at the University of Wisconsin, was inspired to take up a hockey stick by the famed Philadelphia Flyers when they were winning national championships. As a resident of the greater Philadelphia area, Mike followed the Flyers games, and then followed their footsteps onto the ice.

We can't win them all, but our athletes, including our ice hockey teams, are as good as those of any other nation.

Defeat, moreover, can teach as many lessons as victory, and perhaps more. The most important thing is to compete and give it your best.

Theodore Roosevelt said it best:

Far better it is to dare mighty things, to win glorious triumphs, even though checkered by failure, than to take rank with those poor spirits who neither enjoy much nor suffer much, because they live in the gray twilight that knows not victory nor defeat.

Mike Richter, who dared a mighty thing, deserves our respect.

JUST SAY "NO" TO WORLD BANK LOAN FOR MEXICAN STEEL INDUSTRY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. APPLEGATE. Mr. Speaker, I would like to join with my colleagues on both sides of the aisle in voicing opposition to the proposal by the World Bank to loan $400 million to the Mexican steel industry.

I cannot believe that this administration has stooped so low as to actively work on behalf of foreign industry to the detriment of American commerce. Not only do we find ourselves looking over the past 7 years of the Reagan administration's neglect of American manufacturing and factory workers, but we are now witnessing the wholesale abandonment of our Nation by this administration for the interests of another country and another people.

What possible explanation can anyone in this administration offer in support of providing $400 million to a steel industry outside our borders while, at the same time, any and all urgings to provide help to American steel firms and American steel workers are virtually ignored?

At a time in our Nation when we are facing a major budget crisis, when our balance of trade is about the worst that it has ever been in our history, and unemployment remains in double digit rates throughout many parts of our Nation, how can President Reagan support a proposal which will only add to our budget deficits, will only worsen America's trade picture, and will serve as a stab in the back for thousands of American workers and those who have not enjoyed a steady income for many years?

Mr. Speaker, the upper Ohio Valley is dotted with the rusting hulks of steel mills and closed factories and my congressional district in eastern Ohio is overflowing with unemployed steelworkers. I want to stress my very strong feelings that these rusting mills and my jobless constituents should not be made monuments to the insensitivities of the Reagan administration and the misdirection of the World Bank. I urge the support of my colleagues in opposing the proposal of the World Bank and request that they join with me and others in cosponsoring resolutions expressing the opposition of this Chamber to the $400-million loan to the Mexico steel industry.

TRIBUTE TO BARBARA DANIEL COX

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, I rise today to salute Barbara Daniel Cox, executive director of the Mayor's Commission for Women of the city of Philadelphia.

Under her leadership, the commission has been at the forefront in responding to a wide range of issues that affect women of all ages and socioeconomic backgrounds.

New policies on domestic violence have been put into place.

Cox created and obtained funding to conduct such programs as "Life Skills for Low Income Women," "Parenting for Women Inmates," and "Pre-employment and Self-employment Training for Women."

She coordinated the development and implementation of Philadelphia's first pay equity study—a review to assess the salary scale of women in relation to that of men in jobs requiring comparable background, skills, and job responsibilities.

During her 4 years as executive director, Cox also has been an advocate of women-owned business enterprises, serving as an appointed representative of the Minority Business Enterprise Council.

Out of her deep concern for the plight of women worldwide, not just in America, Cox conducted an international women's conference and marketplace in Philadelphia with women from 40 countries during last year's Bicentennial celebration.

This gathering was prompted by her attendance at the International Women's Year Conference in 1985 in Nairobi, Kenya. She headed a delegation of 50 Philadelphia area women who participated in that historic gathering.

Cox has been a tireless champion and protector of women's rights. Her commitment—her sincerity—will be sorely missed when she steps down as executive director next week.

I know my colleagues will join me in saluting this distinguished public servant.

TRIBUTE TO MR. LEONARD SMITH

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Mr. Leonard Smith. For many years, Leonard has contributed his time and talents to the San Fernando Valley Jewish community. In recognition of his service and dedication, Leonard has been selected as Valley Beth Shalom's Man of the Year.

Leonard has served the San Fernando Valley Jewish community in many capacities. He first became interested in religious lay leadership while serving as the treasurer of Van Nuys Temple. A pioneer member of the Valley Jewish Community Center—now Adat Ari El—he served on its executive board for 25 years. Leonard also served as temple vice president and as president of the Adat Ari El Men's Club and Couples' Club. In addition to his extensive involvement with Adat Ari El, Leonard has served as president of the Regional Professional Association of Temple Administrators and the National Association of Synagogue Administrators. He is also a member of the board of directors of the Jewish Federation Council and the Valley Board of the Jewish Federation Council.

After many years of service, Leonard recently retired from the position of executive director of Valley Beth Shalom. Leonard will certainly be missed for his leadership and commitment in this position. However, his accomplishments will continue to benefit Valley Beth Shalom as a member of several committees.

It is my distinct honor and pleasure to ask my colleagues to join me and Valley Beth Shalom in honoring Leonard Smith. His extensive involvement with the Jewish community displays his ongoing commitment to helping others. Leonard Smith is quite worthy of the distinction "Man of the Year."

FAIRPORT SAVINGS AND LOAN CELEBRATES 100TH ANNIVERSARY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to ask my colleagues to join me in congratulating the Fairport Savings and Loan Association of Fairport, NY, on beginning its 100th year of operation.

Established in 1888, Fairport Savings and Loan has never had a year in which it lost money. Throughout its history the savings and loan has reinvested its customers' savings in the Fairport community. Today, its assets have climbed to $44.6 million. The savings and loan's continuing service to the community is demonstrated by the record level of local mortgages it originated in 1987.

Unlike its giant competitors, Fairport Savings has only one office and concentrates on serving its home town. Almost all its customers live in Fairport and are known by name to the association's 11 employees: President Lowell Twitchell, Jackie Bartela, Carmen Bundschuh, Marlene Donovan, Scott Erdeli, Emily Harrington, Bertie Janosky, Meg Pardington, Kandy Schreiber, Eileen Sek, and Paul Yerrick.

Despite its relatively small size, Fairport Savings and Loan has been consistently rated as a top performer by financial rating services. Its success demonstrates there is still room in the financial world for well managed, people-oriented institutions.

I ask my colleagues to join me in recognizing Fairport Savings and Loan Association's first 100 years of service and in wishing that fine organization a prosperous second century.

SOUTH AFRICA GOVERNMENT CRACKDOWN

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LELAND. Mr. Speaker, apartheid has claimed yet another victim. On Wednesday, February 24, the South African Government instituted one of the harshest crackdowns of 17 lawful democratic opposition organizations by prohibiting them "from carrying on or performing any activities or acts whatsoever."

This order effectively eliminates all organized efforts to locate and publish information on political prisoners, to call for democratic reforms and to organize street committees or memorial services for assassinated leaders.

Mr. Speaker, this latest blatant expression of apartheid victimizes these organizations and all black South Africans. But the true victim I speak of is simple democratic freedom. Pretoria must realize that the denial of fundamental rights such as the right to disagree with government policy or to peacefully petition for the redress of grievances is anathema to man's civility and any semblance of justice. This is an indictment of a government plagued by eroding authority and morality.

We in Congress must unite and act now. We must stand against this affront to the same freedoms which are the cornerstones of all democracies.

THE PROBLEM OF UNSOLICITED PORNOGRAPHIC ADVERTISEMENT SENT THROUGH THE MAIL

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. OWENS of Utah. Mr. Speaker, in response to complaints from several of my constituents, I introduced a bill to address the problems of unsolicited, pornographic advertisements being sent through the mail. My bill would allow postal patrons, upon receiving a sexually explicit advertisement in the mail, to request that the Postal Service issue an order requiring the sender to disclose how they obtained the name and address of the addressee. The purpose of this bill is to encourage

publishers to use more discretion in selling their mailing lists.

A recent article by Alan Bunce of the Christian Science Monitor indicates that this is a widespread problem affecting citizens all over the country.

I submit Mr. Bunce's article for the consideration of my colleagues:

[From the Christian Science Monitor, Feb. 29, 1988]

SURPRISED POSTAL PATRONS OBJECT TO SMUT IN THE MAILBOX

(By Alan Bunce)

BOSTON.—A woman in the Boston suburb of Scituate—call her Cynthia—is used to getting lots of mail and found nothing startling about the pile of letters in her box the other day.

But when she opened one of the pieces, something did startle her: an advertisement and order form for "adult" videos, complete with explicit sexual descriptions and a color brochure containing graphic photos of seminude figures in suggestive poses; 17 videos for $49 or 21 for $59.

"My first reaction was surprise," says Cynthia, a middle-aged widow who doesn't even own a VCR and has no idea why she was on the list. "But I was also angry, because I thought it was against the law."

Across the US, reactions like hers have become increasingly typical over the past six to eight months. Direct mailing of hard-core home video ads is the new wave in the old business of mail-order pornography. Amid pornography's new delivery forms—telephone, for instance, and computer networks—X-rated video is a prime offender.

Although it is but a small part of the legitimate, mainstream home-video business the mailing trend has several signs:

A surge in complaints about offensive, unsolicited ads cited by the postalservice and anti-pornography groups.

A growth in hard-core video sales.

A widening cross-section of people receiving such material.

Like Cynthia, many people assume mailing such ads is inherently illegal. But Phil Nater of the Postal Inspector's office in Washington, says, "Not, it isn't. The law is on the books specifically saying that you're not supposed to willfully place anything in the mail stream that contains sexually oriented advertisements. But the law is tied in to purchasing the mailing list. It's very, very complicated."

Mr. Nater also says the law requires people in the business of sending explicit advertisements to place the words "Sexually oriented material" in bold type on the face of the envelope. Cynthia's letter had this warning but she overlooked it. "I just thought it was a bill and opened it," she says.

Meanwhile, Nater reports, "The X-rated video market mailing business in the US has definitely been on the upswing. There's more and more of it coming in unsolicited ads with provocative brochures and pictorial displays. A year ago, we were documenting 4,000 to 5,000 a month. Now we're up to almost 8,000 or 9,000 a month—combination print and media—and the video part is increasing fastest.

"However," he hastens to add, "we have programs in place to stop it."

The surge of mailings is confirmed by Steve Hallman, director of Citizens for Community Values, a local watchdog group in Cincinnati, Ohio. "The number of complaints we've been getting about advertisements for home videos is incredible," he says. "In the past three months, the volume has at least tripled or quadrupled. We have people in the greater Cincinnati area who have never been on any kind of list for sexually explicit mail, that all of a sudden about a year ago received mailers from these companies."

The National Coalition Against Pornography also sees a rapid growth in the US X-rated video business. "That's where the primary battle lines will be drawn in the months and years ahead," says Paul Mauer, assistant to the group's president.

Most adult videos sales are made not by mail but at video stores. A check with several adult video shops in Boston's "Combat Zone" suggests they are not an easy place for an individual to get on mailing lists. The proprietors are quick to disclaim any mail connections. "We're not allowed to do any mailing," said one, who asked not to be named. "You can't get on any mailing lists here," another asserted.

Then where do the lists come from? Even if the stores are cautious about mailing material, observers say some stores have sold lists of customers with a record of rentals and purchases to distributors.

* * * * *

Sometimes lists are bought by video distributors who wish to sell directly to individuals, rather than to stores, the main market for adult video. "The best way is to just send out to people and see who sends back," explains John Houlihan, a professor of business law who teaches courses on social responsibility at the University of Southern Maine. "From the economic standpoint, if they're willing to offend 99 people to find the one who's interested in their product, it's still worth it to them," he says.

The practice is confirmed by Gene Ross, editor of Adult Video Magazine. "There are a lot of fly-by-night companies which buy these products cheap and try to market them," he says. "But the [more established X-rated] companies I know of do it upon request for the material."

A spokesman for the company named on Cynthia's advertisement could not be reached by phone, but someone at another adult video distributing company on the West Coast—one of the largest in the business—spoke on condition that he and his firm not be identified. Without being told, he knew the source city of the ad. "Those are run by some company out of New York," he said.

And though he recognized one of the video companies named in the ad as affiliated with his own, he asserted, "Those are scams. The mailing has nothing to do with us. We don't even sell directly to the public, but to video stores. That outfit is sending to everybody in the United States they can get a letter to. They buy lists from just about anybody—might be people who go the grocery store and fill out a form for a free trip to Hawaii."

Houlihan, whose own wife has received an unwanted adult ad, says, "You can actually make money on the deal; that's what bothers me. If they send out 100,000 pieces and get a 1 percent response, that gives them 1,000 people they didn't know of before who might very well be willing to spend $100, $200, $300 over the course of a year—each. Pretty decent change. Problem is: It might even makes sense to them later to actually have a computer call up and say 'Would you like to buy any sexual videos?' "

According to some analysts, video companies no longer restrict themselves to lists of VCR owners. * * *.

"If you're a mail-order vendor, you're much more interested in a mailing list that has known 'mail responses' than you are whether or not the people on it are VCR owners," he says, because many are bound to be VCR owners.

The Video Software Dealers' Association (VSDA), a large industry group, is not in the direct-mail business at all, according to Rick Karpel, who—among other things—advises store owners in trouble for selling adult material.

"No one in VSDA does that kind of thing. That's not our business," he says. He did not recognize the name of the company that mailed Cynthia's ad, but did know one of the video producers—when the names were read off to him—as a member of VSDA.

"Once they sell their videos to someone, they don't know what people do with them," Mr. Karpel explained.

"Our members are video stores and companies that sell things to video stores. . . . They don't market products through direct mail."

Then how do ads for members' products end up in Cynthia's mailbox?

"There are a lot of fly-by-night companies—what we call 'Gypsy' distributors—who go out, buy up the product cheap, and then sell cheap. But a major adult product distributor does not ordinarily work through those kind of channels. As far as I know, that's a real small part of the business. Most of the X-rated business is done through stores."

But what is VSDA doing to counter the problem?

"The position we take on X-rated material," Mr. Karpel states, "is that store owners have to be very sensitive to their community standards and take them into account when making the business decision of whether to have X-rated videos in their stores."

Ironically, the jump in complaints is happening despite a shrinking percentage of adult productions in the overall home video market, according to Mr. Eisele's figures.

As the mainstream video medium grows, adult fare has only to maintain its share to increase in volume.

"But we think the actual percentage is going down steadily," Eisele says. "And we expect that trend to continue as good, legitimate product gets on the market."

COUNCILMAN BILL OLIVER

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. DURBIN. Mr. Speaker, too often, we overlook officials who work diligently to bring recognition not to themselves but to another.

Decatur, IL, Councilman Bill Oliver is such a person. For 7 years Mr. Oliver fought to bring to his city a permanent remembrance of Dr. Martin Luther King, Jr. In 1981, Bill Oliver began his efforts to rename the city's Broadway Street after the slain civil rights leader to ensure that Dr. King would be honored. Though his initial attempt failed, Mr. Oliver persevered until the city council voted 6 to 1 on October 19, 1987, to pass the proposal. On January 18, 1988—3 days after what would have been Dr. King's 59th birthday—Decatur's Broadway Street became M.L. King Drive.

Dr. King's message stressing education, equality, and perseverance will endure for generations to come. He helped all men, women, and children of this Nation to dream of equality. He pulled that dream to the forefront of the American conscience, where it will remain until the freedoms about which he spoke are no longer goals we seek, but the

reality we live. He ensured that Americans would not settle for the achievements already made, but would strive for the equality our society demands and deserves. Dr. Martin Luther King, Jr. was a great leader who dedicated his life to the improvement of the human condition and we rightfully honor him.

Similarly, we should not forget Bill Oliver, who worked for 7 long years to ensure that the lessons of this great leader will be honored and remembered in central Illinois. Bill Oliver's determination is part of the continuing effort to preserve the ideals on which our Nation is built—ideals Dr. King eagerly embraced for every American.

PERSONAL EXPLANATION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PACKARD. Mr. Speaker, due to commitments in my district in California, I was not able to be present for the vote on the motion to instruct conferees on H.R. 5 to accept Senate language which would ban phone pornography. Had I been present I would have voted "yes" on rollcall vote No. 14. I find it appalling that such pornography is available and I will support any and all legislative efforts to end such practices.

THE MALCOLM BALDRIGE NATIONAL QUALITY IMPROVEMENT AWARD

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. WALGREN. Mr. Speaker, planning for the Malcolm Baldrige National Quality Improvement Award is now well underway and the first awards will be presented in November 1988 by President Reagan. This award program, patterned after Japan's Deming Award, is designed to promote quality in manufacturing and services by honoring the very best companies in the United States and by publicizing their successful quality standards. Potential awardees must apply by May 2, 1988.

I urge my colleagues to get word of this award to any companies in their districts, large or small, who are dedicated to producing quality products or services. I expect the information gained from expert examination of their operations will be valuable to all who participate in the program. More detailed information on the program follows:

MALCOLM BALDRIGE NATIONAL QUALITY AWARD, 1988

UNITED STATES NATIONAL QUALITY AWARD

Public Law 100-107, the Malcolm Baldrige National Quality Improvement Act of 1987, signed by President Reagan on August 20, 1987, establishes an annual U.S. National Quality Award. The purposes of the Award are to promote quality awareness, recognize quality achievements of U.S. companies, and to publicize successful quality strategies. The Secretary of Commerce and the National Bureau of Standards (NBS) are given responsibilities to develop and administer the Awards with cooperation and financial support from the private sector.

AWARD CATEGORIES

Up to two Awards may be given each year in each of three categories: manufacturing companies or subsidiaries; service companies or subsidiaries; small businesses.

Fewer than two Awards may be given in a category if the high standards of the Award Program are not met.

THE AWARDS

The first awards will be presented by President Reagan in November 1988. Award recipients will receive a medal bearing the inscriptions "Malcolm Baldrige National Quality Award" and "The Quest for Excellence." Recipients may publicize and advertise their Awards, provided they agree to share with other American organizations information about their successful quality strategies.

ELIGIBILITY

Businesses incorporated and located in the U.S. may apply for Awards. Subsidiaries are defined as divisions or business units of larger companies. Subsidiaries must primarily serve either the public or businesses other than the parent company. For companies engaged in both services and manufacturing, classification is determined by the larger percentage of sales. Small businesses are independently owned with not fewer than 25, nor more than 500 full-time employees.

AWARD CRITERIA

Seven (7) areas are examined: (1) corporate quality leadership; (2) information and analysis; (3) planning; (4) human resource utilization; (5) quality assurance of products and services; (6) quality improvement results; and (7) customer satisfaction. Applicants will address a set of sub-areas within each of these categories.

Heavy emphasis is placed on quality achievement and quality improvement as demonstrated through quantitative data furnished by applicants.

EXAMINATION PROCESS

Each written application will be reviewed by three (3) examiners. High-scoring applicants will be selected as finalists, and must then undergo a site-verification visit by one or more teams of examiners. A panel of judges will review all data and information and recommend Award recipients. Applicants will receive a written feedback summary of strengths and weaknesses in their quality management process.

The Malcolm Baldrige National Quality Award Consortium, formed by the American Society for Quality Control and the American Productivity Center, will administer the evaluation process.

EXAMINERS

The Board of Examiners will be comprised of quality experts, including retired quality professionals, selected from industry, professional and trade organizations and universities. Those selected must meet the highest standards of qualification and peer recognition. Examiners will take part in a preparation program based upon the criteria, the scoring system, and the examination process.

TIMETABLE

Applications/guidelines available, February 15, 1988.

Applications due, May 2, 1988.

Application review/site visits, May 2-September 30, 1988.

Award Ceremony, November 1988.

CONFIDENTIALITY

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MEDICAID INFANT MORTALITY AMENDMENTS OF 1988

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. WAXMAN. Mr. Speaker, last Thursday the Subcommittee on Health and the Environment held a hearing on a new report by the Office of Technology Assessment entitled "Healthy Children: Investing in the Future." OTA told us that the United States, with an infant mortality rate of 10.6 per 1,000 live births in 1985, ranks 17th among industrialized countries in infant mortality, after Japan, East Germany, and Spain. Equally if not more disturbing, OTA reports that the U.S. ranking has not improved since 1980. Based on a review of 55 studies of prenatal care, OTA concluded that a principal cause of infant mortality—low birthweight—can be reduced with earlier and more comprehensive prenatal care, especially in high-risk groups such as adolescents and poor women.

Over the past several years, Congress has incrementally expanded coverage of prenatal care under the Medicaid Program; as a result, States now have the option of offering Medicaid coverage to pregnant women and infants with family incomes up to 185 percent of the Federal poverty level. According to the National Governors' Association, as of January 1988, 26 States have elected to provide Medicaid coverage to pregnant women and infants with incomes below 100 percent of Medicaid coverage to all pregnant women with incomes below the Federal poverty line. For every low birthweight birth averted by earlier prenatal care, OTA estimates, the U.S. health care system saves between $14,000 and $30,000 in newborn hospitalization, rehospitalizations in the first year, and long-term health care costs. Using Medicaid to pay for the provision of prenatal care to all poor pregnant women, OTA concludes, "is a good investment for the Nation."

A recent GAO report, "Prenatal Care: Medicaid Recipients and Uninsured Women Obtain Insufficient Care"—September 1987—also found that providing poor women with prenatal care through Medicaid is cost effective. "While expanding Medicaid eligibility in all States would increase Medicaid costs for pre-

natal care services," the GAO concluded, "* * * these costs should be offset by savings from reduced newborn intensive care and long-term institutional costs."

The failings of current Medicaid coverage policy toward low-income pregnant women were underscored by hearings held in September 1987, by the Select Committee on Children, Youth, and Families. Whether in Chicago or in suburban or rural Illinois, the select committee heard of significant barriers to quality prenatal care, including a shortage of providers willing to accept Medicaid patients because of low reimbursement rates for prenatal care and delivery; a drastic shortage of health care providers, especially in rural areas, but increasingly in urban areas; no insurance or underinsurance for working families; and limited Medicaid coverage for families below the poverty line. The select committee also heard how coordination and networking with other Federal programs, such as community health centers, maternal and child health agencies, and WIC, were successfully bringing more women into care.

Today I am introducing the Medicaid Infant Mortality Amendments of 1988, which would implement several of the OTA options for reducing infant mortality. I am joined in this effort by Mr. HYDE, who has cosponsored successful Medicaid infant mortality initiatives in previous years, and by Chairman LELAND of the Select Committee on Hunger, who has played a leading role on this issue. I am also joined by Mr. SCHEUER, Mr. WALGREN, Mr. WYDEN, Mr. SIKORSKI, Mr. BATES, Mr. BRUCE, Mrs. COLLINS, and Mr. BOUCHER from the Subcommittee on Health and the Environment of the Committee on Energy and Commerce; Chairman MILLER of the Select Committee on Children, Youth, and Families; and Chairman DOWNEY of the Subcommittee on Public Assistance of the Committee on Ways and Means. A companion bill, which contains all of the provisions in this version plus some that are not, is being introduced today by Senator BRADLEY, Senator MITCHELL, chairman of the Senate Finance Health Subcommittee, Senator CHILES, chairman of the Senate Budget Committee, and Senators CHAFEE, ROCKEFELLER, MATSUNAGA, DURENBERGER, RIEGLE, and DASCHLE.

In addition to suggesting the mandatory coverage of all pregnant women in poverty, OTA also identified two other policy options that we must implement if we are to make progress in reducing infant mortality.

First, the Medicaid eligibility process needs improvement. OTA found that some providers have been reluctant to offer care to pregnant women in anticipation of their eligiblity for Medicaid because of concern that Medicaid eligibility would be denied retroactively and payment would not be made for services rendered. OTA suggested that Congress could require the States to expedite eligibility determinations for pregnant women, through mechanisms such as the presumptive eligibility option that about 12 States have adopted under current law. All of these are incorporated into this bill.

Second, provider reimbursement rates are often too low. OTA found that physicians' refusal to accept Medicaid reimbursement for maternity care in private practice settings is widely considered to be a major barrier to poor women's access to prenatal care. OTA suggested that Congress could require States to increase fees paid to physicians when they care for Medicaid-eligible children. The same policy would make eminent sense in the context of obstetrical services as well. It obviously does little good to mandate Medicaid eligibility for pregnant women if no obstetrician, family practitioner, or nurse midwife will accept her Medicaid card because the payment levels are too low.

A recent report by the Alan Guttmacher Institute, "Blessed Events and the Bottom Line: Financing Maternity Care in the United States," provides some recent data on this point. Forty-four percent of doctors providing obstetric servcies will not accept Medicaid payments for delivery. One of the reasons for low physician participation, the study concludes, is low reimbursement. In 1986, physician fees averaged $830 for a vaginal delivery and $1,040 for a cesarean section; maximum Medicaid reimbursements for a normal vaginal delivery averaged $554, but ranged as low as $216. While other factors, such as paperwork, payment delays, and malpractice concerns affect the decision of an obstetrician to accept Medicaid patients, the payment levels clearly play an important role, particularly where they diverge substantially from those paid by private insurers.

The legislation I am introducing today would mandate Medicaid coverage of all pregnant women and infants up to age 1 with incomes below 100 percent of the Federal poverty level—$9,690 per year, or $807 per month, for a family of three. The following States currently do not offer such coverage: Alabama, Alaska, California, Colorado, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New York, North Dakota, South Dakota, Texas, Virginia, Wisconsin, and Wyoming. Preliminary CBO estimates indicate that extending coverage to 100 percent of poverty in these States would reach 137,000 poor pregnant women and 193,000 low-income infants, at a cost of $106 million in fiscal year 1989, $243 million in fiscal year 1990, and $306 million in fiscal year 1991. Other provisions of this bill are likely to increase Federal outlays, but no CBO estimates are available at this time.

SUMMARY OF THE MEDICAID INFANT MORTALITY AMENDMENTS OF 1988

Mandatory Coverage of Pregnant Women and Infants (Section 101). States would be required to extend coverage to all pregnant women and infants with incomes at or below 100 percent of the Federal poverty level. States could impose resource tests, but any test they use could be no more restrictive than that under the Supplemental Security Income Program for both pregnant women and infants. Pregnant women would receive coverage for pregnancy-related services, including 60 days post-partum care. Infants would receive the entire basic Medicaid benefit package. States could not finance this coverage by reducing cash assistance payments under their Aid to Families with Dependent Children program below the levels in effect on July 1, 1987. Effective January 1, 1989.

Mandating Continuation Coverage for Pregnant Women (Section 102). Under current law, States would have the option to continue Medicaid coverage to pregnant women who lose their Medicaid eligibility due to an increase in income. Under this bill, States would be required to continue Medicaid coverage to pregnant women who qualify for Medicaid through the end of the postpartum period regardless of subsequent changes in the women's incomes. Effective January 1, 1989.

Optional Coverage of Outreach Services (Section 201). States would be allowed to claim Federal Medicaid matching funds, at their regular matching rate, for outreach services for pregnant women and infants, to identify those who might be eligible for Medicaid coverage and to assist them in applying for Medicaid. Effective January 1, 1989.

Presumptive Eligibility for Pregnant Women (Section 202). Under current law, States have the option of allowing health centers, maternal and child health clinics, and other designated providers to determine whether a pregnant woman is presumptively eligible for Medicaid. During a 45-day presumptive eligibility period, a pregnant woman is covered for ambulatory prenatal care, avoiding delays in early prenatal care due to lack of coverage. The bill would require all States to implement presumptive eligibility for pregnant women, effective April 1, 1989. The presumptive eligibility period would last until the State Medicaid agency made an eligibility determination. The following providers would be added to the list of those the State could designate to make presumptive eligibility determinations: programs providing health care to the homeless; urban Indian health programs; and tribal facilities or programs contracting under the Indian Self-Determination Act.

Payment for Obstetrical Services (Section 301). The bill would codify the current regulatory requirement that Medicaid payment rates be sufficient to induce enough providers to participate in the program so that services are available to Medicaid beneficiaries to the same extent that such care and services are available to the general population. States would be required to file with the Secretary of HHS a Medicaid plan amendment no later than April 1, 1989, setting forth the payment rates it will use for obstetrical services under the plan as of July 1, as well as additional data to assist the Secretary in determining whether the rates are sufficient to elicit sufficient participation. Within 90 days of receiving the State plan amendment, the Secretary must approve or disapprove the amendment; if the Secretary disapproves, the State must immediately submit a revised amendment which brings the State into compliance. These plan amendments would be submitted annually on April 1; beginning in 1991, the bill specifies what supporting data the States would have to provide. The bill clarifies that States may establish higher payment levels for obstetrical services in rural areas than in urban areas.

Coverage and Payment for Exceptionally Costly and Lengthy Inpatient Hospital Services for Infants in Disproportionate Share Hospitals (Section 302). Under current law, States may establish reasonable limits on the amount, duration, and scope of the services they offer under Medicaid. Some States have elected to place durational limits on the number of inpatient hospital days that they will cover for an eligible individual, ranging from 12 to 60 days per year. Some of these States make exceptions to these limits; others do not. The bill would provide that, if a State imposed a durational limit on inpatient hospital services, it would have to establish exceptions to any such limit for medically necessary services provided to an infant up to age 1 by a disproportionate share hospital (i.e., a hospital that serves a high percentage of Medicaid or low-income patients).

Under current law, State payments for inpatient hospital services must be reasonable

and adequate to meet the costs incurred by efficiently and economically operated facilities. A number of States have adopted prospective payment systems; some of these systems make allowance for exceptionally lengthy or costly cases, and some do not. The bill would require that any State that pays for inpatient hospital services on a prospective basis must submit to the Secretary, by April 1, 1989, a State plan amendment that specifies the outlier adjustment that the State will make in payments to disproportionate share hospitals for eligible infants up to age 1 with exceptionally long lengths of stay or exceptionally high costs. The Secretary would be required to approve or disapprove the State plan amendment by July 1, 1989; if the amendment is disapproved, the State must immediately submit a revised amendment that complies.

Required Notice and Coordination Between Medicaid and WIC (Section 401). The bill would require each State's Medicaid program to coordinate its operations with those of the Special Supplemental Food Program for Women, Infants, and Children (WIC). This mirrors a requirement in the WIC legislation. In addition, with respect to all pregnant, breastfeeding, or postpartum women, and all children below the age of 5, who are determined to be eligible for Medicaid, States would be required to notify them of the availability of WIC benefits and to refer them to the agency responsible for administering the WIC program.

COLONEL HANLEY'S NISEI LAMENT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. MINETA. Mr. Speaker, I rise to bring to the attention of my colleagues the timeless thoughts of Col. James Martin Hanley (retired), commanding officer of the 2d Battalion, 442d Regimental Combat Team, during the Second World War.

The 442d, which had as its motto "Go for Broke," was almost entirely comprised of Americans of Japanese ancestry and became the most highly decorated unit of its size in U.S. history. On February 13, 1988, Colonel Hanley addressed the 38th annual Veterans of Foreign Wars reunion in San Jose, CA. He spoke eloquently of the 442d and the 100th Battalion. The attendees at the reunion were mostly Niseis second generation Americans of Japanese ancestry. But Colonel Hanley's remarks had a far broader significance for all Americans. Hear then his words:

It is always a pleasure to talk about Japanese Americans, Nisei. Much has been written over the years but there is still much to say. As the record fades into the mist, one is reminded that the past is prologue—as it should be. But we should not forget—at least as long as those who laid their lives on the line are still with us.

I was called into active service in June 1940 as a Captain. In January 1943 I was on duty as an instructor at the Infantry School, Fort Benning, Georgia, in the rank of Lieutenant Colonel. I received orders to report to Camp Shelby, Mississippi, as a part of the to-be-activated 442nd Regimental Combat Team.

When I informed my family of the assignment the reaction was: "Why, you can't speak Japanese." Which illustrates how little many Americans knew of the thousands of Japanese American citizens and aliens in this country.

I was fortunate in being briefed by General Omar Bradley and his staff. I was told that the President was strongly behind the effort to organize a combat unit of Americans of Japanese ancestry. The Chamber of Commerce of Hawaii and other organizations and individuals, had been clamoring for such a role to give the Nisei an opportunity to prove that they were in fact loyal Americans. According to the staff the President's orders were to provide high quality officers.

It was apparent to me, as time went on, that the Intelligence Branch of the Army, G-2, had attended to the activation and organization of the unit. Lt. Colonel Merritt Booth had been assigned as Regimental Commander. Within a few days the orders were changed and Colonel Pence was ordered to replace him. The importance of this is that Colonel Pence was an infantry officer, and I have imagined that when G-3, (Operations) found out what G-2 was doing they spoiled the game. You, see, Colonel Booth was a regular officer who had been attached to the Japanese Army in earlier years and was fluent in the Japanese language.

Activation of the 442 was accomplished on February 1st, 1943. The volunteers were from Hawaii, and the Mainland, including some from behind barbed wire.

They were some 5,000 strong and before the end of the war some 10,000 additional volunteers and draftees became members of the Combat Team. Our training started for the new recruits on the 30th of May 1943 and in less than a year we were on our way to Italy. A short time, actually for the training of infantry units.

In the meantime the 100th Battalion had been assembled in Hawaii. They were volunteers who had served in the Hawaiian National Guard. The Battalion was sent to Italy in the summer of 1943 and made a fine record as the "Purple Heart Battalion", as it was called after its fights on Mount Cassino.

The two units came together North of Rome in early June 1944, and entered combat on the 26th, North of Grossette. By the end of July the Combat Team was two-thirds understrength and was ordered in to a rest area, to receive and train replacements from the States.

General Eisenhower requested General Marshall to send the 442nd to France to bolster the 36th Texas Division, which had seen hard fighting moving up the Rhone Valley from the beaches of Southern France to the Vosges Mountains in Lorraine in North Eastern France.

The first attack by the 442 came on October 15 in the hilly, mountainous, and wooded terrain. There we captured the city of Bruyeres, which is a story in itself.

By the middle of November we were again below effective combat strength and again relieved. This time we were posted to Southern France in the Maritime Alps, North of Nice, on the French Italian border. Our orders were to prevent the Germans in Italy from crossing the border.

We referred to our tour as the "Champagne Campaign". The only really notable event was the capture of a German submarine by, of all people, our Cannon Company.

In March we were on our way back to Italy and the final campaign of the war. The most notable event in that campaign was the breaking of the German Main Line of Resistance, which they had extensively fortified during the long winter.

This was accomplished by an audacious climb up the very steep slope of a mountain, at night, without prior ground reconnaissance, which was impossible. The troops entered the village at night and laid low the next day. They were not betrayed by the village Italian civilians, many of whom accompanied the Battalion the next night.

There only a few trails up the slope and the men climbed in single file for three hours to reach the top. At the top, they found a machine-gun position, with three guns pointing down the slope. An alert crew would have wiped out a good part of the attacking force. But the post was unmanned. Three Germans were located near-by—fast asleep. There is a good deal of luck in war.

The war was over in Europe on May 2nd 1945.

For their services the Nisei suffered over 9,500 casualties, including 650 killed in action, and were awarded some 15,000 decorations, not counting the Combat Infantryman's badge.

These achievements are encased in placenames—the geographical features—the hills, mountains; rivers, cities and towns. They are enshrined in the hearts and minds of many of us, Salerno, Cassino Anzio, (where the 100th Battalion won its spurs).

And the roll goes on—Grossette, Belevedere, (where the 100th again won fame), Sasseta, Castagnato, Cecina River, Hill 140 (a place of heavy casualties on the 4th, 5th and 6th of July, 1944) Rosignano San Luce, Orciano, Luciana, Livorno, Arno River. Florence and the leaning Tower of Pisa. All in Italy.

In France we find similarly familiar proper nouns, Bruyeres, Hills A, B, C, and D. Hill 155, Task Force O'Connor, Hill 505, Belmont, Biffontaine, Hill 703, The Lost Battalion, Hill 617, Hill 85, the Forest Dominiale du Champ.

During the "Champagne Campaign" we remember Nice, Menton, Castillion Sospel, Moulenet, Piera Cave, Luceram, Fort La Forca.

In the final campaign to end the war in Europe we come across these place names, Mount Folgorito, Hills Florida, Georgia, and Ohio, 1, 2, 3, Mount Ceretta, Mount Carchio, Montignoso Mount Belevedere, Massa, and Carrara, the Italian marble Centers, Altagnana, Pariana, Frigido River, Mount Bastione, Mount Nebbione, Tendola, Aulla, La Splezia, Chiavari, Genoa, Novi, Turin, and the war is over.

Yesterday was February 12th, Abraham Lincoln's birthday and I could not resist the temptation to combine his birthday with a celebration for the Nisei. He would have been proud of them.

To those of you who memorized the Gettysburg Address in School I apologize if I do not do justice to our greatest President.

THE NISEI LAMENT

(With apologies to Abe Lincoln)

(By Col. J.M. Hanley)

Two score and seven years ago the Japanese Imperial Navy launched an attack on Pearl Harbor to cripple our fleet which brought death and destruction to hundreds of Americans.

We were thus thrust into a great world war, which might well have determined whether this nation, or any nation conceived in liberty and dedicated to the proposition that all men are created equal can long endure.

It harvested for Americans of Japanese ancestry, shame, hatred, fear, frustration and suspicion. They were vilified and accursed. Rumors were rampant of disloyalty to America and obeisance to an Emperor.

The response of the Government was incarceration of thousands under armed guard for the duration of the war.

The response of the Japanese American was to answer vilification with a turned cheek; to answer disloyalty with enlistment in the armed forces, to answer sneers with blood spilled on foreign soil.

The call for volunteers echoed through out the Japanese American community. The response was overwhelming in Hawaii. On the Mainland many volunteered from behind barbed wire, a difficult and wrenching decision.

One must consider that criticism would not have been justified if on hearing the call to arms they had replied: "Free our brothers—then we will join your army".

In the event the call was met many times over and the 442nd Combat Team became a reality.

Many, too, too many, gave their last full measure of devotion to their country. They paid in blood for the honor of serving. Of an original force of some thirty-six hundred and a total from first to last, of eighty five hundred, they had over forty-five hundred casualties.

They were awarded over fifteen thousand decorations.

Many thousands more served in the Pacific Theatre in the Military Intelligence Service, with equal valor.

The world has not forgotten the blood, toil and tears. But has it forgotten the shame of the nation in so hurriedly branding a segment of its citizenry as saboteurs, and disloyal flunkies of a foreign power?

That our fellow citizens have not entirely forgotten is evident in the upbound of the civil rights movement since World War II. To which the sacrifices of the Nisei made a contribution.

What did these stalwart men do to earn these accolades? They fought gallantly in attacking Mount Cassino in the early Italian campaign; in a brilliant operation against Mount Belvedere; in the renowned capture of Bruyeres in France; and the famed rescue of the "Lost Battalion", of 36th (Texas) Division, in the Vosges Mountains of Lorraine. What has been said of these men? What have their commanders said. What have their comrades-in-arms said?

This is what has been said.

This is what President Franklin Delano Roosevelt has said:

"The proposal to organize a combat team consisting . . . of citizens of Japanese descent has my full approval . . . Americanism is a matter of the mind and the heart; Americanism is not, and never was, a matter of race or ancestry."

And this is what Congressman K.W. Stimson said:

"If any race living in America should have lost faith in America, it should have been the Japanese Americans . . . They had begged and petitioned for this (the chance to prove their loyalty) for two long bitter years, and when they were at last given the opportunity, the response was overwhelming . . . these volunteers became the most decorated unit in our military history."

General George C. Marshall, Army Chief of Staff, said this:

". . . Clark took them (the 100th Battalion) . . . they were superb! They took terrific casualties. They showed rare courage and tremendous fighting spirit . . . everybody wanted them . . . in the operations, and we used them quite dramatically in the great advance in Italy which led to the termination of the fighting there."

And what did General Mark W. Clark, fifth Army Commander, have to say? This is what he said:

"General Marshall . . . gave me very strict personal instructions . . . to report to him immediately the outcome of your first baptism of fire . . . after your engagement. I said They . . . performed magnificently on the field of battle. I've never had such fine soldiers. Send me all you can."

And what does this former battalion commander say? This is what I say:

"One could not have commanded a more moral, harder working, more conscientious group of men. The youngest fully and deeply felt the racial tone of events. In and out of battle they were generous, caring and self-sacrificing. Each man, without exception, did more than his full share.

"Were they brave? Bravery is a word without specific definition. If it were to be defined as self sacrifice for others then they were brave beyond measure.

"Did they prove their loyalty? A dozen times over—and over again. They were the only American soldiers called upon to validate their birth-right—American."

Let me rephrase Abraham Lincoln's Gettysburg Address:

"We should highly resolve that the dead shall not have died in vain; that the Japanese American sacrifices shall not be lost in the mystique of time; that this nation shall have a new birth of freedom; and shall develop racial, ethnic, and religious bonds of harmony, and that we shall revere this Government of the people, by the people, and for the people."

WISCONSIN BANKS SUPPORT EQUITY IN FDIC PREMIUM ASSESSMENTS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. KLECZKA. Mr. Speaker, banks in my home State of Wisconsin support a change in the law which would require banks with foreign deposits to pay premiums to the FDIC on those deposits, thereby eliminating a nagging inequity in our system of Federal deposit insurance which unfairly penalizes smaller institutions.

I have today introduced legislation, the "Federal Deposit Insurance Assessment Equity Act," which would require FDIC to assess foreign as well as domestic deposits.

At this point, I include in the RECORD a sampling of letters I received recently from banks in support of the legislation:

STATE BANK OF CROSS PLAINS,
Cross Plains, WI, January 19, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: It is my understanding that you may be introducing legislation addressing the inequity now existent in the FDIC assessment relative to the insurance coverage for domestic and foreign deposits. Such a review and correction is certainly long overdue.

It seems inherently unfair that all banks pay insurance premiums based on domestic deposits and yet those deposits of foreign origin receive identical protection. Such a burden of course falls unfairly on the smaller banks which are much less international by nature. Not only are the large money center banks too big to fail, but their deposit clients have more coverage at a cheaper cost than the majority of banks in the system.

I am certainly heartened to see that someone plans to correct this inequity.

Very truly yours,

H. LEE SWANSON,
President.

STATE BANK OF HOWARDS GROVE,
Howards Grove, WI, January 21, 1988.

Hon. GERALD D. KLECZKA
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: This letter is to voice our support of a bill to correct the inequality of FDIC insurance premium payments by banks. Because of the fact that foreign and domestic deposits are insured by the FDIC and premium payments are based on domestic deposits only, banks with both foreign and domestic deposits essentially pay less in premiums for more coverage than banks with domestic deposits only.

We urge you to take whatever measures you can to help change this unfair situation.

Thank you very much for your assistance.

Sincerely,

ROBERT B. FURMAN,
President.

THE FARMERS STATE BANK OF WAUPACA,
Waupaca, WI, January 15, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: It is my understanding that you plan to introduce a bill on January 26, 1988 to change the F.D.I.C. Insurance Act to include foreign and domestic deposits in the deposit insurance base for all banks. I want to commend you for your action and would like you to know we support that proposal.

At the present time I'm sure you are aware that large banks are covered for their foreign deposits yet they do not pay a premium for this coverage. We feel this is an inequity in the system and your proposal will have the large banks pay their fair share and remove the burden of high premium to the banks not having foreign deposits.

I wish you well in your endeavor.

Sincerely,

F.J. VERGATIWEN
President.

STATE BANK OF ARCADIA,
Arcadia, WI, January 25, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC 20515

DEAR CONGRESSMAN KLECZKA: There is a serious inequity in the way FDIC insurance is charged. The premiums are figured on only domestic deposits, yet foreign deposits are also protected by FDIC.

The larger banks that have foreign loans and deposits are thereby getting a real deal at the expense of smaller banks. I don't understand how in the U.S. where a sense of fairness should prevail, this has been allowed to continue.

Please use your influence to do what you can do correct this inequity.

Sincerely,

JAMES W. SCHULTZ,
President and Cashier.

STATE BANK OF ROSHOLT,
Rosholt, WI, January 14, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC

DEAR CONGRESSMAN KLECZKA: The majority of Wisconsin Banks are considered small and medium-sized, and like large banks they pay deposit insurance premiums.

The insurance covers the domestic deposits of all banks, yet it covers domestic and foreign deposits of larger banks. Thus, banks having foreign deposits get free coverage, subsidized by the complete banking system.

We respectfully request correction of this inequity, by amending the Federal Deposit Insurance Act to include foreign and domestic deposits in the deposit insurance base.

Larger banks would then pay a fairer share for the FDIC coverage they have. Also, by decreasing the overall assessment rate used by the FDIC, this proposal could be made "revenue neutral."

Your help on this matter will be appreciated very much.

Sincerely,

NEIL R. PARKER,
President.

STATE BANK OF DRUMMOND,
Drummond, WI, January 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: Our state Independent Bankers Association has updated us on your introduction of a bill to have foreign deposits included in the assessment of FDIC dues. The inclusion of these deposits in the deposit insurance base will cure the inequity that exists today between large and small banks such as ourselves. We applaud your bill and hope that it is successful. We believe larger banks should pay for the total coverage they have and not be picked up by those of us competing against them.

We appreciate your interest in this matter.

Sincerely,

WILLIAM R. MACLEOD,
President.

BANKERS' BANK OF WISCONSIN,
Madison, WI, January 19, 1988.

Hon. GERALD D. KLECZKA,
Re FDIC assessment of foreign deposits.

House of Representatives, Washington, DC.

DEAR CONGRESSMAN: This bank heartily applauds your efforts to include foreign deposits in the calculations of FDIC insurance assessments. We feel that the banks holding substantial foreign deposits are getting a free ride with fully insured foreign deposits but are not paying the premium. The Continental Illinois failure was a dramatic case in point.

If the foreign deposits are indeed going to get the benefits of insurance, the banks utilizing those deposits should pay the premiums. This is only logical and fair. In addition, it is necessary to impose these changes in order to preserve the financial viability of the FDIC.

We feel strongly about this issue and encourage your seeing the legislation through. There are a number of inequities in any regulated system and the FDIC is no exception. For example, in our bank, we pay insurance premiums on all our deposits; however, because our accounts are all of large size, only about 35% is insured. This is not a situation that we like, but it is necessary to the integrity of the FDIC concept. So, too, with insurance premiums on foreign deposits.

Thank you.

Sincerely,

HELGE S. CHRISTENSEN,
President.

PARK BANK,
Madison, WI, January 13, 1988.

Mr. GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: We support your plan to introduce the "Federal Deposit Insurance Assessment Equity Act."

All deposits that receive the protection of the Federal Deposit Insurance Corporation should be assessed.

Hopefully your committee will fend off "the big boys," as they will certainly fight this proposal vigorously.

Best of health to you in 1988!

Very truly yours,

ROBERT C. GORSUCH,
President.

STATE BANK OF SAINT CLOUD,
St. Cloud, WI, February 4, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I am the president of a small independent Wisconsin bank. We are concerned with the inequities of the FDIC deposit insurance.

We pay an assessment based on our total domestic deposits. We do not have foreign deposits.

The large banks pay an assessment based on their domestic deposits. However, our deposits are only covered up to $100,000.00. The deposits of the too-big-to-fail banks are in effect covered 100%.

While we do not agree with this theory we do see some purpose being served. We do feel that the mega banks should be assessed based on both domestic and foreign deposits.

I also feel that there should be some minimum capital requirements set for banks that are engaged in Interstate Bank acquisitions.

Your efforts in these matters are appreciated.

Sincerely,

JOHN DIEDRICH,
President.

COMMUNITY STATE BANK,
Union Grove, WI, January 12, 1988.

Congressman GERALD KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I was very pleased to hear of your intentions to introduce legislation which would require that the Federal Deposit Insurance Corporation impose premiums on foreign bank deposits.

This legislation would provide a more equitable allocation of premiums among all insured banks and will complete a necessary first step in obtaining regulatory equality between large money center and smaller community banks.

The resulting decrease in FDIC premiums for the majority of insured banks in the nation is not only fair, it is long overdue.

Thank you for efforts in this regard.

Sincerely,

DAVID BALLWEG,
President.

STATE BANK OF KEWAUNEE,
Kewaunee, WI, January 20, 1988.

Hon. GERALD D. KLECZKA,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KLECZKA: I understand that you will soon be introducing a banking bill in Congress. Therefore, I would like to take this opportunity to make a statement relative to the FDIC Insurance coverage afforded the bank.

As you are aware, the FDIC fund has been barraged due to the record bank failures over the past several years. The continued solvency of that fund has to be a major consideration whenever matters of banking are being considered.

An area of inequity currently exists in that the foreign deposits of the larger banks are covered by FDIC Insurance, but the banks are not paying any premiums on these foreign deposits. Therefore, small banks like our are subsidizing the foreign deposits of the larger banks. Please give consideration to removing this inequity as you work on new banking legislation. Thank you.

Sincerely yours,

RICHARD A. BRAUN,
President and Trust Officer.

A BLUEPRINT FOR ACTION: AN EDUCATIONAL CHALLENGE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. HAWKINS. Mr. Speaker, at no time in the history of public education in this Nation, has there been the need for a greater push to achieve equity, excellence, and quality in our public school systems.

If we are to become more competitive in the world's economic markets, it means that our school systems must be able to train and graduate academically and technologically superior students, with the capability of outproducing all others in the global economies. It is evident that in producing such superior students, every student in this country must receive the best education that this country can offer.

In order to contribute to this effort, on September 5-7, 1986, The National Conference on Educating Black Children, a broad, representative cross-section of black organizations; other national organizations, associations, and sectors; members of local/grass roots communities; and local and national institutions, met to discuss and respond to five major issue areas which impact on the education of black children. The issue areas were: students, teachers, administrators, parents, and policymakers. The principal conference mission was to produce out of each issue area an articulate set of action-oriented mandates—the Blueprint for Action—which the conference participants would develop and take back to their local communities for introduction and implementation. A sixth issue area, community, has since been added.

It was determined the the Blueprint for Action would be doable, implementable, achievable, and succinctly written in easy-to-understand English.

The May 1987, National Conference on Educating Black Children, continued to urge communities—their citizens and their organizations—to act on the Blueprint for Action, and to report the status of their activity to the National Conference Organization, which is located at Howard University, Washington, DC, in the Offices of the Journal of Negro Education.

Here, then, presented for my colleagues review are excerpts from the Blueprint for Action II, developed by The National Conference On Educating Black Children.

THE BLUEPRINTS II

I. STUDENTS

Preamble: Emphasizing that students attend school to become intellectually, socially, and economically productive, and that they have the right to the best possible education on a free and equitable basis, we pledge to:

Action item

A recognize and advocate education as essential for success in our society.

Implementation activities

1. Attend school regularly and on time.
2. Complete school assignment.
3. Exercise self discipline.
4. Develop and exhibit confidence in the ability to succeed.
5. Participate in school activities as a positive learner and contributor.

Action item

B. Develop and maintain a positive attitude about learning.

Implementation activities

1. Acquire and practive effective study nabits.
2. Consider academic success as a peer group goal.
3. Learn to work independently.
4. Learn to think critically.
5. Learn to communicate effectively.

II. TEACHERS

Preamble: High standards of effective teaching must be a non-negotiable reality in all schools and classrooms in which Black students are in attendance. Teachers must ensure that each Black child is provided the opportunity to attain the skills needed to achieve excellence in education.

Action item

A. Develop and demonstrate effective teaching strategies in all aspects of instruction.

Implementation activities

1. Demonstrate subject matter mastery and a strong general education background.
2. Design an effective classroom management program which minimizes student disruptions and creates an environment in which learning can take place.
3. Interact with all students in the classroom and provide individual guidance and feedback for students based on learning styles and special needs.
4. Demonstrate knowledge of the racial, cultural, social and ethnic background of the student body in order to more accurately and fairly interpret student behavior, thereby lessening the chances of misdiagnosis, misplacement and miseducation of Black youth.
5. Upgrade teaching skills based on effective teaching strategies which enhance learning, regardless of student population.
6. Encourage the development of inservice workshops which focus on varying aspects of effective teaching.
7. Use test data as diagnostic and prescriptive tools for improving student achievement, but *not* as sole indicators for students' entry, promotion, or detention in academic programs.

III. ADMINISTRATORS

Preamble: Recognizing that the school site administrator exercises authority and influences the actions of students, staff, faculty, and parents, we ask that such authority and influence be systematically directed to the development and implementation of educational programs which shall effectuate the maximum academic growth of each Black child.

Action item

A. Maximize the time principals are visible to pupils and staff.

Implementation activities

1. Defer activities which can be done after pupils leave school.
2. Schedule and make regular classroom visits.
3. Schedule and make regular hall and other site visits.
4. Make non-scheduled visits frequently.
5. Delegate and monitor activities which are not priority.
6. Develop and publicize the principal's expectations of pupils, teachers, and staff.
7. Disclose to parents the principal's plans for observation and monitoring.
8. Invite parents to participate in scheduled visitations and arrange for such participation.

Action item

B. Require administrators to help teachers upgrade their performance in the school.

Implementation activities

1. Help each teacher to be better prepared for classroom duties.
2. Provide each teacher classroom management models.
3. Provide classroom teaching models.
4. Communicate when appropriate regarding all matters relating to pupil performance.
5. Identify and discuss with the teacher officially those strengths and weaknesses that were observed during regularly scheduled observations of teacher performance.
6. Conceive and implement teacher development programs designed to improve performance in areas of identified weakness.
7. Seek legislation that will mandate effective teacher development.
8. Involve each teacher in planning and delivering staff development and evaluation services.
9. Hold staff accountable for *improvement* based on school goals.
10. Develop school goals with the assistance of faculty and parents.
11. Require total staff self-evaluation.
12. Provide for intra-school visitation of faculty identified as effective teachers.
13. Provide resources to each teacher to improve the teachers' knowledge of Black history and culture.
14. Require each teacher to demonstrate working knowledge of Black history and culture.

Action item

C. Make the principal accountable for knowing and providing an instructional program which teaches basic skills and more.

Implementation activities

1. Require the principal to specify to teachers, parents, and community those skills needed by the pupils attending the school.
2. Require the principal to specify the method to be used *by the principal* to assure those skills are taught in the school.
3. Require the principal to specify how the teaching of the identified skills will be measured in the school.
4. Require the principal to specify what will be done if, upon measurement, it is determined that the identified skills have not been taught in the school.
5. Require the principal to explain to parents and the community the extent to which recognized effective teaching techniques *are* being used or *are not* being used in the school.

IV. PARENTS

Preamble: Assisting Black parents in understanding their rights and responsibilities, developing models for parental involvement in the schools, encouraging parents to take responsibility for the education of their children, we comment as follows to:

Action item

A. Create a home environment which fosters respect for and interest in learning/education.

Implementation activities

1. Develop a daily/weekly routine or schedule that allows:
   a. time for family sharing and nurturing.
   b. time for suitable reading.
2. Provide work space for suitable study.
3. Encourage family members to assist one another in learning.
4. Monitor children's school work.
5. Assign household tasks that develop responsibility and cooperation within the home.
6. Monitor and direct television viewing, including length of time and quality of programs.
7. Perpetuate Black History and Culture through:
   a. family reunions.
   b. family history book/photograph albums.
   c. stories from older family members.
   d. family activities such as movies, concerts, field trips, outings, etc.
8. Understand and appreciate the aesthetic value of a variety of music.
   a. Become familiar with music heard on the radio. Allow children opportunities to share their thoughts on what the words in songs mean. Have children sing their favorite tunes and develop songs or lyrics on their own.

Action item

B. Assist other Black parents in understanding their rights and responsibilities; develop models for parental involvement.

Implementation activities

1. Urge the school administration to sponsor image building training activities designed to abate institutional distrust and fear on the part of parents.
2. Urge parents to share information on rights, responsibilities, and other activities, issues of concern to parents.
3. Sponsor events to inform parents of policies and practices. Develop a format which clearly advises parents of their rights and responsibilities.
   a. Role playing conferences.
   b. Clearly understandable written materials.

Action item

C. Develop interaction with teachers to improve the achievement of students.

Implementation activities

1. Initiate working relationships with teachers and school administrators via school visits, telephone conversations, and written communications.
2. Promptly respond to any notices from the teacher or the school.

V. COMMUNITY

Preamble: Understanding the need to organize and activate community groups to participate more effectively in educating Black children, including the need to ask the "right questions" to improve local schools and school systems, we commit as follows to:

Action item

A. Maximize the time community groups interact with the system (local schools, districts, areas, regions, etc.).

Implementation activities

1. Develop a clear set of minimum expectations as they relate to students' academic achievement and behavior.
2. Identify the key actors in the policy and decision making process (school board members, principals, regional superintendents, etc.). Target your energies toward the most appropriate level.
3. Learn the official chain of command and the appropriateness of its use.
4. Be prepared to move to the next level of decision making.
5. In the beginning, pick targets that are likely to present quick success.
6. Expect success.
7. Identify other community groups which may share your ideas.

Action item

B. Monitor students' outcomes.

Implementation activities

1. Obtain the hard data (reading scores, mathematics scores, attendance figures, dropout rates, number of pupils progressing to the next educational level, etc.) from the various Board of Education offices.
2. Consider items that relate to school culture that may be more subjective.

VI. POLICYMAKERS

Preamble: Recognizing that policymakers have the ultimate authority to plan and provide for effective educational policies and programs, we ask that this weighty influence be directed to the goals of achieving educational equity and excellence for Black children.

Action item

A. Eliminate and replace those policies and practices that are institutionalized but obsolete.

Implementation activities

1. Systematically review and analyze all existing school district policies and practices.

Action item

B. Assure that recognition and appropriate incentives are directly related to the success of Black students.

Implementation activities

1. Mandate school-wide evaluation policy based on the improvement of Black student achievement.
2. Evaluate and reward schools based on the performance of Black students in at least the following areas:
   a. improved academic achievement,
   b. improved attendance,
   c. decreased suspensions,
   d. decreased dropout rate,
   e. increased college eligible rate.
3. Provide school incentives to encourage superior teachers to remain in the classroom.

Action item

C. Promote high standards of academic excellence and cultural awareness.

Implementation activities

1. Focus on basic skills, followed by higher cognitive and effective skill development.
2. Focus upon the positiveness of the Black experience.

THE ARCHEOLOGICAL RESOURCE PROTECTION ACT AMENDMENTS OF 1988

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. GEJDENSON. Mr. Speaker, I am very pleased to introduce the Archeological Resource Protection Act Amendments of 1988. The 8 years of experience since the passage of Archeological Resources Protection Act of 1979 [ARPA] have demonstrated that there are a number of weaknesses in ARPA which make it extremely difficult to prosecute looters. This legislation strengthens ARPA and will give law enforcement officials the statutory tool they need to combat archeological looting and vandalism of public lands.

The looting and destruction of Indian archeological sites has reached crisis proportions and threatens to destroy an important part of our Nation's heritage. Every time an archeological site is destroyed, a part of human history is lost. The archeological resources on public lands belong to all Americans. These national treasures are being systematically and ruthlessly destroyed by professional looters.

No one knows precisely how many archeological sites have been vandalized or looted, but the limited information available indicates the problem is very serious, and is growing. The Interior Department and the Forest Service report that as much as 90 percent of the archeological sites on Federal lands in the Southwest have been looted or vandalized.

According to Governmentwide statistics collected by the National Park Service, the number of reported incidents of vandalism of archeological sites on Federal lands increased from 430 in fiscal year 1985 to 615 in fiscal year 1986, a 42-percent increase. These statistics are probably only the tip of the iceberg.

One of the barriers to getting the looting problem on public lands under control are the weaknesses in ARPA. At an October 1987 field hearing I chaired on the archeological looting problem many witnesses supported strengthening ARPA, including the States of Arizona, Utah, and Colorado, the U.S. attorney for Arizona, the U.S. attorney for Utah, the Navajo and Hopi Tribes, and the Society for American Archeology. In addition, a December 1987 report by the General Accounting Office recommended that ARPA be strengthened.

This legislation replaces the $5,000 felony/misdemeanor threshold in ARPA with a much simpler threshold: if you dig, its's a felony; if you surface collect, its a misdemeanor. Under current law, if the value of a stolen artifact, or the cost of restoring damage exceeds $5,000, it is a felony offense.

The $5,000 threshold causes many problems because it is extremely difficult to quantify the monetary value of damage to priceless and irreplaceable archeological resources. It also does not apply outside the Southwest United States where most archeological materials have no market value. Monetary value has no place in a law protecting priceless archeological resources.

the surface collection/excavation threshold is a clear distinction, which juries and judges can understand without the assistance of an expert. Inevitably, the $5,000 threshold leaves juries confused and distracts attention from the real issue of whether or not a crime was committed. ARPA trials often degenerate into a "battle of the experts" with opposing archeologists offering radically different damage estimates on behalf of the defense and the prosecution. In the 8 years since the passage of ARPA there has been only one felony conviction by jury.

The bill also amends ARPA to prohibit attempts to loot or vandalize archeological sites. It is clearly impossible to catch violators in the act of looting. This provision would make it possible to prosecute individuals who are caught preparing to dig for a misdemeanor violation.

The bill lowers the age limit of archeological resources to 50 years. Under current law ARPA only applies to artifacts and sites that are over 100 years old. In a recent ARPA prosecution, U.S. versus Ashford et al., the 100-year age limit caused problems. In this case the defendants dug up a deceased Shoshone warrior and drove around with him the back of their pickup truck for a number of days. They put a cigar in his mouth and named him Hector. The Government had to prosecute the case over a few associated burial goods, instead of the skeleton, because an expert estimated that the Shoshone was buried 96 years ago.

The bill replaces or removes a number of subjective terms in ARPA that cause problems in a criminal statute. The most important change of this type is a new definition of the term "archeological resource." As currently written, ARPA only prohibits the looting and vandalism of "archeological resources." The precise meaning of this term is unclear and has caused problems in at least five ARPA prosecutions in which the defense argued that the archeological site that the defendant was looting was not an "archeological resource."

I strongly urge my colleagues to support the Archeological Resource Protection Act Amendments of 1988. Passage of this legislation is urgently needed to protect our Nation's archeological heritage.

Mr. Speaker, I insert at this point in the record an excerpt from a February 1988 report prepared by the House Interior Subcommittee on General Oversight and Investigations, which I chair, entitled, "The Destruction of America's Archaeological Heritage", followed by a copy of the Archaeological Resource Protection Act Amendments of 1988.

EXCERPT FROM "THE DESTRUCTION OF AMERICA'S ARCHAEOLOGICAL HERITAGE," AND INVESTIGATIVE REPORT, SUBCOMMITTEE ON GENERAL OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

III. THE ADEQUACY OF THE ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979 AS A LAW ENFORCEMENT TOOL

A major purpose of the October 19, 1987 subcommittee hearing on the theft of Indian artifacts was to evaluate the effectiveness of the Archaeological Resources Protection Act of 1979 (ARPA). ARPA has been on the books for over eight years and there has been a sufficient amount of experience with the law to provide a basis for an evaluation of its effectiveness. Many witnesses at the October 19, 1987 hearing supported strengthening ARPA, including the states of Arizona, Utah, and Colorado, U.S. Attorneys for Utah and Arizona, the Navajo and Hopi Tribes, and the Society for American Archaeology. GAO has also recommended strengthening APRA.[1]

[Footnotes at end of article.]

Before beginning an evaluation of ARPA's effectiveness, it is important to put the law in perspective. ARPA is not, and never will be, a panacea for the problem of the looting and destruction of archaeological sites. ARPA, and law enforcement in general, is only one of the many approaches available to protect archaeological resources. Other methods such as public education, interactive archaeology programs, and archaeology site stewardship programs are at least as important. ARPA must be evaluated in the context of its effectiveness as a law enforcement tool, not as a cureall for the looting and vandalism problem.

This section of the report will focus on the adequacy of ARPA as a law. A later section will evaluate the effectiveness of the implementation of ARPA by federal agencies.

A. Summary of ARPA

The purpose of ARPA is to protect archaeological resources on public lands and Indian lands. Under ARPA, an individual must receive a permit to excavate on federal and Indian lands. ARPA prohibits the looting and destruction of archaeological re-

sources on public lands and Indian lands. It also prohibits trade in stolen artifacts.[2]

Violation of ARPA is a misdemeanor offense if the value of the stolen archaeological materials, or the cost of restoring damage is less than $5,000.[3] Misdemeanor violators can be imprisoned for up to one year and fined up to $100,000.[4]

If the value of stolen archaeological materials, or the cost of restoring damage exceeds $5,000 it is a felony offense, and the violator can be fined up to $250,000, and imprisoned up to two years.[5] None of these penalties applies to the removal of arrowheads located on the surface of the ground (this activity is still illegal under the Antiquities Act [6]).

Prior to November 1, 1987 the maximum fines under ARPA were $10,000 for a misdemeanor violation, $20,000 for a felony violation, and $100,000 for a second felony violation. These fines were increased as of November 1, 1987 pursuant to Title 18, Section 2623 of the U.S. Code, The Uniform Sentencing Law.

In addition to criminal penalties, ARPA authorizes federal land managers to assess civil penalties for ARPA violations. Private individuals who furnish information which leads to a civil penalty or a criminal conviction receive a reward amounting to one half of any penalty or fine, but not to exceed $500.

B. Prosecution Under Authorities Other Than ARPA

ARPA appears to be a difficult law to use to prosecute and convict individuals who have vandalized or looted archaeological sites. In the eight years since its passage, there has been only one ARPA felony conviction by jury. This case, U.S. vs. Cortiana, was prosecuted by the U.S. Attorney for Arizona in November 1987. The defendant was found guilty of attempting to sell the mummified remains of an Anasazi infant.[7]

In many cases, individuals who are caught looting are not prosecuted under ARPA. Prosecutors often resort to other statutes, such as theft of government property (18 U.S.C. 641), under which it is easier to obtain a conviction. For example, in Fiscal Year 1986 there were 12 prosecutions of incidents of looting and vandalism of archaeological sites on Forest Service lands, and 11 of the prosecutions were under authorities other than ARPA.[8]

There are many reasons that prosecutors resort to authorities other than ARPA to prosecute archaeological looters and vandals. In his testimony before the Subcommittee, Stephen M. McNamee, United States Attorney, District of Arizona, provided an explanation of why prosecutors often resort to authorities other than ARPA:

"To prove a felony under 18 U.S.C. 641 (theft of government property) or 18 U.S.C. 1361 (destruction of government property), the government need only prove a theft of or damage to an artifact worth more than $100. A felony conviction for theft or destruction of government property carries a ten year maximum sentence. The maximum sentence under the Archaeological Resources Protection Act is two years for the first offense and five years for subsequent convictions. In short, there are burden of proof and penalty advantages to charging theft or destruction of government property as well as a violation of ARPA.

"It has been our experience, at least in Arizona, that lay persons, especially juries, understand that it is wrong to steal, and destroy property, but do not appreciate the sometimes technical and scientific provisions specifically governing archaeological resources within ARPA. In short, it is much more persuasive to call a thief, a thief." [9]

C. Problems With Prosecuting Under ARPA

1. THE $5,000 FELONY THRESHOLD

The most criticized provision of ARPA is the $5,000 felony threshold. Under current law, if the value of the stolen artifact, or the cost of restoring damage to an archaeological sites must exceed the sum of $5,000, for it to be a felony. Many witnesses at the hearing supported lowering the threshold, including the Society for American Archaeology, the States of Utah, Arizona, and Colorado, the Navajo and Hopi Tribes, and the U.S. Attorneys for Utah and Arizona.[10] Senator Domenici (R-NM) has introduced legislation, S. 1314, which would lower the felony threshold to $500.

Kristine Olson Rogers, a former Assistant U.S. Attorney with a great deal of experience prosecuting ARPA cases, testified that the $5,000 felony threshold confuses juries and undermines prosecutions. Rogers argued that it is extremely difficult to quantify the value of damage to archaeological resources. Rogers described the following scenario of a jury grappling with the $5,000 felony threshold, "What typically happens is: a case is indicted accompanied by headlines touting massive damage estimates and then the jury convicts of a misdemeanor, utterly disregarding the expert's staggering damage totals. And any time there is a defense expert, the jury will opt for the lowest bidder's price." [11]

A September 23, 1987 memorandum by Paul D. Weingart, Director of Recreation, Southwestern Region, Forest Service, to the Chief of the Forest Service, stated that the felony threshold value of $5,000 should be deleted from ARPA. Weingart wrote, "The present situation makes it (ARPA) very difficult to enforce. The whole concept of value as stated in the law and regulations presents difficulties leaving even professional archaeologists divided and confused about the meaning." [12] In an October 2, 1987 letter to the Subcommittee, Forest Service Chief Dale Robertson supported modifying the felony threshold.[13]

In its written testimony, the Part Service stated that the $5,000 limit, "* * * requires rather elaborate and technical presentations by prosecution expert witnesses about the cost of archaeological investigations that are difficult for a jury of nonexperts to understand and accept. Reducing the threshold level would reduce the amount of explanation and technical justification necessary for a successful prosecution." [14]

U.S. Attorney Stephen H. McNamee argued that the $5,000 ARPA felony threshold was arbitrarily high in comparison to other laws prohibiting the same activities and should be lowered. He stated, "Theft of government property is theft of government property, no matter how unique the stolen article. The same is true of destroyed property; it should be valued no less because it is an archaeological site." [5]

Another problem with the $5,000 felony threshold is that most archaeological artifacts have no value on the private art market. This is especially true outside of the Southwest where it is rare to come across intact pots and other well preserved artifacts valued by collectors. Although the looting problem is most visible in the Southwest, it is a problem all over the country. The current dollar amount makes prosecution of ARPA violations outside the Southwest even more difficult.

Many witnesses supported lowering the felony threshold amount to $500. U.S. Attorney Stephen H. McNamee pointed out that lowering the threshold to $100 would bring ARPA in line with other federal laws prohibiting theft and destruction of government property.[16]

Kristine Olson Rogers proposed a simpler approach which would eliminate the entire question of archaeological value from ARPA cases. Rogers stated, "It makes much more sense to use a clean distinction which jurors and judges can handle even without the assistance of an expert. I prefer the Arizona State Statute's approach: if you dig, it's a felony; if you surface collect, it's a misdemeanor." [17]

2. 100 YEAR AGE LIMIT

ARPA applies to artifacts and sites that are over 100 years old. In a recent ARPA prosecution, U.S. versus Ashford et al. this limit caused problems. In this case the defendants dug up the remains of a deceased Shoshone warrior and drove around with them in the back of their pickup truck for a few days. They put a cigar in his mouth and named him Hector. The government had to prosecute the case over a few associated burial goods, instead of the skeleton, because an expert witness estimated that the Shoshone was buried 96 years ago.[18]

Kristine Olson Rogers recommends lowering the age limit to 50 years.[19] In addition, the National Register of Historic Places uses a 50 year age limit. It is easier for experts to make this determination and would also include many of the "Old West" remains left by non-Indians.

3. OTHER ARPA ISSUES

Many witnesses supported strengthening ARPA by prohibiting attempts to loot or vandalize archaeological sites, including the two U.S. Attorneys, for Arizona and Utah, as well as the Society for American Archaeology.[20] U.S. Attorney, Stephen H. McNamee wrote, "If 'attempt' were included, looters caught on archaeological sites with screens, probes, and shovels could be stopped before damage occurred and the looters could be prosecuted." [21] S. 1314, the Domenici bill, prohibits looting and vandalism attempts.

Because of the remoteness of most archaeological sites, it is extremely difficult to catch individuals in the act of looting. Adding attempted acts of looting and vandalism would make it easier to prosecute violators.

Kristine Olson Rogers suggested two technical amendments to ARPA. Rogers is concerned that the current definition of "archaeological resource" in ARPA is unclear and confusing to juries. She believes that a simple, broad definition is necessary to eliminate confusion in this area. She also suggested striking the phrase "of archaeological interest" from the ARPA definition of "archaeological resource." Rogers argues that subjective phrases such as "of archaeological interest" have no place in a criminal statute.[22]

U.S. Attorney Brent Ward proposed that ARPA should be amended to make it a criminal offense to purchase or sell archaeological materials without written proof that the artifact is from non-public lands. Ward stated that this change is necessary because it is nearly impossible to prosecute dealers in stolen artifacts because of the difficulty of proving that an artifact is from public lands.[23] This proposal was supported by David Madsen, the Utah State Archaeologist.[24] One problem with this solution would be that it would be easy for individuals to attest that any object was from private lands, and it would be almost impossible to prove that the statement was incorrect. In addition, a registration system could be extremely difficult to implement and administer because of the large number of artifacts currently possessed by private individuals.

Henry Deal, testifying on behalf of the Navajo nation, proposed that ARPA should be amended to provide Indian tribes with criminal jurisdiction over non-tribal members violating ARPA on tribal lands. The Navajo stated that looting on their lands is very difficult to prosecute because of the competing jurisdictions of the federal government, the tribe, and the States. They propose that tribes that develop enforcement programs consistent with ARPA receive criminal jurisdiction over non-tribal members violating ARPA. As an alternative the Navajo propose permitting tribes to assume primary enforcement authority, with actual jurisdictions left to the federal government.[25]

[Footnotes]

[1] General Accounting Office (GAO), Cultural Resources: Problems Protecting and Preserving Federal Archaeological Resources, December 15, 1987, page 66.

[2] The Archaeological Resources Protection Act of 1979, (16 U.S.C. 470aa-470ll), Public Law 96-95, October 31, 1979.

[3] Ibid.

[4] ARPA as amended by Title 18, U.S.C. Section 2623, The Uniform Sentencing Law.

[5] Ibid.

[6] The Antiquities Act (16 U.S.C. 431, 432, 433) June 8, 1906.

[7] Subcommittee Staff Telephone Interview with Linda Akers, Assistant U.S. Attorney for the District of Arizona, January 19, 1988.

[8] National Park Service Memoranda, Preliminary Comparison of FY 1985 and 1986 Looting Statistics, September 1987.

[9] Prepared testimony of Stephen M. McNamee, United States Attorney, District of Arizona, before the Subcommittee on General Oversight and Investigations, October 19, 1987, page 4.

[10] Prepared testimony of States of Utah and Arizona, Society for American Archaeology, the Navajo, and Hopi Tribes, and the U.S. Attorneys for Utah and Arizona. Oral testimony of State of Colorado.

[11] Prepared testimony of Kristine Olson Rogers, Attorney-at-law, before the Subcommittee on General Oversight and Investigations, October 19, 1987, page 8.

[12] Forest Service Memorandum, September 23, 1987, Paul D. Weingart, Director of Recreation, Southwestern Region, to Chief, Information for Interior and Insular Affairs Committee, page 7.

[13] Letter of October 2, 1987, from Dale F. Robertson, Chief, U.S. Forest Service, to Sam Gejdenson, Chairman, Subcommittee on General Oversight and Investigations.

[14] Prepared testimony of William Penn Mott, Jr., Director, National Park Service, before the Subcommittee on General Oversight and Investigations, October 19, 1987, page 11 (testimony delivered by Jack Neckles, Deputy Regional Director, Rocky Mountain Region, National Park Service).

[15] Prepared testimony of Stephen M. McNamee, October 19, 1987, page 4.

[16] Ibid., page 5.

[17] Prepared testimony of Kristine Olson Rogers, October 19, 1987, page 8.

[18] Ibid., page 9.

[19] Ibid., page 10.

[20] Prepared testimony of Stephen M. McNamee, U.S. Attorney for Arizona, Brent P. Ward, U.S. Attorney for Utah, and Allen Downer, Society for American Archaeology, October 19, 1987.

[21] Prepared testimony of Stephen M. NcNamee, October 19, 1987, page 5.

[22] Prepared testimony of Kristine Olson Rogers, October 19, 1987, page 9.

[23] Prepared testimony of Brent D. Ward, October 19, 1987, page 11.

[24] Prepared testimony of David B. Madsen, Utah State Archaeologist, before the Subcommittee on General Oversight and Investigations, October 19, 1987.

[25] Prepared testimony of Henry Deal, Director of the Navajo Nation Resources Enforcement Agency, before the Subcommittee on General Oversight and Investigations, October 19, 1987, page 2.

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

SECTION 1. ENFORCEMENT.

Section 6(d) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) is amended to read as follows:

"(d)(1) Whoever knowingly violates, or attempts to violate, any prohibition contained in subsection (a), (b), or (c) shall, except as provided in paragraph (2) or (3), be imprisoned not more than one year or fined under title 18 of the United States Code, or both.

"(2) Whoever knowingly violates, or attempts to violate, any prohibition contained in subsection (a) shall be imprisoned not more than 2 years or fined under title 18 of the United States Code, or both, if such violation involves any excavation. For purposes of this paragraph, the term 'excavation' means any disturbance of the ground or of deposits beneath the surface.

"(3) For a second or subsequent conviction of a person under this subsection, such person shall be imprisoned not more than 5 years or fined under title 18 of the United States Code, or both."

SEC. 2. DEFINITION OF ARCHAEOLOGICAL RESOURCE.

Section 3(1) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) is amended to read as follows:

"(1) The term 'archaeological resource' means any physical evidence of sites, structures, or objects used by humans and the conceptual content or context of an area. For purposes of this paragraph, the conceptual content or context is the associations of the archaeological site structures or objects, or portions or pieces thereof, with each other or biological or geological remains or deposits. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources for purposes of this Act unless found in an archaeological context. No item shall be treated as an archaeological resource for purposes of this Act unless the item is at least 50 years of age."

CIVIL RIGHTS RESTORATION ACT

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. LELAND. Mr. Speaker, due to very pressing concerns beyond my control in my district, it is with sincere regret that I am unable to join my colleagues tonight and cast my vote for passage of the Civil Rights Restoration Act.

Reflecting on a lifetime dedicated to securing and preserving civil rights, I am proud to support this significant piece of legislation which will effectively end discriminatory practices in federally funded institutions.

The unfortunate Supreme Court decision in Grove City versus Bell negated years of civil rights progress. The original intent of Congress, as expressed in title IX of the education amendments, the Civil Rights Act of 1964, the Rehabiliation Act of 1974, and the Age Discrimination Act of 1975, was to prohibit discrimination on the basis of sex, race, disability, and age. The Grove City decision allowed each of these statutes to be circumvented.

By limiting the applicability of title IX of the education amendments to a specific discriminating "program or activity" receiving Federal funds, the Grove City decision permitted taxpayer's dollars to support institutions engaged in discriminatory practices. Not only was this in direct contravention of original congressional intent, but it articulated a public abhorrent to our democratic ideals.

Under the rationale of Grove City, a victim not "fortunate" enough to suffer discrimination and oppression by a program directly receiving Federal dollars, will not receive assistance from the very Federal agencies charged with the responsibility of investigating such complaints. Instead, in order to address such injustices, victims must resort to filing expensive and lengthy private law suits. Such suits require resources unavailable to most victims. If a complainant cannot laboriously trace Federal money to the specific program in question, technically, that program is free to continue its discrimination.

A history of court decisions and congressional interpretations reaffirm the broad scope of coverage implicit in pre-Grove City legislation. The Civil Rights Restoration Act simply restores this broad coverage concept to our Federal law.

It is imperative that we reaffirm a national policy which does not tolerate the use of Federal funds, directly or indirectly, to perpetuate discrimination. I urge all my colleagues to pass this imporatnt legislation.

JONATHAN TILOVE NEWHOUSE PUBLICATIONS

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. BOLAND. Mr. Speaker, as my colleagues can attest, one of the mixed blessings of public life is the necessary relationship between journalists and elected officials.

While we readily acknowledge the important role the press plays in our society, we can often view with trepidation the process by which our activities become newspaper stories or segments on the evening news broadcasts.

As a result, we quickly come to appreciate and admire the work of reporters for whom the ability to write well, and a commitment to objectivity, are fundamental to the way in which they approach the demands of their profession.

For the past 3 years, the readers of my hometown newspapers—the Springfield MA Union-News, and Sunday Republican have benefited from the skills of just such a reporter.

Jonathan Tilove, who assumed his duties as chief of the Newhouse newspapers northeast bureau in New York City on February 29, covered events on Capitol Hill and Washington with perception and dedication.

A 7-year veteran of the Springfield newspapers before coming to Washington, Jonathan brought to his assignments the instincts of a good reporter, and the advantages of a quick learner.

In pursuit of a story he was presistent and thorough, and he was at all times, and in all ways, fair.

Those attributes won him the respect of those, like myself, whose work it was his job to cover.

In my judgment, the highest compliment that can be paid to a reporter is that he or she can be trusted to report the news as it is, without coloration, slant or spin.

Jonathan Tilove leaves his post in Washington, having earned that trust.

The reward for a job well done should be advancement, and while Jonathan's talents will be missed in Washington, I am pleased that he will be given added responsibilities in New York.

I want to wish him and his wife, Jo-Ann, who is an able reporter in her own right, all the best as they embark on what should be an exciting time in their lives.

SUPPORT OF S. 557

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. HOYER, Mr. Speaker, I rise in support of S. 557, the Civil Rights Restoration Act. In addition, I would like to comment specifically on an amendment added by the Senate during floor consideration of this legislation. This amendment concerns coverage of people with contagious diseases and infections under section 503 and 504 of the Rehabilitation Act of 1973.

I have been a long-time supporter of the antidiscrimination protections of the Rehabilitation Act. These protections are essential to ensure that individuals with handicaps are not subjected to irrational and unjustified discrimination and to ensure that such individuals have the opportunity to bring cases of alleged discrimination to court and to have them adjudicated on their merits.

In the cases of individuals with contagious diseases and infections, the protections of section 504 of the Rehabilitation Act have been critical in ensuring that decisions regarding such individuals are based on reasonable medical judgments. It is essential to maintain a proper balance between protecting the private rights of such individuals and the public health. The Senate amendment maintains this balance by essentially placing the current "otherwise qualified" standard of section 504 into the statute. Under the Rehabilitation Act, individuals with handicaps—including individuals with contagious diseases and infections—must be otherwise qualified for the positions they seek to hold. As the Supreme Court explained recently in the case of *School Board of Nassau County* v. *Arline,* 107 S.Ct, 1123 (1987), an individual will not be "otherwise qualified" if the person poses a significant risk of communicating an infectious disease to others in the workplace and that risk cannot be eliminated by reasonable accommodation. As the court further explained, this is a highly fact-specific inquiry that must be conducted on a case-by-case basis.

The Supreme Court adopted the approach recommended by the American Medical Association (AMA). According to the AMA, such an inquiry should include: "[F]inding of facts, based on reasonable medical judgments given the state of medical knowledge, about (a) the nature of the risk (how the disease is transmitted), (b) the duration of the risk (how long is the carrier infectious), (c) the severity of the risk (what is the potential harm to third parties), and (d) the probabilities the disease will be transmitted and will cause varying degrees of harm." *Arline,* 107 S.Ct. 1123, 1131 (1987).

The Senate amendment embodies the approach and standards of the Arline decision. With this amendment, the Senate provided that individuals with contagious diseases and infections remain covered under sections 503 and 504 of the Rehabilitation Act, as long as such individuals do not pose a direct threat to the health or safety of others or are unable to perform the essential duties of the job. The colloquy in the Senate between the cosponsors of the amendment clarifies that the amendment does not alter the requirements of reasonable accommodation under the statute, or the traditional two-step test in which a court first determines whether an individual meets the ordinary statutory definition of a handicap under the statute and then determines whether the individual is otherwise qualified for the particular position at issue in the case before it.

As I noted, this amendment essentially codifies the existing standard of otherwise qualified in section 504, as explicated by the Supreme Court in Arline. If an individual poses a direct threat to the health or safety of others—that is, if there is a significant risk that the individual will transmit a contagious disease or infection to others in the workplace and that risk cannot be eliminated by reasonable accommodation—then such an individual can be excluded from the particular position in which this risk exists. As always, this determination would require a case-by-case analysis and would have to be based on reasonable medical judgments.

This amendment is particularly important today when people with acquired immune deficiency syndrome [AIDS] and people infected with the AIDS virus are often subject to unjustified and irrational discrimination. It is unfortunate that fear of people with AIDS and people infected with the AIDS virus has resulted in many unfounded concerns on the part of employers. Nevertheless, to the extent that this amendment can clarify the current law—and can help to allay some of those fears—I believe that it serves a most useful and important function.

Mr. Speaker, in 1972, Congress adopted the education amendments which included title IX, forbidding sex discrimination by institutions receiving Federal funding. I am sure that every Member who voted for that legislation meant to prevent discrimination in every department and program of every institution receiving Federal funds.

For many years, title IX was interpreted by governments, universities, and the courts to do just that. It revolutionized spending on athletic programs for women in our Nation's colleges and universities.

The 1984 decision of the Supreme Court in Grove City College versus Bell was a tremendous set back. It has weakened not only title IX, but the fundamental discrimination laws enacted by this Congress over the past 25 years: the Civil Rights Act of 1964, the Rehabilitation Act of 1974, and the Age Discrimination Act of 1975.

Today we state again, emphatically, any institution receiving Federal funds may not discriminate on the basis of sex, race, age, or handicap in any program or department.

It is a wonder that we still must pass laws to state the obvious. The Congress representing the people of the United States will not tolerate discrimination. We will enact and reenact law until that point is crystal clear.

I am proud to have cosponsored this legislation. I commend the chairman of the Education and Labor Committee and so many others, who have worked so long and hard to bring it to this floor.

INTRODUCTION OF THE EMERGENCY HUNGER RELIEF ACT OF 1988

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 2, 1988

Mr. PANETTA. Mr. Speaker, I rise to announce the introduction of legislation to deal with the hunger emergency which we face. It is a sad day commencing in America when there is a need to introduce an Emergency Hunger Relief Act. In a land blessed with the greatest agricultural production and wealth in the world, it is a disgrace that we face a hunger emergency in this country. While the President announces that we are in fine economic shape and are in the "longest peacetime expansion in our Nation's history," the demand for emergency food assistance in soup kitchens and food pantries multiplies across the country.

Just 1 week ago, I convened a hearing on the subject: "The Hunger Emergency in America." It should have been called; "A Tale of Two Countries." One country faces an increasing problem of hunger among the poor and the homeless. We listened to a welfare recipient who lives in a State that pays among the highest AFDC benefits in the country. She has only $25 every 2 weeks for all of her children's expenses because the rest of her AFDC payment goes for housing. Her food stamp benefits never last more than 19 or 20 days into the month; then she must go to food pantries to get food for her children. We heard from a wide range of people who confront daily the reality of hunger in America: food bank directors, ministers, national experts on nutrition and child health, and Mayor Sidney Barthelemy of New Orleans, whose city has been particularly hard hit by the downturn in the economy in the Sun Belt.

All spoke of the growing problem of hunger, the failure of current programs to meet the need, and the impending crisis which looms because crucial commodities will not be available for distribution through the Temporary Emergency Food Assistance Program [TEFAP].

The vision of the other country was presented by the administration witness. Their vision is a country in which hunger does not exist. At most, it is anecdotal, if not measured by statistics collected by a Washington bureaucracy.

There is no hunger problem because after nearly 8 years in office, the administration has not identified an acceptable methodology to measure hunger.

I don't think the American people accept the administration's vision. A respected polling firm recently conducted a survey of attitudes toward hunger and homeless and found that helping the hungry and homeless ranks second only to reducing the Federal deficit as the problem American voters want the next President to work on.

Today, Senators KENNEDY and LEAHY and I are introducing in the House and the Senate, the Emergency Hunger Relief Act of 1988. This bill sets forth a balanced and prudent agenda to meet the hunger emergency which we face. The bill has 44 sponsors in the House of Representatives, including Members from both sides of the aisle.

The first step is to make sure that we make room in the budget resolution to fund most, if not all of the provisions of the Emergency Hunger Relief Act as well as for WIC. I am confident that we can get sufficient reallocation of the domestic priorities within the Budget Summit agreement to deal with the hunger emergency this year. The consequences of delay are already evident in rising infant mortality, anemia, and malnutrition. The simple fact is that we cannot affort not to act. The time is now. I urge your support of the Emergency Hunger Relief Act.

I insert in the RECORD the text of the Emergency Hunger Relief Act of 1988 and explanatory material:

The material follows.

H.R. 4060

A bill to provide hunger relief, and for other purposes

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 "Emergency Hunger Relief Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. FINDINGS.

Congress finds that—

(1) millions of Americans face hunger several or more days each month due to the fact that—

(A) one in every five American children is poor (using the United States Census definition for the most recent year for which data are available), and almost one of every two black children and two of every five hispanic children are poor;

(B) the demand for emergency food assistance is increasing, and the majority of those requesting emergency food assistance in major cities are families with children;

(C) participation in the food stamp program has declined in this decade, despite an increase in the number of poor Americans, and barriers to participation in the food stamp program are contributing to the growth of domestic hunger;

(D) food stamp benefits are based on the lowest cost food plan devised by the United States Department of Agriculture and the benefit level makes it difficult for most poor families to achieve a minimally adequate diet;

(E) the Department of Agriculture estimates that low-income children receive a substantial portion of their daily food from meals served in schools under the National School Lunch Act, yet during the summer months, only one eighth of the low-income children who participate in school meal programs get nutrition assistance under the summer food program;

(F) only one fourth of the low-income children who participate in the school lunch program participate in the school breakfast program; and

(G) over half of our children under age 6 now have mothers that work outside of the home, and those children need high-quality child care services and nutrition to be prepared to do well in school and eventually lead productive adult lives;

(2) as a matter of national public policy, the health and nutritional status of low-income Americans (particularly vulnerable groups such as women of child-bearing age, children, and the elderly) should be protected;

(3) low-income people in need should have information about and access to Federal food and nutrition programs; and

(4) freedom from hunger and undernutrition is a basic human need, and food and nutrition programs are essential to enhance the health of the Nation.

TITLE I—FAMILY SELF SUFFICIENCY IMPROVEMENT

Subtitle A—Food Stamp Program

SEC. 101. LOW COST FOOD PLAN.

(a) FOOD PLAN DEFINITION.—Section 3(o) of such Act (7 U.S.C. 2012(o)) is amended—

(1) by striking out "Thrifty" and inserting in lieu thereof "Low cost";

(2) in the first sentence, by inserting after "calculations" the following: "published and distributed in April, 1983"; and

(3) by striking out "thrify" each place it appears and inserting in lieu thereof "low cost".

(b) VALUE OF ALLOTMENT—Section 8(a) of such Act (7 U.S.C. 2017(a)) is amended by striking out "the thrifty food plan" and inserting in lieu thereof "79 percent of the low cost food plan during the period beginning January 1, 1989, and ending September 30, 1989, and 80 percent of the low cost food plan during fiscal year 1990 and thereafter".

(c) CONFORMING AMENDMENT.—Section 21(b)(2)(C)(ii) of such Act (7 U.S.C. 2030(b)(2)(C)(ii) (as added by section 1509 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203)) is amended by striking out "the thrifty food plan" and inserting in lieu thereof "79 percent of the low cost food plan during the period beginning January 1, 1989, and ending September 30, 1989, and 80 percent of the low cost food plan during fiscal year 1990 and thereafter".

SEC. 102. RELATIVES LIVING TOGETHER.

The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(1) by striking out "(2)" and inserting in lieu thereof "or (2)"; and

(2) by striking out ", or (3)" and all that follows through "disabled member".

SEC. 103. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) by striking out "during the period"; and

(2) by striking out "and ending on September 30, 1989".

SEC. 104. INCOME STANDARDS OF ELIGIBILITY.

Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by inserting after the paragraph designation the following: "in the case of a household that includes an elderly or disabled member;".

SEC. 105. EXCESS SHELTER EXPENSE DEDUCTION.

The proviso to the fourth sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended after "respectively," the following: "plus an additional $10 for each such jurisdiction for each adjustment period,".

SEC. 106. REPORTING REQUIREMENTS AND CALCULATION OF HOUSEHOLD INCOME.

(a) CALCULATION OF HOUSEHOLD INCOME.—Section 5(f) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) Households not required to submit monthly reports of their income and circumstances under section 6(c)(1) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Households required to submit monthly reports of their income and circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, or at the option of the State the first and second months, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month."; and

(2) in paragraph (4), by striking out the second sentence.

(b) OPTIONAL MONTHLY REPORTING.—Section 6(c) of such Act (7 U.S.C. 2015(c)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A) A State agency may require certain categories of households to file periodic reports of household circumstances in accordance with standards prescribed by the

Secretary, except that a State agency may not require periodic reporting of households—

"(i) in which all members are migrant or seasonal farm workers;

"(ii) in which all members are homeless individuals; or

"(iii) that have no earned income and in which all adult members are elderly or disabled members.

"(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations."; and

(2) by striking out paragraph (5).

(c) MONTHLY NOTICE.—Section 6(c)(2) of such Act is amended—

(1) by striking out "and (D)" and inserting "(D)"; and

(2) by inserting before the period the following; ", and (E) be provided each month with an appropriate, simple form for making its required reports together with clear instructions explaining how to complete the form and its rights and responsibilities under the monthly reporting system".

SEC. 107. LIMITATION ON RESOURCES.

The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by inserting after "$4,500" the following: "(adjusted on October 1, 1988, and on each October 1 thereafter, to the nearest lower dollar increment to reflect changes in the Consumer Price Index for All Urban Comsumers published by the Bureau of Labor Statistics for the 12 months ending the preceding June 30)".

SEC. 108. VALUE OF ALLOTMENT.

Clause (2) of the last sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking out "following any period" and inserting in lieu thereof "that applies following any period of more than 30 days".

SEC. 109. BENEFITS FOR HOUSEHOLDS SUBJECT TO PRORATING.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) (as amended by section 109 of this Act) is further amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (2) (as so designated), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

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

"(3) A household applying after the 15th day of the month or similar period shall be entitled to receive, in lieu of its initial allotment and its regular allotment for the following month or period, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).".

SEC. 110. FOOD STAMP INFORMATION ACTIVITIES.

(a) AUTHORITY.—Subparagraph (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: "(A) inform low-income households containing members who are homeless individuals, elderly or disabled members, low-income workers with children, or residents of rural areas (and, at the option of the State, other low-income persons) about the availability, eligibility requirements, application procedures, and benefits of the food stamp program, including notification to recipients of aid to families with dependent children, supplemental security income, and unemployment compensation, distribution of application forms and associated information about filling out such forms (including information about the documentation required pursuant to paragraph (3)), and".

(b) ADMINISTRATIVE COSTS.—Section 16(a)(4) of such Act (7 U.S.C. 2025(a)(4)) is amended by striking out "permitted" and inserting in lieu thereof ", including those undertaken".

SEC. 111. EXTENSION OF HOMELESS AMENDMENTS.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (Public Law 99-570; 7 U.S.C. 2012 note) is amended by inserting ", except those amendments made by subsection (b)," after "this section".

Subtitle B—Related Programs

SEC. 121. TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) (as amended by section 813 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77)) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 is amended by striking out "20" and inserting in lieu thereof "50".

(c) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(b)(2) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "fiscal year ending September 30, 1988" and inserting "fiscal year 1990".

(d) PROGRAM TERMINATION.—

(1) IN GENERAL.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 814(a) of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "1988" and inserting "1990".

(2) CONFORMING AMENDMENT.—Section 202A(a)(1) of the Temporary Emergency Food Assistance Act of 1983 (as amended by section 812 of the Stewart B. McKinney Homeless Assistance Act) is amended by striking out "To the extent" and all that follows through "fiscal year 1988" and inserting in lieu thereof "For the period ending on the date specified in section 212".

SEC. 122. COMMUNITY FOOD AND NUTRITION PROGRAM.

(a) PROGRAMS.—Section 681A(a) of the Community Services Block Grant Act (42 U.S.C. 9910a(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

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

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

"(4) to develop innovative approaches at the State and local level to improve the nutritional content of meals consumed by low-income people that are home bound due to dibilitating diseases or conditions.".

(b) AUTHORIZATION.—Subsection (c) of section 681A of such Act is amended to read as follows:

"(c) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1988 through 1993.".

SEC. 123. STUDY OF SPECIAL DIETS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) conduct a study, by contract with the National Academy of Sciences—

(A) to identify which kinds of medical conditions commonly suffered by members of households participating in the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) require such members to follow special diets;

(B) to determine the incidence of each medical condition identified under subparagraph (A) among members of households that are eligible to participate in the food stamp program;

(C) to determine the estimated costs that would be incurred by households (of various sizes) participating in the food stamp program, to follow special diets required by medical conditions suffered by the members of such households; and

(D) with respect to such households and each of the medical conditions identified in subparagraph (A), to determine the adjustments to the low cost food plan that would be necessary to provide to such households allotments that take into account additional costs that would be incurred to follow special diets required by such medical conditions; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing in detail the results of such study.

TITLE II—CHILD NUTRITION PROMOTION

SEC. 201. EXCLUSION OF FOSTER CARE AND ADOPTION ASSISTANCE FROM INCOME UNDER THE FOOD STAMP PROGRAM; REMOVAL OF OBSOLETE REFERENCE.

Paragraph (12) of section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended to read as follows: "(12) any payments made under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) or under any State or local foster care program, and".

SEC. 202. IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM.

The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by inserting after "3 cents" the following: ", and (effective beginning July 1, 1989) an additional 3 cents,".

SEC. 203. RESTORATION OF PRIVATE NONPROFIT ORGANIZATIONS UNDER THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) ELIGIBLE SERVICE INSTITUTIONS.—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended—

(1) in subparagraph (B), by inserting ", private nonprofit organizations, " after "county governments";

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by striking out "and" at the end of subparagraph (D); and

(4) by inserting after subparagraph (D) the following new subparagraph: "(E) 'private nonprofit organizations' includes only such organizations (including summer camps) that (i) operate at not more than 15 sites, or operate at not more than 20 sites pursuant to a waiver granted under subsection (i)(2), and (ii) use self-preparation facilities to prepare meals or obtain meals from a public facility (such as a school district, public hospital, or State university); and".

(b) ELIGIBLE PRIVATE NONPROFIT ORGANIZATIONS.—Section 13 of the such Act is amended by inserting after subsection (h) the following new subsection:

"(i)(1) Eligible private nonprofit organizations entitled to participate in programs under this section as service providers shall be limited to those that—

"(A) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of

any year that such authority or such unit of local government will operate a program under this section in such year;"

"(B) exercise full control and authority over the operation of the food service programs under this section at all sites under their sponsorship;"

"(C) provide ongoing year-round activities for children;"

"(D) demonstrate adequate management and fiscal capacity to operate programs under this section; and

"(E) meet applicable State and local health, safety, and sanitation standards;.

"(2) The Secretary may waive the limitation of 15 sites established under subsection (a)(1)(E)(i) and permit a private nonprofit organization under this section to operate at not more than 20 sites if such organization demonstrates to the satisfaction of the Secretary that an unmet need for such additional sites exists and that such organization has the capability to serve such additional sites.".

SEC. 204. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by inserting before the period the following: ", or in the case of an institution or home open more than 8 hours per day, two meals and two supplements or three meals and one supplement".

SEC. 205. TECHNICAL CORRECTION RELATING TO INCOME GUIDELINES FOR FREE LUNCHES.

Section 9(b)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(b)(1)(A)) is amended—

(1) in the second sentence, by striking out "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The"; and

(2) by striking out the third sentence.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall become effective on October 1, 1988.

(b) LOW COST FOOD PLAN; EXCESS SHELTER EXPENSE DEDUCTION.—The amendments made by sections 101 and 105 shall become effective on January 1, 1989.

(c) SCHOOL BREAKFAST PROGRAM; CHILD CARE FOOD PROGRAM.—The amendments made by sections 202 and 204 shall become effective on July 1, 1989.

SUMMARY OF PROVISIONS IN PANETTA EMERGENCY HUNGER RELIEF ACT OF 1988

ENSURE THAT THE FOOD STAMP PROGRAM MEETS EMERGENCY FOOD NEEDS

Increase Food Assistance to Hungry Families.—Food Stamp benefits are currently based on the Thrifty Food Plan, the lowest cost plan devised by the U.S. Department of Agriculture. The maximum benefit is 81 cents per person per meal, but the average benefit is 51 cents per meal, a level on which it is difficult for most poor families to achieve a minimally adequate diet. A 1984 study of families below the poverty line by the Association of Children of New Jersey found that only 20 percent of families reported that food stamps lasted throughout the month; 47 percent said that food stamps lasted only three weeks, while 32 percent said that the benefits lasted two weeks or less. These families had an average monthly income of $438. The food stamp benefit formula assumes that 30 percent of cash income will be spent on food. These families were only able to spend an average of $60 in cash on food to supplement their food stamp benefits.

Of the families receiving food stamps in this study, 83 percent said that they sometimes or always run out of food. Most families in the study reported that this happens from the middle to the end of the month. A 1978 Department of Agriculture study found that only 12 percent of low-income families spending at the Thrifty Food Plan level obtained all of their Recommended Dietary Allowances (RDA's), the average daily amounts of nutrients that population groups should consume over time. The survey also showed that food shopping expertise of households with low income and receiving food stamps was as good or better than other households.

Because food stamp benefits do not enable many low-income families to get through the month, they must often resort to emergency feeding facilities. In the 1987 study by Project Bread: Hunger Hotline in Massachusetts, 45 percent of the clients of emergency feeding facilities came because they had run out of food stamps.

The Thrifty Food Plan, according to the Department of Agriculture, was designed for "short-term use when funds are extremely low," yet the inadequate level of food stamps based on this plan are the major source of food assistance for recipients.

Almost two thirds of all food stamp recipients are children, the elderly or disabled, and 94 percent of all recipients have gross income below the poverty line; these are population groups that are particularly vulnerable to interruptions in food or a lack of proper nutrients.

An increase in benefits from the Thrifty Food Plan to the Low-Cost Food Plan, the next least expensive diet calculated by the Department of Agriculture, would provide recipients with more nutritionally adequate diets and help them have food available for the entire month. In purchasing food at the Low-Cost Food Plan level, low-income persons are almost three times as likely to achieve 100 percent of the RDA's than at the Thrifty Food Plan level.

When the Thrifty Food Plan was established as the basis for food stamp benefits in 1976, the plan was 80 percent of the Department of Agriculture's Low Cost Plan. The benefits are now about 78 percent of the cost of the low cost plan. The Emergency Hunger Relief Act would increase the basic food stamp benefit by about 1 percent and a second 1 percent in fiscal year 1990. This will be a step toward providing a guarantee of a nutritionally adequate diet, and would over the next two years restore the historic relationship between food stamp benefits and the USDA Low Cost Food Plan. Granting a modest benefit increase to all food stamp recipients is also an equitable way to soften the impact of the decline in availability of certain commodities distributed through the TEFAP program.

Phase out the food stamp shelter deduction limit.—Under current law, non-elderly and non-disabled households are entitled to an excess shelter deduction of up to $164 a month if after all other deductions are taken, their shelter expenses exceed 50 percent of net income. There is no limit on the maximum shelter deduction for the elderly or disabled. The original justification for a shelter deduction limit for the non-elderly or non-disabled was to prevent participation in the food stamp program by individuals with high incomes before deductions. Because since 1981, households with a gross income above 130 percent of the poverty level ($14,568 a year for a family of four in 1987) have been ineligible to participate in the program, this restriction is no longer needed. The Emergency Hunger Relief Act will phase out this limit on the shelter deduction, because it simply serves to hold down benefits for the 25 percent of households with the highest shelter costs. For budgetary reasons, the phase out would be over a number of years. This is a major homeless prevention measure.

Change household definition.—Current law discriminates against relatives living together. Last year, in the homeless bill, the program was reformed to allow parents whose adult children and their children lived together to receive food stamps as separate households if meals are purchased and prepared separately for the family units. The Emergency Hunger Relief Act will make further adjustments in the household definition so that relatives who live together, but who purchase and prepare their meals separately, will not have their food stamps benefits reduced. This is an important homeless prevention measure, which responds to the shortage of affordable housing that has caused many relatives to have to live together.

Adjust asset test to more closely reflect current costs of automobiles.—Under current law, the value of an automobile above $4,500 is counted as a liquid asset in the food stamp program, no matter what the equity is for the automobile. This amount was established in the Food Stamp Act Amendments of 1977 and has not been adjusted since even though the cost of automobiles has increased by more than 100 percent. The Emergency Hunger Relief Act will index the automobile asset limit so that food stamp applicants with automobiles with low values in terms of current prices will not be denied food stamp benefits. This change will also help alleviate problems in remote rural parts of the country where pickup trucks or 4-wheel drive vehicles are necessary for even the poorest of families.

REDUCE BARRIERS TO PARTICIPATION IN THE FOOD STAMP PROGRAM

Allow states to decide whether to require monthly reporting.—Under current law, states must receive approval of the U.S. Department of Agriculture if they are to waive monthly reporting requirements for households with earnings or a recent work history. For all other households, monthly reporting is at the option of the state except the following categories for which monthly reporting cannot be required: migrant farm worker households, households in which all members have no earned income, and households in which all members are elderly or disabled. For other categories of recipients, states should be given the discretion to decide whether to require monthly reporting which creates a significant administrative burden for both recipients and welfare agencies. If states fail to utilize proper procedures, they are subject to fiscal sanctions. Waiving monthly reporting for households with earnings, when it has been tested, has not resulted in significantly more errors than mandatory monthly reporting.

Ensure that benefits of recipients who have a gap in eligibility for 30 days or less are not reduced.—Since 1982, eligible food stamp households who have a short break in food stamp benefits because of failure to meet paperwork requirements associated with recertification have had their benefits pro-rated when food stamp certification resumed. This approach is more restrictive than the Reagan administration's initial 1981 proposal. The Emergency Hunger Relief Act will enact the 1981 administration proposal by providing full benefits if there is a break in the certification of 30 days or less.

Require only one income test for food stamp participants.—Under current law,

households who do not have an elderly or disabled member must meet two income tests for eligibility for food stamps. The first test is that gross income, before exclusions and deductions, cannot be higher than 130 percent of the proverty level. The second test is that the net income, after exclusions and deductions, must not be greater than the proverty level. The Emergency Hunger Relief Act will delete the net income test. The two income eligibility tests simply pose an additional administrative burden on applicants and caseworkers. The gross income test is sufficient to keep high income households from participating in the program.

Ensure that low-income families who are eligible for Food Stamps are made aware of the availability of benefits.—Resume mandatory food stamp informational activities for low-income working families with children who are not receiving welfare benefits, households with one or more elderely or disabled members, the homeless, and residents of rural areas. At state option, resume informational activities for other categories of recipients. The Emergency Hunger Relief Act also extends information activities to low-income persons in rural areas, as does the House-passed Family Welfare Reform Act of 1987. Last year, the Stewart B. McKinney Act authorized the provision of informational activities on behelf of homeless persons.

Make permanent the current law provision which allow homeless persons in shelters to receive food stamps.—The Homeless Eligibility Clarification Act of 1986 allowed homeless persons in shelters to receive food stamps. The Emergency Hunger Relief Act extendes this provision permanently.

EMERGENCY CHILD HEALTH PROTECTION PROVISIONS

One of the most important determinatants of health status is adequate nutition. The following provisions are designed to ensure that young childern have access to adequate nutrition.

Increase participation in the School Breakfast Program.—Starting with academic year 1989-1990, the reimbursement rate to schools for the school breakfast program would be increased by 3 cents a meal so that school lunch directors would have adequate funding to improve the quality of breakfasts served in schools. This change would also encourage more schools to participate in the school breakfast program. Currently, only one-fourth of the low-income children who participate in the school lunch program participate in the school breadfast program. A nutritious breakfast is inispensable if children are to be healthy and to learn.

Allow private nonprofit organizations to participate in the summer food program.—Starting in the summer of 1989, allow private nonprofit organizations to participate in the summer food program. Children need adequate nutrition throughout the year; yet only one eighth of the low-income children who participate in school meal programs get nutrition assistance under the summer food program. Non-profit organizations were excluded from participation in the summer food program in 1981 because of abuses by some private sponsors who obtained the meals used in the program from private vendors and who did not adequately police their meal sites. The Emergency Hunger Relief Act attempts to deal with the hunger that resulted and limits the number of sites and requires sponsors to provide self-prepared meals or to contract for meals with a school or private agency.

Ensure that children who stay in day care centers which are open more than eight hours a day get adequate nutrition.—For mothers to be able to work, their children must have adequate day care, including adequate nutrition. Because of the time required for mothers to commute to and from work, children often must stay in day care centers for more than 8 hours. The Emergency Hunger Relief Act will provide an additional meal or snack to childen who attend day care centers which are open more than eight hours a day. This would partially restore a 1981 budget cut.

Ensure that low-income households who desire to adopt children or to take in foster children do not have food stamps reduced as a result.—The Emergency Hunger Relief Act will exclude from income for purposes of food stamp eligibility and benefits, state and federal adoption assistance and foster care payments. This will not only better ensure that these children receive an adequate diet but also encourage the placement of children with families as an alternative to institutionalization. In the Family Welfare Reform Act of 1987 (H.R. 1720), the House has already approved the exclusion of adoption assistance payments made under the Social Security Act from consideration for AFDC purposes.

Correct a technical probelm which threatens to disrupt administration of free price school meal lunches at the beginning of the academic year 1999-89.—Eligibility for both food stamps and free school lunches is set at 130 percent of the poverty level. Since 1983, the income eligibility guidelines for free school lunches has been tied to the annual food stamp eligibility adjustment, which in recent years has been July 1 of each year. As a result of the Stewart B. McKinney Homeless Assistance Act, the adjustment this year will be October 1, 1988, which is after the academic year has begun. Therefore, the Emergency Hunger Relief Act will retain the 130 percent of poverty eligibility limit for free school lunches but delete the tying of the adjustment to the food stamp eligibility guidelines so that school lunch directors do not have to compute eligibility in July and then again in October.

Increase the authorization level for the Community Food and Nutrition Program (CFNP) which is a separately authorized program within the Community Services Block Grant Act.—CFNP funds are available for community based, local and statewide groups which distribute information on federal food and nutrition programs as a mechanism for increasing nutrition assistance to low-income Americans. The seed money to initiate Second Harvest, the most successful food bank system, came from this program.

EMERGENCY FOOD ASSISTANCE

The level of food assistance given by the food bank and emergency feeding network is in jeopardy because of the decline in availability of certain important commodities held by the Commodity Credit Corporation (CCC), which are distributed through the Temporary Emergency Food Assistance Program (TEFAP). The Department of Agriculture estimates that after April 1988, no more cheese and non-fat dry milk will be distributed through TEFAP, and after March 1988, no more honey and rice may be available for distribution. This projection is subject to considerable uncertainty because production of these commodities could increase. For example, if dairy supplies are larger than originally anticipated, the Department of Agriculture indicates that cheese and non-fat milk donations will be resumed. Most likely, such deliveries would, however, be intermittent—thus making it difficult for recipient agencies to plan orderly distribution programs.

At the same time that the availability of commodities is uncertain, the demand for emergency food assistance is increasing. The Conference of Mayors recently released a survey on the demand for emergency food assistance and shelter in 25 major cities, The Continuing Growth of Hunger, Homelessness and Poverty in America's Cities: 1987. Last year, the demand for emergency food assistance increased an average of 18 percent in all but two of the cities surveyed. Two-thirds of those requesting emergency food assistance in the cities surveyed are members of families with children. All but one of the survey cities project a greater demand for emergency food assistance this year than in 1987. To address this problem, the Emergency Hunger Relief Act will do the following:

Extend the authorization for the TEFAP program through fiscal year 1989 at the current level of $50 million.

Increase the share of TEFAP administrative funds which must go to emergency feeding organizations from 20 percent to 50 percent. This is intended to ensure that the food distribution network is not disrupted because of the uncertainty about the availability of CCC commodities. The increase in the relative share of TEFAP funding which will go to emergency feeding organizations is intended to ensure that the operations of these organizations will not be disrupted due to current uncertainty about the amount of TEFAP commodities which will be distributed. The emergency feeding organizations which have developed program expertise should receive the maximum possible share of the TEFAP appropriation so that the delivery system can be kept in place until the situation regarding commodity availability is clarified.

WELFARE REFORM

Expedite final Congressional action on the Family Food Stamp Welfare Reform provisions approved by the House of Representatives.—On December 16, 1987, the House of Representatives approved the Family Welfare Reform Act of 1987, which includes as Title X the food stamp welfare reform provisions reported by the Committee on Agriculture (H.R. 3337). The food stamp welfare reform provisions will either be introduced as a separate bill by Senator Leahy or will be incorporated as a separate title into the Emergency Hunger Relief Act. Because final action on the legislation is not likely until late in this session, the effective dates will be delayed one year from the House-passed bill.

EMERGENCY NUTRITION APPROPRIATIONS INCREASES

Two discretionary programs are not affected by this bill because current law authorizes appropriation of such sums as the Congress considers appropriate. These are WIC and the Commodity Supplemental Food Program. Nevertheless, appropriations above the baseline are urgently needed to address the hunger emergency.

WIC.—Despite the severe budget constraints in fiscal year 1988, the Congress appropriated $87 million above current services for WIC in fiscal year 1987. This increase reflects the high priority which the Congress gives to this highly effective program. This funding increase was slightly more than half of the funding objective of $150 million above current services in the joint resolution, WIC Food for Life (H.J. Res. 192 and S.J. Res. 99). A full funding increase of $150 million above the fiscal year 1989 current services level is needed. The U.S. Department of Agriculture estimates that this program reaches only about 40 percent of those eligible.

Commodity Supplemental Food Program.—This program provides supplemental

food to the following low-income groups: infants and children up to age six, pregnant or post-partum women at nutritional risk, and elderly persons. Sufficient funding to serve the unmet requirements in current project areas is a way to target nutrition assistance on low-income communities which have an infrastructure in place to meet emergency food needs. This would require an apporpriation increase of $10 million.

GOVERNMENT PUBLICATIONS FOR SALE

Additional copies of Government publications are offered for sale to the public by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, at cost thereof as determined by the Public Printer plus 50 percent: *Provided*, That a discount of not to exceed 25 percent may be allowed to authorized bookdealers and quantity purchasers, but such printing shall not interfere with the prompt execution of work for the Government. The Superintendent of Documents shall prescribe the terms and conditions under which he may authorize the resale of Government publications by bookdealers, and he may designate any Government officer his agent for the sale of Government publications under such regulations as shall be agreed upon by the Superintendent of Documents and the head of the respective department or establishment of the Government (U.S. Code, title 44, sec. 1708).

LAWS RELATIVE TO THE PRINTING OF DOCUMENTS

Either House may order the printing of a document not already provided for by law, but only when the same shall be accompanied by an estimate from the Public Printer as to the probable cost thereof. Any executive department, bureau, board or independent office of the Government submitting reports or documents in response to inquiries from Congress shall submit therewith an estimate of the probable cost of printing the usual number. Nothing in this section relating to estimate shall apply to reports or documents not exceeding 50 pages (U.S. Code, title 44, sec. 716).

Resolution for printing extra copies, when presented to either House, shall be referred immediately to the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, who in making their report, shall give the probable cost of the proposed printing upon the estimate of the Public Printer, and no extra copies shall be Printed before such committee has reported (U.S. Code, title 44, sec. 703).

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 3, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 4

8:00 a.m.
Veterans' Affairs
To hold hearings on the President's proposed budget request for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.
SR-418

9:30 a.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume closed hearings on proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense, focusing on Soviet strategic force developments.
S-407, Capitol

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Joint Economic
To hold hearings on the employment/unemployment situation for February
SD-628

10:00 a.m.
Appropriations
To resume hearings on the President's proposed budget for fiscal year 1989.
SD-192

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on S. 1608, to amend the Federal judicial code with respect to the administration of the U.S. Claims Court, and the salaries and benefits of Claims Court judges
SD-226

MARCH 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative priorities of the Veterans of Foreign Wars.
SD-106

MARCH 9

10:00 a.m.
Joint Economic
To hold hearings on the national economic outlook for 1988
2175 Rayburn Building

MARCH 14

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Veterans' Administration
SD-124

Energy and Natural Resources
To hold hearings on the nominations of T.S. Ary, of Oklahoma, to be Director of the Bureau of Mines, Department of the Interior, Ernest C. Baynard III, of Virginia, to be Assistant Secretary of Energy for Environment, Safety and Health, and C. Anson Franklin, of Virginia, to be Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs.
SD-366

Finance
Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee
To hold hearings on the reform of Internal Revenue Service Code penalties.
SD-215

MARCH 15

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1991-93 for the Corporation for Public Broadcasting.
SR-253

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on Agricultural Stabilization and Conservation Service, Soil Conservation Service, and the Commodity Credit Corporation.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Army.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Consumer Product Safety Commission, Office of Consumer Affairs, and the Consumer Information Center.
S-126, Capitol

Finance
To hold hearings on proposed tax incentives for education.
SD-215

Joint Economic
To resume hearings on the national economic outlook for 1988.
Room to be announced

10:30 a.m.
Conferees
On the agricultural trade provisions of H.R. 3, Omnibus Trade and Competitiveness Act of 1987.
SR-332

2:00 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on childhood immunization programs.
SR-428A

MARCH 16

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study to review federal enforcement of foreign fishing activities in the Bering Sea.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

1:30 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Joseph T. Nall, of North Carolina, to be a Member of the National Transportation Safety Board.
SR-253

2:00 p.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.
SR-253

MARCH 17

9:00 a.m.
Veterans' Affairs
Business meeting, to consider President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review matters relating to the October 1987 market break.
SD-562

Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for Amtrak.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Air Force.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1988 for the National Transportation Safety Board,

and the Research and Special Programs Administration.
SD-124

Finance
To hold hearings on proposed legislation relating to the U.S./Canada Free Trade Agreement.
SD-215

Small Business
To resume hearings on S. 1929, to create the Corporation for Small Business Investment [COSBI].
SR-428A

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1508, S. 1570 and H.R. 1548, bills to withdraw and reserve certain Federal lands for military purposes.
SD-366

2:30 p.m.
Budget
To continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

MARCH 18

9:00 a.m.
Veterans' Affairs
Business meeting, to continue consideration of the President's budget requests for fiscal year 1989 for veterans programs, and proposed legislation relating to veterans' home loan guarantees.
SR-418

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production and Stabilization of Prices Subcommittee
Domestic and Foreign Marketing and Product Promotion Subcommittee
To hold joint hearings on soybeans and the world market.
SR-332

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Tax Court, Committee for the Purchase from the Blind and Other Severely Handicapped, Advisory Commission on Intergovernmental Relations, Merit Systems Protection Board, Office of the Special Counsel, Advisory Committee on Federal Pay, and the Federal Labor Relations Authority.
SD-116

10:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on recent changes in collection procedures on gasoline, diesel, and special motor fuel taxes.
SD-215

MARCH 21

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury, focusing on the Financial Management Service, Bureau of the Public Debt, U.S. Mint, and the Internal Revenue Service.
SD-116

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Finance
Taxation and Debt Management Subcommittee
To hold hearings on the tax treatment of single-premium and other investment-oriented life insurance.
SD-215

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-124

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for military construction, focusing on base rights and burdensharing.
SD-192

MARCH 22

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To continue hearings on H.R. 2090 and S. 1478, bills to designate certain National Forest System lands in the State of Montana for release to the Forest Planning process, protection of recreation value, and inclusion in the National Wilderness Preservation System.
SD-366

Finance
Health Subcommittee
To hold hearings on S. 1673, to require States to provide Medicaid coverage of community and family support services for severely disabled individuals.
SD-215

Governmental Affairs
To resume hearings on proposals to establish a national nutrition monitoring and related research program.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Foreign Agricultural Service, Food for Peace Program (P.L. 480), Office of International Cooperation and Development, and the Office of the General Sales Manager.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of the Navy, and the U.S. Marine Corps.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Science Foundation.
SD-116

MARCH 23

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SR-342

MARCH 24

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to review federal collection activities of information relating to foreign investment in the United States.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings to examine Health Care Financing Administration's management of medical laboratories.
SR-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Farm Credit Administration.
SD-138

Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the National Guard and reserve programs.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Railroad Administration, and the National Railroad Passenger Corporation (Amtrak).
SD-124

Finance
To hold hearings on S. 1245, to authorize the issuance by States of tax-exempt bonds for high-speed intercity rail transportation projects under certain circumstances.
SD-215

MARCH 25

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Archives and Records Administration, U.S. Secret Service, Administrative Conference of the United States, and the U.S. Postal Service.
SD-116

MARCH 28

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Management and Budget

(OMB), and the Office of Federal Procurement Policy.
SD-116

Budget
To resume hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget.
SD-608

Finance
Taxation and Debt Management Subcommittee
To hold hearings to review certain tax provisions which have recently expired or will expire this year, focusing on the exempt treatment of mortgage revenue bonds and the targeted jobs tax credit.
SD-215

MARCH 29

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for force structure programs.
SD-192

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-124

MARCH 30

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Rural Electrification Administration.
SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the National Aeronautics and Space Administration.
SD-126, Capitol

Appropriations
Military Construction Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for military construction and family housing programs.
SD-192

MARCH 31

9:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to agent orange and related issues.
SR-418

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to review proposed budget estimates for fiscal year 1989 for the Strategic Defense Initiative.
SD-192

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Aviation Adminstration, and the General Accounting Office.
SD-138

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 314, to require certain telephones to be hearing aid compatible.
SD-253

APRIL 11

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency.
SD-124

APRIL 12

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-124

APRIL 13

9:00 a.m.
Veteran's Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative priorities of AMVETS, Vietnam Veterans of America, and the Jewish War Veterans.
SD-106

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Labor.
SD-124

Governmental Affairs
Oversight of Government Management Subcommittee
To continue hearings on proposed legislation authorizing funds for programs of the Ethics in Government Act.
SD-342

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Farmers Home Administration, and the Federal Crop Insurance Corporation.
SD-138

Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for reserve components' military construction and defense agencies' military construction and family housing programs.
SD-116

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for ACTION, Corporation for Public Broadcasting, Railroad Retirement Board, Federal Mediation and Conciliation Service, National Mediation Board, National Labor Relations Board, and the Occupational Safety and Health Review Commission.
SD-124

APRIL 14

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transit Administration, and the Washington Metropolitan Transit Authority.
SD-124

APRIL 15

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Prospective Payment Assessment Commission, Physician Payment Review Commission, Federal Mine Safety and Health Review Commission, National Commission on Libraries and Information Science, National Council on the Handicapped, Soldiers' and Airmen's Home, and the U.S. Institute of Peace.
SD-192

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the General Services Administration and the Executive Office of the President (with the exception of OMB).
SD-116

APRIL 18

9:30 a.m.
Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of the Treasury.
SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.
SD-124

APRIL 19

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Food and Nutrition Service, and

the Human Nutrition Information Service.

SD-138

Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development.

SD-124

APRIL 20

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Social Security Administration, and the Health Care Financing Administration, both of the Department of Health and Human Services.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Army military construction and family housing programs.

SD-124

2:30 p.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Family Support Administration, and the Human Development Services, both of the Department of Health and Human Services.

SD-192

APRIL 21

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Assistant Secretary for Health, and the Centers for Disease Control, both of the Department of Health and Human Services.

SD-116

10:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Commodity Futures Trading Commission, and the Food and Drug Administration of the Department of Health and Human Services.

SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Transportation, and the General Accounting Office.

SD-124

APRIL 22

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

APRIL 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

APRIL 26

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-124

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency.

S-126, Capitol

APRIL 27

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs.

SD-124

APRIL 28

9:00 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.

SD-116

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.

SD-124

APRIL 29

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services.

SD-138

Appropriations
Treasury, Postal Service, and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

MAY 9

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Com-

pensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

MAY 12

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

CANCELLATIONS

MARCH 4

9:30 a.m.
Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold hearings on sham recycling and the recycling exemption in RCRA.

SD-406

MARCH 16

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration.

SR-253

REPRESENTATIVE, STATE, AND CAPITOL OFFICE

(As furnished by the Clerk of the House)

(NOTE.—Office numbers with 3 digits are in the Cannon House Office Building, 4 digits beginning with 1 are in the Longworth House Office Building, and 4 digits beginning with 2 are in the Rayburn House Office Building, Washington, DC 20515.)

[Democrats in roman (257), Republicans in italic (177), vacant (1), total 435]

	Office No.
Ackerman, Gary L. (N.Y.)	1725
Akaka, Daniel K. (Hawaii)	2301
Alexander, Bill (Ark.)	233
Anderson, Glenn M. (Calif.)	2329
Andrews, Michael A. (Tex.)	322
Annunzio, Frank (Ill.)	2303
Anthony, Beryl, Jr. (Ark.)	1117
Applegate, Douglas (Ohio)	2183
Archer, Bill (Tex.)	1135
Armey, Richard K. (Tex.)	514
Aspin, Les (Wis.)	2336
Atkins, Chester G. (Mass.)	504
AuCoin, Les (Oreg.)	2159
Badham, Robert E. (Calif.)	2427
Baker, Richard H. (La.)	506
Ballenger, Cass (N.C.)	116
Barnard, Doug, Jr. (Ga.)	2227
Bartlett, Steve (Tex.)	1709
Barton, Joe (Tex.)	1225
Bateman, Herbert H. (Va.)	1527
Bates, Jim (Calif.)	1404
Bellenson, Anthony C. (Calif.)	1025
Bennett, Charles E. (Fla.)	2107
Bentley, Helen Delich (Md.)	1610
Bereuter, Doug (Nebr.)	2446
Berman, Howard L. (Calif.)	137
Bevill, Tom (Ala.)	2302
Biaggi, Mario (N.Y.)	2428
Bilbray, James H. (Nev.)	1431
Bilirakis, Michael (Fla.)	1530
Blaz, Ben [1] (Guam)	1130
Bliley, Thomas J., Jr. (Va.)	213
Boehlert, Sherwood L. (N.Y.)	1641
Boggs, Lindy (Mrs. Hale) (La.)	2353
Boland, Edward P. (Mass.)	2426
Bonior, David E. (Mich.)	2242
Bonker, Don (Wash.)	434
Borski, Robert A. (Pa.)	314
Bosco, Douglas H. (Calif.)	408
Boucher, Rick (Va.)	428
Boulter, Beau (Tex.)	124
Boxer, Barbara (Calif.)	307
Brennan, Joseph E. (Maine)	1428
Brooks, Jack (Tex.)	2449
Broomfield, Wm. S. (Mich.)	2306
Brown, George E., Jr. (Calif.)	2256
Brown, Hank (Colo.)	1424
Bruce, Terry L. (Ill.)	419
Bryant, John (Tex.)	412
Buechner, Jack (Mo.)	502
Bunning, Jim (Ky.)	1123
Burton, Dan (Ind.)	120
Bustamante, Albert G. (Tex.)	1116
Byron, Beverly B. (Md.)	2430
Callahan, Sonny (Ala.)	1232
Campbell, Ben Nighthorse (Colo.)	1724
Cardin, Benjamin L. (Md.)	507
Carper, Thomas R. (Del.)	131
Carr, Bob (Mich.)	2439
Chandler, Rod (Wash.)	223
Chapman, Jim (Tex.)	429
Chappell, Bill, Jr. (Fla.)	2468
Cheney, Dick (Wyo.)	104
Clarke, James McClure (N.C.)	217
Clay, William (Bill) (Mo.)	2470
Clement, Bob (Tenn.)	1020
Clinger, William F., Jr. (Pa.)	1122
Coats, Dan (Ind.)	1417
Coble, Howard (N.C.)	430
Coelho, Tony (Calif.)	403
Coleman, E. Thomas (Mo.)	2344
Coleman, Ronald D. (Tex.)	416
Collins, Cardiss (Ill.)	2264
Combest, Larry (Tex.)	1529
Conte, Silvio O. (Mass.)	2300
Conyers, John, Jr. (Mich.)	2313
Cooper, Jim (Tenn.)	125
Coughlin, Lawrence (Pa.)	2467
Courter, Jim (N.J.)	2422
Coyne, William J. (Pa.)	424
Craig, Larry E. (Idaho)	1034
Crane, Philip M. (Ill.)	1035
Crockett, Geo. W., Jr. (Mich.)	1531
Dannemeyer, William E. (Calif.)	1214
Darden, George (Buddy) (Ga.)	1330
Daub, Hal (Nebr.)	1019
Davis, Jack (Ill.)	1234
Davis, Robert W. (Mich.)	2417
DeFazio, Peter A. (Oreg.)	1729
de la Garza, E (Tex.)	1401
DeLay, Tom (Tex.)	1039
Dellums, Ronald V. (Calif.)	2136
de Lugo, Ron [2] (V.I.)	2238
Derrick, Butler (S.C.)	201
DeWine, Michael (Ohio)	1705
Dickinson, William L. (Ala.)	2406
Dicks, Norman D. (Wash.)	2429
Dingell, John D. (Mich.)	2221
DioGuardi, Joseph J. (N.Y.)	325
Dixon, Julian C. (Calif.)	2400
Donnelly, Brian J. (Mass.)	438
Dorgan, Byron L. (N. Dak.)	238
Dornan, Robert K. (Calif.)	301
Dowdy, Wayne (Miss.)	240
Downey, Thomas J. (N.Y.)	2232
Dreier, David (Calif.)	410
Duncan, John J. (Tenn.)	2206
Durbin, Richard J. (Ill.)	417
Dwyer, Bernard J. (N.J.)	404
Dymally, Mervyn M. (Calif.)	1717
Dyson, Roy (Md.)	224
Early, Joseph D. (Mass.)	2349
Eckart, Dennis E. (Ohio)	1210
Edwards, Don (Calif.)	2307
Edwards, Mickey (Okla.)	2434
Emerson, Bill (Mo.)	418
English, Glenn (Okla.)	2235
Erdreich, Ben (Ala.)	439
Espy, Mike (Miss.)	216
Evans, Lane (Ill.)	328
Fascell, Dante B. (Fla.)	2354
Fauntroy, Walter E.[3] (D.C.)	2135
Fawell, Harris W. (Ill.)	318
Fazio, Vic (Calif.)	2433
Feighan, Edward F. (Ohio)	1124
Fields, Jack (Tex.)	413
Fish, Hamilton, Jr. (N.Y.)	2269
Flake, Floyd H. (N.Y.)	1427
Flippo, Ronnie G. (Ala.)	2334
Florio, James J. (N.J.)	2162
Foglietta, Thomas M. (Pa.)	231
Foley, Thomas S. (Wash.)	1201
Ford, Harold E. (Tenn.)	2305
Ford, William D. (Mich.)	239
Frank, Barney (Mass.)	1030
Frenzel, Bill (Minn.)	1026
Frost, Martin (Tex.)	2459
Fuster, Jaime B.[4] (P.R.)	427
Gallegly, Elton (Calif.)	1020
Gallo, Dean A. (N.J.)	1318
Garcia, Robert (N.Y.)	2338
Gaydos, Joseph M. (Pa.)	2186
Gejdenson, Sam (Conn.)	1410
Gekas, George W. (Pa.)	1519
Gephardt, Richard A. (Mo.)	1432
Gibbons, Sam (Fla.)	2204
Gilman, Benjamin A. (N.Y.)	2160
Gingrich, Newt (Ga.)	2438
Glickman, Dan (Kans.)	1212
Gonzalez, Henry B. (Tex.)	2413
Goodling, William F. (Pa.)	2263
Gordon, Bart (Tenn.)	1517
Gradison, Willis D., Jr. (Ohio)	2311
Grandy, Fred (Iowa)	1711
Grant, Bill (Fla.)	1331
Gray, Kenneth J. (Ill.)	2109
Gray, William H., III (Pa.)	204
Green, Bill (N.Y.)	1110
Gregg, Judd (N.H.)	308
Guarini, Frank J. (N.J.)	2458
Gunderson, Steve (Wis.)	227
Hall, Ralph M. (Tex.)	236
Hall, Tony P. (Ohio)	2448
Hamilton, Lee H. (Ind.)	2187
Hammerschmidt, John Paul (Ark.)	2207
Hansen, James V. (Utah)	1113
Harris, Claude (Ala.)	1009
Hastert, J. Dennis (Ill.)	515
Hatcher, Charles (Ga.)	405
Hawkins, Augustus F. (Calif.)	2371
Hayes, Charles A. (Ill.)	1028
Hayes, James A. (La.)	503
Hefley, Joel (Colo.)	508
Hefner, W.G. (Bill) (N.C.)	2161
Henry, Paul B. (Mich.)	215
Herger, Wally (Calif.)	1108
Hertel, Dennis M. (Mich.)	218
Hiler, John (Ind.)	407
Hochbrueckner, George J. (N.Y.)	1008
Holloway, Clyde C. (La.)	1207
Hopkins, Larry J. (Ky.)	2437
Horton, Frank (N.Y.)	2229
Houghton, Amo (N.Y.)	1217
Howard, James J. (N.J.)	2188
Hoyer, Steny H. (Md.)	1513
Hubbard, Carroll, Jr. (Ky.)	2182
Huckaby, Jerry (La.)	2421
Hughes, William J. (N.J.)	341
Hunter, Duncan (Calif.)	133
Hutto, Earl (Fla.)	2435
Hyde, Henry J. (Ill.)	2104
Inhofe, James M. (Okla.)	1017
Ireland, Andy (Fla.)	2416
Jacobs, Andrew, Jr. (Ind.)	1533
Jeffords, James M. (Vt.)	2431
Jenkins, Ed (Ga.)	203
Johnson, Nancy L. (Conn.)	119
Johnson, Tim (S. Dak.)	513
Jones, Ed (Tenn.)	108
Jones, Walter B. (N.C.)	241
Jontz, Jim (Ind.)	1005
Kanjorski, Paul E. (Pa.)	1518
Kaptur, Marcy (Ohio)	1228
Kasich, John R. (Ohio)	1133
Kastenmeier, Robert W. (Wis.)	2328
Kemp, Jack F. (N.Y.)	2252
Kennedy, Joseph P., II (Mass.)	1631
Kennelly, Barbara B. (Conn.)	1230
Kildee, Dale E. (Mich.)	2262
Kleczka, Gerald D. (Wis.)	226
Kolbe, Jim (Ariz.)	1222
Kolter, Joe (Pa.)	212
Konnyu, Ernest (Calif.)	511
Kostmayer, Peter H. (Pa.)	123
Kyl, Jon L. (Ariz.)	313
LaFalce, John J. (N.Y.)	2367
Lagomarsino, Robert J. (Calif.)	2332
Lancaster, H. Martin (N.C.)	1408
Lantos, Tom (Calif.)	1707
Latta, Delbert L. (Ohio)	2309
Leach, Jim (Iowa)	1514
Leath, Marvin (Tex.)	336
Lehman, Richard H. (Calif.)	1319
Lehman, William (Fla.)	2347
Leland, Mickey (Tex.)	2236
Lent, Norman F. (N.Y.)	2408
Levin, Sander M. (Mich.)	323
Levine, Mel (Calif.)	132
Lewis, Jerry (Calif.)	326
Lewis, John (Ga.)	501
Lewis, Tom (Fla.)	1216
Lightfoot, Jim (Iowa)	1609
Lipinski, William O. (Ill.)	1032
Livingston, Bob (La.)	2412
Lloyd, Marilyn (Tenn.)	2266
Lott, Trent (Miss.)	2185
Lowery, Bill (Calif.)	225
Lowry, Mike (Wash.)	2454
Lujan, Manuel, Jr. (N. Mex.)	1323
Luken, Thomas A. (Ohio)	2368
Lukens, Donald E. "Buz" (Ohio)	117
Lungren, Dan (Calif.)	2440
McCandless, Alfred A. (Al) (Calif.)	435
McCloskey, Frank (Ind.)	127
McCollum, Bill (Fla.)	1507
McCurdy, Dave (Okla.)	409
McDade, Joseph M. (Pa.)	2370
McEwen, Bob (Ohio)	329
McGrath, Raymond J. (N.Y.)	205
McHugh, Matthew F. (N.Y.)	2335

[1] Delegate from Guam.

[2] Delegate from the Virgin Islands.

[3] Delegate from the District of Columbia.

[4] Resident Commissioner from Puerto Rico.

	Office No.
McMillan, J. Alex (N.C.)	401
McMillen, C. Thomas (Md.)	1508
Mack, Connie (Fla.)	228
MacKay, Buddy (Fla.)	330
Madigan, Edward R. (Ill.)	2312
Manton, Thomas J. (N.Y.)	327
Markey, Edward J. (Mass.)	2133
Marlence, Ron (Mont.)	2465
Martin, David O'B. (N.Y.)	442
Martin, Lynn (Ill.)	1208
Martinez, Matthew G. (Calif.)	109
Matsui, Robert T. (Calif.)	2419
Mavroules, Nicholas (Mass.)	2432
Mazzoli, Romano L. (Ky.)	2246
Meyers, Jan (Kans.)	315
Mfume, Kweisi (Md.)	1107
Mica, Dan (Fla.)	2455
Michel, Robert H. (Ill.)	2112
Miller, Clarence E. (Ohio)	2208
Miller, George (Calif.)	2228
Miller, John (Wash.)	1224
Mineta, Norman Y. (Calif.)	2350
Moakley, Joe (Mass.)	221
Molinari, Guy V. (N.Y.)	208
Mollohan, Alan B. (W. Va.)	516
Montgomery, G.V. (Sonny) (Miss.)	2184
Moody, Jim (Wis.)	1721
Moorhead, Carlos J. (Calif.)	2346
Morella, Constance A. (Md.)	1024
Morrison, Bruce A. (Conn.)	437
Morrison, Sid (Wash.)	1434
Mrazek, Robert J. (N.Y.)	306
Murphy, Austin J. (Pa.)	2210
Murtha, John P. (Pa.)	2423
Myers, John T. (Ind.)	2372
Nagle, David R. (Iowa)	214
Natcher, William H. (Ky.)	2333
Neal, Stephen L. (N.C.)	2463
Nelson, Bill (Fla.)	2404
Nichols, Bill (Ala.)	2405
Nielson, Howard C. (Utah)	1229
Nowak, Henry J. (N.Y.)	2240
Oakar, Mary Rose (Ohio)	2231
Oberstar, James L. (Minn.)	2351
Obey, David R. (Wis.)	2217
Olin, Jim (Va.)	1238
Ortiz, Solomon P. (Tex.)	1524
Owens, Major R. (N.Y.)	114
Owens, Wayne (Utah)	1728
Oxley, Michael G. (Ohio)	1131
Packard, Ron (Calif.)	316
Panetta, Leon E. (Calif.)	339
Parris, Stan (Va.)	1526
Pashayan, Charles, Jr. (Calif.)	129
Patterson, Elizabeth J. (S.C.)	1022
Pease, Donald J. (Ohio)	1127
Pelosi, Nancy (Calif.)	1632
Penny, Timothy J. (Minn.)	436
Pepper, Claude (Fla.)	2239
Perkins, Carl C. (Ky.)	1004
Petri, Thomas E. (Wis.)	2443
Pickett, Owen B. (Va.)	1429
Pickle, J.J. (Tex.)	242
Porter, John Edward (Ill.)	1501
Price, David E. (N.C.)	1223
Price, Melvin (Ill.)	2110
Pursell, Carl D. (Mich.)	1414
Quillen, James H. (Jimmy) (Tenn.)	102
Rahall, Nick Joe, II (W. Va.)	343
Rangel, Charles B. (N.Y.)	2330
Ravenel, Arthur, Jr. (S.C.)	1730
Ray, Richard (Ga.)	425
Regula, Ralph (Ohio)	2209
Rhodes, John J., III (Ariz.)	510
Richardson, Bill (N. Mex.)	332
Ridge, Thomas J. (Pa.)	1714
Rinaldo, Matthew J. (N.J.)	2469
Ritter, Don (Pa.)	2447
Roberts, Pat (Kans.)	1314
Robinson, Tommy F. (Ark.)	1541
Rodino, Peter W., Jr. (N.J.)	2462
Roe, Robert A. (N.J.)	2243
Roemer, Buddy (La.)	103
Rogers, Harold (Ky.)	206
Rose, Charles (N.C.)	2230
Rostenkowski, Dan (Ill.)	2111
Roth, Toby (Wis.)	2352
Roukema, Marge (N.J.)	303
Rowland, J. Roy (Ga.)	423
Rowland, John G. (Conn.)	512
Roybal, Edward R. (Calif.)	2211
Russo, Marty (Ill.)	2233
Sabo, Martin Olav (Minn.)	2201
Saiki, Patricia F. (Hawaii)	1407
St Germain, Fernand J. (R.I.)	2108
Savage, Gus (Ill.)	1121
Sawyer, Tom C. (Ohio)	1338
Saxton, Jim (N.J.)	324
Schaefer, Dan (Colo.)	1317
Scheuer, James H. (N.Y.)	2466
Schneider, Claudine (R.I.)	1512
Schroeder, Patricia (Colo.)	2410
Schuette, Bill (Mich.)	415
Schulze, Richard T. (Pa.)	2369
Schumer, Charles E. (N.Y.)	126
Sensenbrenner, F. James, Jr. (Wis.)	2444
Sharp, Philip R. (Ind.)	2452
Shaw, E. Clay, Jr. (Fla.)	440
Shays, Christopher (Conn.)	1630
Shumway, Norman D. (Calif.)	1203
Shuster, Bud (Pa.)	2268
Sikorski, Gerry (Minn.)	414
Sisisky, Norman (Va.)	426
Skaggs, David E. (Colo.)	1723
Skeen, Joe (N. Mex.)	1007
Skelton, Ike (Mo.)	2453
Slattery, Jim (Kans.)	1440
Slaughter, D. French, Jr. (Va.)	319
Slaughter, Louise MacIntosh (N.Y.)	1313
Smith, Christopher H. (N.J.)	422
Smith, Denny (Oreg.)	1213
Smith, Lamar S. (Tex.)	509
Smith, Lawrence J. (Fla.)	113
Smith, Neal (Iowa)	2373
Smith, Robert C. (N.H.)	115
Smith, Robert F. (Bob) (Oreg.)	118
Smith, Virginia (Nebr.)	2202
Snowe, Olympia J. (Maine)	2464
Solarz, Stephen J. (N.Y.)	1536
Solomon, Gerald B.H. (N.Y.)	2342
Spence, Floyd (S.C.)	2113
Spratt, John M., Jr. (S.C.)	1118
Staggers, Harley O., Jr. (W. Va.)	1504
Stallings, Richard H. (Idaho)	1221
Stangeland, Arlan (Minn.)	2245
Stark, Fortney H. (Pete) (Calif.)	1125
Stenholm, Charles W. (Tex.)	1226
Stokes, Louis (Ohio)	2365
Stratton, Samuel S. (N.Y.)	2205
Studds, Gerry E. (Mass.)	237
Stump, Bob (Ariz.)	211
Sundquist, Don (Tenn.)	230
Sunia, Fofo I.F.[5] (American Samoa)	1206
Sweeney, Mac (Tex.)	1713
Swift, Al (Wash.)	1502
Swindall, Patrick L. (Ga.)	331
Synar, Mike (Okla.)	2441
Tallon, Robin (S.C.)	432
Tauke, Thomas J. (Iowa)	2244
Tauzin, W.J. (Billy) (La.)	222
Taylor, Gene (Mo.)	2134
Thomas, Robert Lindsay (Ga.)	431
Thomas, William M. (Calif.)	2402
Torres, Esteban Edward (Calif.)	1740
Torricelli, Robert G. (N.J.)	317
Towns, Edolphus (N.Y.)	1726
Traficant, James A., Jr. (Ohio)	128
Traxler, Bob (Mich.)	2366
Udall, Morris K. (Ariz.)	235
Upton, Frederick S. (Mich.)	1607
Valentine, Tim (N.C.)	1510
Vander Jagt, Guy (Mich.)	2409
Vento, Bruce F. (Minn.)	2304
Visclosky, Peter J. (Ind.)	420
Volkmer, Harold L. (Mo.)	2411
Vucanovich, Barbara F. (Nev.)	312
Walgren, Doug (Pa.)	2241
Walker, Robert S. (Pa.)	2445
Watkins, Wes (Okla.)	2348
Waxman, Henry A. (Calif.)	2418
Weber, Vin (Minn.)	106
Weiss, Ted (N.Y.)	2442
Weldon, Curt (Pa.)	1233
Wheat, Alan (Mo.)	1204
Whittaker, Bob (Kans.)	2436
Whitten, Jamie L. (Miss.)	2314
Williams, Pat (Mont.)	2457
Wilson, Charles (Tex.)	2265
Wise, Robert E., Jr. (W. Va.)	1421
Wolf, Frank R. (Va.)	130
Wolpe, Howard (Mich.)	1535
Wortley, George C. (N.Y.)	229
Wright, Jim (Tex.)	1236
Wyden, Ron (Oreg.)	1406
Wylie, Chalmers P. (Ohio)	2310
Yates, Sidney R. (Ill.)	2234
Yatron, Gus (Pa.)	2267
Young, C.W. Bill (Fla.)	2407
Young, Don (Alaska)	2331

[5] Delegate from American Samoa.

OFFICERS OF THE HOUSE

Speaker—Jim Wright.
Clerk—Donnald K. Anderson.
Sergeant at Arms—Jack Russ.
Doorkeeper—James T. Molloy.
Postmaster—Robert V. Rota.
Chaplain—James David Ford.

OFFICIAL REPORTERS OF DEBATES

SENATE

G. Russell Walker, Editor in Chief

Official Reporters

William D. Mohr	Jerald D. Linnell
C.J. Reynolds	Raleigh Milton
Frank A. Smonskey	Joel Breitner
Ronald Kavulick	Mary Jane McCarthy

John M. Lacovara, Morning Business Editor
Scott M. Sanborn, Assistant Editor
Karen H. McIntosh, Staff Assistant

L.H. (Jim) Timberlake, Editor, Senate Daily Digest.
Thom G. Peliikaan, Assistant Editor, Senate Daily Digest.

HOUSE

Charles Gustafson, Chief Reporter.
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Official Reporters

Christopher A. Heil	Carol E. Bradfield
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Edward White, Chief Clerk.
George L. Russell, Assistant Chief Clerk.
Heather B. Mapes, Clerk.
Richard M. Creeger, Clerk.

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JOINT COMMITTEE ON THE LIBRARY

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JOINT COMMITTEE ON TAXATION

Representative Rostenkowski (chairman), Senator Bentsen (vice chairman), Representative Gibbons, Representative Pickle, Representative Duncan, Representative Archer, Senator Matsunaga, Senator Moynihan, Senator Packwood, and Senator Dole.

CONGRESSIONAL RECORD

SENATOR, STATE, AND CAPITOL OFFICE

(NOTE.—Suite numbers preceded by SD are in the Dirksen Senate Office Building; by SH, in the Hart Senate Office Building; and by SR, in the Russell Senate Office Building, Washington, D.C. 20510.)

[Democrats in roman (54), Republicans in italic (46)]

	Suite No.
Vice President Bush, George (Tex.)	SD-202
Adams, Brock (Wash.)	SH-513
Armstrong, William L. (Colo.)	SH-528
Baucus, Max (Mont.)	SH-706
Bentsen, Lloyd (Tex.)	SH-703
Biden, Joseph R., Jr. (Del.)	SR-489
Bingaman, Jeff (N. Mex.)	SH-502
Bond, Christopher S. (Mo.)	SH-321
Boren, David L. (Okla.)	SR-453
Boschwitz, Rudy (Minn.)	SH-506
Bradley, Bill (N.J.)	SH-731
Breaux, John B. (La.)	SH-516
Bumpers, Dale (Ark.)	SD-229
Burdick, Quentin N. (N. Dak.)	SH-511
Byrd, Robert C. (W. Va.)	SH-311
Chafee, John H. (R.I.)	SD-567
Chiles, Lawton (Fla.)	SR-250
Cochran, Thad (Miss.)	SR-326
Cohen, William S. (Maine)	SH-322
Conrad, Kent (N. Dak.)	SH-825A
Cranston, Alan (Calif.)	SH-112
D'Amato, Alfonse M. (N.Y.)	SH-520
Danforth, John C. (Mo.)	SR-497
Daschle, Thomas A. (S. Dak.)	SH-724
DeConcini, Dennis (Ariz.)	SH-328
Dixon, Alan J. (Ill.)	SH-331
Dodd, Christopher J. (Conn.)	SH-324
Dole, Robert (Kans.)	SH-141
Domenici, Pete V. (N. Mex.)	SD-434
Durenberger, David (Minn.)	SR-154
Evans, Daniel J. (Wash.)	SH-702
Exon, J. James (Nebr.)	SH-330
Ford, Wendell H. (Ky.)	SR-173A
Fowler, Wyche, Jr. (Ga.)	SH-320
Garn, Jake (Utah)	SD-505
Glenn, John (Ohio)	SH-503
Gore, Albert, Jr. (Tenn.)	SR-393
Graham, Bob (Fla.)	SH-313
Gramm, Phil (Tex.)	SR-370
Grassley, Charles E. (Iowa)	SH-135
Harkin, Tom (Iowa)	SH-317
Hatch, Orrin G. (Utah)	SR-135
Hatfield, Mark O. (Oreg.)	SH-711
Hecht, Chic (Nev.)	SH-302
Heflin, Howell (Ala.)	SH-728
Heinz, John (Pa.)	SR-277
Helms, Jesse (N.C.)	SD-403
Hollings, Ernest F. (S.C.)	SR-125
Humphrey, Gordon J. (N.H.)	SH-531
Inouye, Daniel K. (Hawaii)	SH-722
Johnston, J. Bennett (La.)	SH-136
Karnes, David K. (Nebr.)	SR-443
Kassebaum, Nancy Landon (Kans.)	SR-302
Kasten, Robert W., Jr. (Wis.)	SH-110
Kennedy, Edward M. (Mass.)	SR-315
Kerry, John F. (Mass.)	SR-362
Lautenberg, Frank R. (N.J.)	SH-717
Leahy, Patrick J. (Vt.)	SR-433
Levin, Carl (Mich.)	SR-459
Lugar, Richard G. (Ind.)	SH-306
Matsunaga, Spark M. (Hawaii)	SH-109
McCain, John (Ariz.)	SH-210
McClure, James A. (Idaho)	SH-309
McConnell, Mitch (Ky.)	SR-120
Melcher, John (Mont.)	SH-730
Metzenbaum, Howard M. (Ohio)	SR-140
Mikulski, Barbara A. (Md.)	SR-387
Mitchell, George J. (Maine)	SR-176
Moynihan, Daniel Patrick (N.Y.)	SR-464
Murkowski, Frank H. (Alaska)	SH-709
Nickles, Don (Okla.)	SH-713
Nunn, Sam (Ga.)	SD-303
Packwood, Bob (Oreg.)	SR-259
Pell, Claiborne (R.I.)	SR-335
Pressler, Larry (S. Dak.)	SR-407A
Proxmire, William (Wis.)	SD-530
Pryor, David (Ark.)	SR-264
Quayle, Dan (Ind.)	SH-524
Reid, Harry (Nev.)	SH-708
Riegle, Donald W., Jr. (Mich.)	SD-105
Rockefeller, John D., IV (W. Va.)	SD-241
Roth, William V., Jr. (Del.)	SH-104
Rudman, Warren (N.H.)	SH-530
Sanford, Terry (N.C.)	SH-716
Sarbanes, Paul S. (Md.)	SD-332
Sasser, Jim (Tenn.)	SR-363
Shelby, Richard C. (Ala.)	SH-516
Simon, Paul (Ill.)	SD-462
Simpson, Alan K. (Wyo.)	SD-261
Specter, Arlen (Pa.)	SH-303
Stafford, Robert T. (Vt.)	SH-133
Stennis, John C. (Miss.)	SR-205
Stevens, Ted (Alaska)	SH-522
Symms, Steven D. (Idaho)	SH-509
Thurmond, Strom (S.C.)	SR-218
Trible, Paul S., Jr. (Va.)	SH-517
Wallop, Malcolm (Wyo.)	SR-206
Warner, John W. (Va.)	SR-421
Weicker, Lowell P., Jr. (Conn.)	SR-225
Wilson, Pete (Calif.)	SH-720
Wirth, Timothy E. (Colo.)	SR-237

STANDING COMMITTEES OF THE SENATE

Committee on Agriculture, Nutrition, and Forestry

Mr. Leahy (chairman), Mr. Melcher, Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Breaux, Mr. Lugar, Mr. Dole, Mr. Helms, Mr. Cochran, Mr. Boschwitz, Mr. McConnell, Mr. Bond, Mr. Wilson, and Mr. Karnes.

Committee on Appropriations

Mr. Stennis (chairman), Mr. Byrd, Mr. Proxmire, Mr. Inouye, Mr. Hollings, Mr. Chiles, Mr. Johnston, Mr. Burdick, Mr. Leahy, Mr. Sasser, Mr. DeConcini, Mr. Bumpers, Mr. Lautenberg, Mr. Harkin, Ms. Mikulski, Mr. Reid, Mr. Hatfield, Mr. Stevens, Mr. Weicker, Mr. McClure, Mr. Garn, Mr. Cochran, Mr. Kasten, Mr. D'Amato, Mr. Rudman, Mr. Specter, Mr. Domenici, Mr. Grassley, and Mr. Nickles.

Committee on Armed Services

Mr. Nunn (chairman), Mr. Stennis, Mr. Exon, Mr. Levin, Mr. Kennedy, Mr. Bingaman, Mr. Dixon, Mr. Glenn, Mr. Gore, Mr. Wirth, Mr. Shelby, Mr. Warner, Mr. Thurmond, Mr. Humphrey, Mr. Cohen, Mr. Quayle, Mr. Wilson, Mr. Gramm, Mr. Symms, and Mr. McCain.

Committee on Banking, Housing, and Urban Affairs

Mr. Proxmire (chairman), Mr. Cranston, Mr. Riegle, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Sasser, Mr. Sanford, Mr. Shelby, Mr. Graham, Mr. Wirth, Mr. Garn, Mr. Heinz, Mr. Armstrong, Mr. D'Amato, Mr. Hecht, Mr. Gramm, Mr. Bond, Mr. Chafee, and Mr. Karnes.

Committee on the Budget

Mr. Chiles (chairman), Mr. Hollings, Mr. Johnston, Mr. Sasser, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Domenici, Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Quayle, Mr. Danforth, Mr. Nickles, and Mr. Rudman.

Committee on Commerce, Science, and Transportation

Mr. Hollings (chairman), Mr. Inouye, Mr. Ford, Mr. Riegle, Mr. Exon, Mr. Gore, Mr. Rockefeller, Mr. Bentsen, Mr. Kerry, Mr. Breaux, Mr. Adams, Mr. Danforth, Mr. Packwood, Mrs. Kassebaum, Mr. Pressler, Mr. Stevens, Mr. Kasten, Mr. Trible, Mr. Wilson, and Mr. McCain.

Committee on Energy and Natural Resources

Mr. Johnston (chairman), Mr. Bumpers, Mr. Ford, Mr. Metzenbaum, Mr. Melcher, Mr. Bradley, Mr. Bingaman, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. McClure, Mr. Hatfield, Mr. Weicker, Mr. Domenici, Mr. Wallop, Mr. Murkowski, Mr. Nickles, Mr. Hecht, and Mr. Evans.

Committee on Environment and Public Works

Mr. Burdick (chairman), Mr. Moynihan, Mr. Mitchell, Mr. Baucus, Mr. Lautenberg, Mr. Breaux, Ms. Mikulski, Mr. Reid, Mr. Graham, Mr. Stafford, Mr. Chafee, Mr. Simpson, Mr. Symms, Mr. Durenberger, Mr. Warner, and Mr. Pressler.

Committee on Finance

Mr. Bentsen (chairman), Mr. Matsunaga, Mr. Moynihan, Mr. Baucus, Mr. Boren, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Riegle, Mr. Rockefeller, Mr. Daschle, Mr. Packwood, Mr. Dole, Mr. Roth, Mr. Danforth, Mr. Chafee, Mr. Heinz, Mr. Wallop, Mr. Durenberger, and Mr. Armstrong.

Committee on Foreign Relations

Mr. Pell (chairman), Mr. Biden, Mr. Sarbanes, Mr. Cranston, Mr. Dodd, Mr. Kerry, Mr. Simon, Mr. Sanford, Mr. Adams, Mr. Moynihan, Mr. Helms, Mr. Lugar, Mrs. Kassebaum, Mr. Boschwitz, Mr. Pressler, Mr. Murkowski, Mr. Trible, Mr. Evans, and Mr. McConnell.

Committee on Governmental Affairs

Mr. Glenn (chairman), Mr. Chiles, Mr. Nunn, Mr. Levin, Mr. Sasser, Mr. Pryor, Mr. Mitchell, Mr. Bingaman, Mr. Roth, Mr. Stevens, Mr. Cohen, Mr. Rudman, Mr. Heinz, and Mr. Trible.

Committee on the Judiciary

Mr. Biden (chairman), Mr. Kennedy, Mr. Byrd, Mr. Metzenbaum, Mr. DeConcini, Mr. Leahy, Mr. Heflin, Mr. Simon, Mr. Thurmond, Mr. Hatch, Mr. Simpson, Mr. Grassley, Mr. Specter, and Mr. Humphrey.

Committee on Labor and Human Resources

Mr. Kennedy (chairman), Mr. Pell, Mr. Metzenbaum, Mr. Matsunaga, Mr. Dodd, Mr. Simon, Mr. Harkin, Mr. Adams, Ms. Mikulski, Mr. Hatch, Mr. Stafford, Mr. Quayle, Mr. Thurmond, Mr. Weicker, Mr. Cochran, and Mr. Humphrey.

Committee on Rules and Administration

Mr. Ford (chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Gore, Mr. Moynihan, Mr. Dodd, Mr. Adams, Mr. Stevens, Mr. Hatfield, Mr. McClure, Mr. Helms, Mr. Warner, Mr. Dole, and Mr. Garn.

Committee on Small Business

Mr. Bumpers (chairman), Mr. Nunn, Mr. Sasser, Mr. Baucus, Mr. Levin, Mr. Dixon, Mr. Boren, Mr. Harkin, Mr. Kerry, Ms. Mikulski, Mr. Weicker, Mr. Boschwitz, Mr. Rudman, Mr. D'Amato, Mr. Kasten, Mr. Pressler, Mr. Wallop, Mr. Bond, and Mr. Karnes.

Committee on Veterans' Affairs

Mr. Cranston (chairman), Mr. Matsunaga, Mr. DeConcini, Mr. Mitchell, Mr. Rockefeller, Mr. Graham, Mr. Murkowski, Mr. Simpson, Mr. Thurmond, Mr. Stafford, and Mr. Specter.

OFFICERS OF THE SENATE

President Pro Tempore—John C. Stennis.
Secretary of the Senate—Walter J. Stewart.
Sergeant at Arms of the Senate—Henry Kuualoha Giugni.
Secretary for the Majority—C. Abbott Saffold.
Secretary for the Minority—Howard O. Greene, Jr.
Chaplain of the Senate—Reverend Richard C. Halverson, L.L.D., D.D.

UNITED STATES SUPREME COURT

Chief Justice Rehnquist, of Arizona.
Justice Brennan, of New Jersey.
Justice White, of Colorado.
Justice Marshall, of New York.
Justice Blackmun, of Minnesota.
Justice Stevens, of Illinois.
Justice O'Connor, of Arizona.
Justice Scalia, of Virginia.
Justice Kennedy, of California.

OFFICERS OF THE SUPREME COURT

Clerk—Joseph F. Spaniol, Jr.
Librarian—Stephen G. Margeton.
Marshal—Alfred Wong.
Reporter of Decisions—Frank Wagner.
Administrative Assistant to the Chief Justice—Noel J. Augustyn.

Public Information Officer—Toni House.

UNITED STATES JUDICIAL CIRCUITS

JUSTICES ASSIGNED

TERRITORY EMBRACED

District of Columbia judicial circuit: Chief Justice Rehnquist.

First judicial circuit: Justice Brennan. Maine, Massachusetts, New Hampshire, Puerto Rico, Rhode Island.

Second judicial circuit: Justice Marshall. Connecticut, New York, Vermont.

Third judicial circuit: Justice Brennan. Delaware, New Jersey, Pennsylvania, Virgin Islands.

Fourth judicial circuit: Chief Justice Rehnquist. Maryland, North Carolina, South Carolina, Virginia, West Virginia.

Fifth judicial circuit: Justice White. Louisiana, Mississippi, Texas.

Sixth judicial circuit: Justice Scalia. Kentucky, Michigan, Ohio, Tennessee.

Seventh judicial circuit: Justice Stevens. Illinois, Indiana, Wisconsin.

Eighth judicial circuit: Justice Blackmun. Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.

Ninth judicial circuit: Justice O'Connor. Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Guam, Hawaii, Northern Mariana Islands.

Tenth judicial circuit: Justice White. Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.

Eleventh judicial circuit: Justice Kennedy. Alabama, Florida, Georgia.

Federal judicial circuit: Chief Justice Rehnquist.

STANDING COMMITTEES OF THE HOUSE

Committee on Agriculture

Messrs. de la Garza (chairman), Jones of North Carolina, Jones of Tennessee, Brown of California, Rose, English, Panetta, Huckaby, Glickman, Coelho, Stenholm, Volkmer, Hatcher, Tallon, Staggers, Evans, Olin, Penny, Stallings, Nagle, Jontz, Johnson of South Dakota, Harris, Campbell, Espy, Lancaster, Madigan, Jeffords, Coleman of Missouri, Marlenee, Hopkins, Stangeland, Roberts, Emerson, Morrison of Washington, Gunderson, Lewis of Florida, Robert F. Smith, Combest, Schuette, Grandy, Herger, and Holloway.

Committee on Appropriations

Messrs. Whitten (chairman), Boland, Natcher, Smith of Iowa, Yates, Obey, Roybal, Stokes, Bevill, Chappell, Alexander, Murtha, Traxler, Early, Wilson, Mrs. Boggs, Messrs. Dicks, McHugh, Lehman of Florida, Sabo, Dixon, Fazio, Hefner, AuCoin, Akaka, Watkins, Gray of Pennsylvania, Dwyer of New Jersey, Hoyer, Carr, Mrazek, Durbin, Coleman of Texas, Mollohan, Thomas of Georgia, Conte, McDade, Myers of Indiana, Miller of Ohio, Coughlin, Young of Florida, Kemp, Regula, Mrs. Smith of Nebraska, Messrs. Pursell, Edwards of Oklahoma, Livingston, Green, Lewis of California, Porter, Rogers, Skeen, Wolf, Lowery of California, Weber, DeLay, and Kolbe.

Committee on Armed Services

Messrs. Aspin (chairman), Price of Illinois, Bennett, Stratton, Nichols, Montgomery, Dellums, Mmes. Schroeder, Byron, Messrs. Mavroules, Hutto, Skelton, Leath of Texas, McCurdy, Foglietta, Dyson, Hertel, Mrs. Lloyd, Messrs. Sisisky, Ray, Spratt, McCloskey, Ortiz, Darden, Robinson, Bustamante, Mrs. Boxer, Messrs. Hochbrueckner, Brennan, Pickett, ——, Dickinson, Spence, Badham, Stump, Courter, Hopkins, Davis of Michigan, Hunter, Martin of New York, Kasich, Mrs. Martin of Illinois, Messrs. Bateman, Sweeney, Blaz, Ireland, Hansen, Rowland of Connecticut, Weldon, Kyl, Ravenel, and Davis of Illinois.

Committee on Banking, Finance and Urban Affairs

Messrs. St Germain (chairman), Gonzalez, Annunzio, Fauntroy, Neal, Hubbard, LaFalce, Ms. Oakar, Messrs. Vento, Barnard, Garcia, Schumer, Frank, Roemer, Lehman of California, Morrison of Connecticut, Ms. Kaptur, Messrs. Erdreich, Carper, Torres, Kleczka, Nelson of Florida, Kanjorski, Manton, Mrs. Patterson, Messrs. McMillen of Maryland, Kennedy, Flake, Mfume, Price of North Carolina, Ms. Pelosi, Messrs. Wylie, Leach of Iowa, Shumway, Parris, McCollum, Wortley, Mrs. Roukema, Messrs. Bereuter, Dreier of California, Hiler, Ridge, Bartlett, Roth, McCandless, McMillan of North Carolina, Saxton, Swindall, Mrs. Saiki, Messrs. Bunning, and DioGuardi.

Committee on the Budget

Messrs. Gray of Pennsylvania (chairman), Foley, Lowry of Washington, Derrick, Miller of California, Williams, Wolpe, Frost, Fazio, Russo, Jenkins, Leath of Texas, Schumer, Mrs. Boxer, Messrs. MacKay, Slattery, Atkins, Oberstar, Guarini, Durbin, Espy, Latta, Gradison, Mack, Goodling, Denny Smith, Boulter, Edwards of Oklahoma, Thomas of California, Rogers, Sundquist, Mrs. Johnson of Connecticut, Messrs. Armey, Buechner, and Houghton.

Committee on the District of Columbia

Messrs. Dellums (chairman), Fauntroy, Mazzoli, Stark, Gray of Pennsylvania, Dymally, Wheat, Morrison of Connecticut, Parris, Bliley, Combest, and Mrs. Martin of Illinois.

Committee on Education and Labor

Messrs. Hawkins (chairman), Ford of Michigan, Gaydos, Clay, Biaggi, Murphy, Kildee, Williams, Martinez, Owens of New York, Hayes of Illinois, Perkins, Sawyer, Solarz, Wise, Penny, Richardson, Robinson, Visclosky, Atkins, Jontz, Jeffords, Goodling, Coleman of Missouri, Petri, Mrs. Roukema, Messrs. Gunderson, Bartlett, Tauke, Armey, Fawell, Henry, Grandy, and Ballenger.

Committee on Energy and Commerce

Messrs. Dingell (chairman), Scheuer, Waxman, Sharp, Florio, Markey, Thomas A. Luken, Walgren, Swift, Leland, Mrs. Collins, Messrs. Synar, Tauzin, Wyden, Hall of Texas, Eckart, Dowdy of Mississippi, Richardson, Slattery, Sikorski, Bryant, Bates, Boucher, Cooper, Bruce, Lent, Madigan, Moorhead, Rinaldo, Dannemeyer, Whittaker, Tauke, Ritter, Coats, Bliley, Fields, Oxley, Nielson of Utah, Bilirakis, Schaefer, Barton of Texas, and Callahan.

Committee on Foreign Affairs

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Committee on Government Operations

Messrs. Brooks (chairman), Conyers, Mrs. Collins, Messrs. English, Waxman, Weiss, Synar, Neal, Barnard, Frank, Lantos, Wise, Owens of New York, Towns, Spratt, Kolter, Erdreich, Kleczka, Bustamante, Martinez, Sawyer, Ms. Slaughter of New York, Messrs. Grant, Ms. Pelosi, Messrs. Horton, Walker, Clinger, McCandless, Craig, Nielson of Utah, DioGuardi, Lightfoot, Boulter, Donald E. "Buz" Lukens, Houghton, Hastert, Kyl, Inhofe, and Shays.

Committee on House Administration

Messrs. Annunzio (chairman), Gaydos, Jones of Tennessee, Rose, Panetta, Swift, Ms. Oakar, Messrs. Coelho, Bates, Clay, Gejdenson, Kolter, Frenzel, Dickinson, Badham, Gingrich, Thomas of California, Mrs. Vucanovich, and Mr. Roberts.

Committee on Interior and Insular Affairs

Messrs. Udall (chairman), Miller of California, Sharp, Markey, Murphy, Rahall, Vento, Huckaby, Kildee, Coelho, Mrs. Byron, Messrs. de Lugo, Gejdenson, Kostmayer, Lehman of California, Richardson, Sunia, Darden, Visclosky, Fuster, Levine of California, Clarke, Owens of Utah, Lewis of Georgia, Campbell, DeFazio, Young of Alaska, Lujan, Lagomarsino, Marlenee, Cheney, Pashayan, Craig, Denny Smith, Hansen, Emerson, Mrs. Vucanovich, Messrs. Blaz, Rhodes, Gallegly, and Baker.

Committee on the Judiciary

Messrs. Rodino (chairman), Brooks, Kastenmeier, Edwards of California, Conyers, Mazzoli, Hughes, Synar, Mrs. Schroeder, Messrs. Glickman, Frank, Crockett, Schumer, Morrison of Connecticut, Feighan, Smith of Florida, Berman, Boucher, Staggers, Bryant, Cardin, Fish, Moorhead, Hyde, Lungren, Sensenbrenner, McCollum, Shaw, Gekas, DeWine, Dannemeyer, Swindall, Coble, Slaughter of Virginia, and Smith of Texas.

Committee on Merchant Marine and Fisheries

Messrs. Jones of North Carolina (chairman), Biaggi, Anderson, Studds, Hubbard, Bonker, Hughes, Lowry of Washington, Hutto, Tauzin, Foglietta, Hertel of Michigan, Dyson, Lipinski, Borski, Carper, Bosco, Tallon, Ortiz, Bennett, Manton, Pickett, Brennan, Hochbrueckner, ——, Davis of Michigan, Young of Alaska, Lent, Shumway, Fields, Miss Schneider, Messrs. Bateman, Saxton, Miller of Washington, Mrs. Bentley, Messrs. Coble, Sweeney, Weldon, Mrs. Saiki, Messrs. Herger, Bunning, and Konnyu.

Committee on Post Office and Civil Service

Messrs. Ford of Michigan (chairman), Clay, Mrs. Schroeder, Messrs. Solarz, Garcia, Leland, Yatron, Ms. Oakar, Messrs. Sikorski, McCloskey, Ackerman, Dymally, Udall, de Lugo, Taylor, Gilman, Pashayan, Horton, Myers of Indiana, Young of Alaska, Burton of Indiana, and Mrs. Morella.

Committee on Public Works and Transportation

Messrs. Howard (chairman), Anderson, Roe, Mineta, Oberstar, Nowak, Rahall, Applegate, de Lugo, Savage, Sunia, Bosco, Borski, Kolter, Valentine, Towns, Lipinski, Rowland of Georgia, Wise, Gray of Illinois, Visclosky, Traficant, Chapman, Lancaster, Ms. Slaughter of New York, Messrs. Lewis of Georgia, DeFazio, Cardin, Grant, Skaggs, Hayes of Louisiana, Perkins, Hammerschmidt, Shuster, Stangeland, Gingrich, Clinger, Molinari, Shaw, McEwen, Petri, Sundquist, Mrs. Johnson of Connecticut, Messrs. Packard, Boehlert, Gallo, Mrs. Bentley, Messrs. Lightfoot, Hastert, Inhofe, Ballenger, and Upton.

Committee on Rules

Messrs. Pepper (chairman), Moakley, Derrick, Beilenson, Frost, Bonior of Michigan, Hall of Ohio, Wheat, Gordon, Quillen, Latta, Lott, and Taylor.

Committee on Science, Space, and Technology

Messrs. Roe (chairman), Brown of California, Scheuer, Mrs. Lloyd, Messrs. Walgren, Glickman, Volkmer, Nelson of Florida, Hall of Texas, McCurdy, Mineta, MacKay, Valentine, Torricelli, Boucher, Bruce, Stallings, Traficant, Chapman, Hamilton, Nowak, Perkins, McMillen of Maryland, Price of North Carolina, Nagle, Hayes of Louisiana, Skaggs, Kanjorski, Hochbrueckner, Lujan, Walker, Sensenbrenner, Miss Schneider, Messrs. Boehlert, Lewis of Florida, Ritter, Morrison of Washington, Packard, Smith of New Hampshire, Henry, Fawell, Slaughter of Virginia, Smith of Texas, Konnyu, Buechner, Hefley, Mrs. Morella, and Mr. Shays.

Committee on Small Business

Messrs. LaFalce (chairman), Smith of Iowa, Gonzalez, Thomas A. Luken, Skelton, Mazzoli, Mavroules, Hatcher, Wyden, Eckart, Savage, Roemer, Sisisky, Torres, Cooper, Olin, Ray, Hayes of Illinois, Conyers, Bilbray, Mfume, Flake, Lancaster, Campbell, DeFazio, Price of North Carolina, Martinez, McDade, Conte, Broomfield, Ireland, Hiler, Dreier of California, Slaughter of Virginia, Mrs. Meyers of Kansas, Messrs. Gallo, McMillan of North Carolina, Combest, Baker, Rhodes, Hefley, Upton, Gallegly, and Holloway.

Committee on Standards of Official Conduct

Messrs. Dixon (chairman), Fazio, Dwyer of New Jersey, Mollohan, Gaydos, Atkins, Spence, Myers of Indiana, Hansen, Pashayan, Petri, and Craig.

Committee on Veterans' Affairs

Messrs. Montgomery (chairman), Edwards of California, Applegate, Mica, Dowdy of Mississippi, Evans, Ms. Kaptur, Messrs. Penny, Staggers, Rowland of Georgia, Bryant, Florio, Gray of Illinois, Kanjorski, Robinson, Stenholm, Harris, Kennedy, Mrs. Patterson, Messrs. Johnson of South Dakota, Jontz, Solomon, Hammerschmidt, Wylie, Stump, McEwen, Smith of New Jersey, Burton of Indiana, Bilirakis, Ridge, Rowland of Connecticut, Dornan of California, Smith of New Hampshire, and Davis of Illinois.

Committee on Ways and Means

Messrs. Rostenkowski (chairman), Gibbons, Pickle, Rangel, Stark, Jacobs, Ford of Tennessee, Jenkins, Gephardt, Downey of New York, Guarini, Russo, Pease, Matsui, Anthony, Flippo, Dorgan of North Dakota, Mrs. Kennelly, Messrs. Donnelly, Coyne, Andrews, Levin of Michigan, Moody, Duncan, Archer, Vander Jagt, Crane, Frenzel, Schulze, Gradison, Thomas of California, McGrath, Daub, Gregg, Brown of Colorado, and Chandler.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Washington, DC 20001, Phone 535-3300

Spottswood W. Robinson III, Chief Judge

Circuit Judges

J. Skelly Wright	Kenneth W. Starr
Patricia M. Wald	Laurence H. Silberman
Abner J. Mikva	James L. Buckley
Harry T. Edwards	——
Ruth Bader Ginsburg	——

Senior Circuit Judges

David L. Bazelon	George E. MacKinnon
Carl McGowan	

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

National Courts Building, 717 Madison Place NW., Washington, DC 20439, Phone 633-6550

Howard T. Markey, Chief Judge

Circuit Judges

Daniel M. Friedman	Helen W. Nies
Giles S. Rich	Pauline Newman
Oscar H. Davis	Jean Galloway Bissell
Phillip B. Baldwin	Glenn L. Archer, Jr.
Edward S. Smith	

Senior Circuit Judges

Don L. Laramore	Philip Nichols, Jr.
Wilson Cowen	Jack R. Miller
Byron G. Skelton	Marion T. Bennett

UNITED STATES DISTRICT JUDGES

District of Columbia

Washington, DC 20001, Phone 535-3515

Aubrey E. Robinson, Jr., Chief Judge

District Judges

Gerhard A. Gesell	Norma H. Johnson
John H. Pratt	Thomas P. Jackson
Charles R. Richey	Thomas F. Hogan
Louis F. Oberdorfer	Stanley S. Harris
Harold H. Greene	George H. Revercomb
John Garrett Penn	Stanley Sporkin
Joyce Hens Green	

U.S. COURT OF MILITARY APPEALS

Fifth and E Streets NW., Washington, DC 20042, Phone 272-1448

Chief Judge	Robinson O. Everett
Judge	Walter T. Cox III
Judge	Eugene R. Sullivan

Laws and Rules for Publication of the Congressional Record

CODE OF LAWS OF THE UNITED STATES

TITLE 44, SECTION 901. CONGRESSIONAL RECORD: ARRANGEMENT, STYLE, CONTENTS, AND INDEXES.—The Joint Committee on Printing shall control the arrangement and style of the CONGRESSIONAL RECORD, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the CONGRESSIONAL RECORD semimonthly during and at the close of sessions of Congress. (Oct. 22, 1968, c. 9, 82 Stat. 1255.)

TITLE 44, SECTION 904. CONGRESSIONAL RECORD: MAPS; DIAGRAMS; ILLUSTRATIONS.—Maps, diagrams, or illustrations may not be inserted in the RECORD without the approval of the Joint Committee on Printing. (Oct. 22, 1968, c. 9, 82 Stat. 1256.)

To provide for the prompt publication and delivery of the CONGRESSIONAL RECORD the Joint Committee on Printing has adopted the following rules, to which the attention of Senators, Representatives, and Delegates is respectfully invited:

1. *Arrangement of the daily Congressional Record.*—The Public Printer shall arrange the contents of the daily CONGRESSIONAL RECORD as follows: The Senate proceedings shall alternate with the House proceedings in order of placement in consecutive issues insofar as such an arrangement is feasible, and Extensions of Remarks and Daily Digest shall follow: *Provided,* That the makeup of the CONGRESSIONAL RECORD shall proceed without regard to alternation whenever the Public Printer deems it necessary in order to meet production and delivery schedules.

2. *Type and style.*—The Public Printer shall print the report of the proceedings and debates of the Senate and House of Representatives, as furnished by the official reporters of the CONGRESSIONAL RECORD, in 8-point type; and all matter included in the remarks or speeches of Members of Congress, other than their own words, and all reports, documents, and other matter authorized to be inserted in the CONGRESSIONAL RECORD shall be printed in 7-point type; and all rollcalls shall be printed in 6-point type. No italic or black type nor words in capitals or small capitals shall be used for emphasis or prominence; nor will unusual indentions be permitted. These restrictions do not apply to the printing of or quotations from historical, official, or legal documents or papers of which a literal reproduction is necessary.

3. Only as an aid in distinguishing the manner of delivery in order to contribute to the historical accuracy of the RECORD, statements or insertions in the RECORD where no part of them was spoken will be preceded and followed by a "bullet" symbol, i.e., ●.

4. *Return of manuscript.*—When manuscript is submitted to Members for revision it should be returned to the Government Printing Office not later than 9 o'clock p.m. in order to insure publication in the CONGRESSIONAL RECORD issued on the following morning; and if all of the manuscript is not furnished at the time specified, the Public Printer is authorized to withhold it from the CONGRESSIONAL RECORD for 1 day. In no case will a speech be printed in the CONGRESSIONAL RECORD of the day of its delivery if the manuscript is furnished later than 12 o'clock midnight.

5. *Tabular matter.*—The manuscript of speeches containing tabular statements to be published in the CONGRESSIONAL RECORD shall be in the hands of the Public Printer not later than 7 o'clock p.m., to insure publication the following morning. When possible, manuscript copy for tabular matter should be sent to the Government Printing Office 2 or more days in advance of the date of publication in the CONGRESSIONAL RECORD. Proof will be furnished promptly to the Member of Congress to be submitted by him instead of manuscript copy when he offers it for publication in the CONGRESSIONAL RECORD.

6. *Proof furnished.*—Proofs or "leave to print" and advance speeches will not be furnished the day the manuscript is received but will be submitted the following day, whenever possible to do so without causing delay in the publication of the regular proceedings of Congress. Advance speeches shall be set in the CONGRESSIONAL RECORD style of type, and not more than six sets of proofs may be furnished to Members without charge.

7. *Notation of withheld remarks.*—If manuscript or proofs have not been returned in time for publication in the proceedings, the Public Printer will insert the words "Mr. —— addressed the Senate (House or Committee). His remarks will appear hereafter in Extensions of Remarks" and proceed with the printing of the CONGRESSIONAL RECORD.

8. *Thirty-day limit.*—The Public Printer shall not publish in the CONGRESSIONAL RECORD any speech or extension of remarks which has been withheld for a period exceeding 30 calendar days from the date when its printing was authorized: *Provided,* That at the expiration of each session of Congress the time limit herein fixed shall be 10 days, unless otherwise ordered by the committee.

9. *Corrections.*—The permanent CONGRESSIONAL RECORD is made up for printing and binding 30 days after each daily publication is issued; therefore all corrections must be sent to the Public Printer within that time: *Provided,* That upon the final adjournment of each session of Congress the time limit shall be 10 days, unless otherwise ordered by the committee: *Provided further,* That no Member of Congress shall be entitled to make more than one revision. Any revision shall consist only of corrections of the original copy and shall not include deletions of correct material, substitutions for correct material, or additions of new subject matter.

10. The Public Printer shall not publish in the CONGRESSIONAL RECORD the full report or print of any committee or subcommittee when the report or print has been previously printed. This rule shall not be construed to apply to conference reports. However, inasmuch as House of Representatives Rule XXVIII, Section 912, provides that conference reports be printed in the daily edition of the CONGRESSIONAL RECORD, they shall not be printed therein a second time.

11. *Makeup of the Extensions of Remarks.*—Extensions of Remarks in the CONGRESSIONAL RECORD shall be made up by successively taking first an extension from the copy submitted by the official reporters of one House and then an extension from the copy of the other House, so that Senate and House extensions appear alternately as far as possible. The sequence for each House shall follow as closely as possible the order or arrangement in which the copy comes from the official reporters of the respective Houses.

The official reporters of each House shall designate and distinctly mark the lead item among their extensions. When both Houses are in session and submit extensions, the lead item shall be changed from one House to the other in alternate issues, with the indicated lead item of the other House appearing in second place. When only one House is in session, the lead item shall be an extension submitted by a Member of the House in session. This rule shall not apply to CONGRESSIONAL RECORDS printed after the sine die adjournment of the Congress.

12. *Official reporters.*—The official reporters of each House shall indicate on the manuscript and prepare headings for all matter to be printed in Extensions of Remarks and shall make suitable reference thereto at the proper place in the proceedings.

13. *Two-page rule—Cost estimate from Public Printer.*—(1) No extraneous matter in excess of two printed RECORD pages, whether printed in its entirety in one daily issue or in two or more parts in one or more issues, shall be printed in the CONGRESSIONAL RECORD unless the Member announces, coincident with the request for leave to print or extend, the estimate in writing from the Public Printer of the probable cost of publishing the same. (2) No extraneous matter shall be printed in the House proceedings or the Senate proceedings, with the following exceptions: (*a*) Excerpts from letters, telegrams, or articles presented in connection with a speech delivered in the course of debate; (*b*) communications from State legislatures; (*c*) addresses or articles by the President and the Members of his Cabinet, the Vice President, or a Member of Congress. (3) The official reporters of the House or Senate or the Public Printer shall return to the Member of the respective House any matter submitted for the CONGRESSIONAL RECORD which is in contravention of these provisions.

SENATE SUPPLEMENT TO "LAWS AND RULES FOR PUBLICATION OF THE CONGRESSIONAL RECORD"—EFFECTIVE FEBRUARY 10, 1970

1. Statements brought to the Chamber for insertion in the body of the RECORD will be accepted at the desk by the Legislative Clerk when presented only by a Senator himself. The statements will be reviewed by the Parliamentarian and the Chief of Official Reporters of the Senate for compliance with the rules and traditions of the Senate.

2. All such statements will thereafter be printed in the body of the RECORD, but shall first be gathered editorially by the Chief of Official Reporters in that section of the daily CONGRESSIONAL RECORD normally reserved for the transaction of morning business under a separate heading, "Additional Statements."

3. Statements may be printed at other locations in the RECORD only when, in accordance with the editorial judgment of the Chief of Official Reporters, it is essential to do so in the interest of continuity and germaneness.

4. Statements which may be presented at the desk so late in the day as to have no sequential relationship to the morning business, shall be held over for the next day's printing, on advice to the presenting Senator, or alternatively go, with his consent, into the "Extensions of Remarks" section of the RECORD.

5. All statements accepted under paragraphs (1) to (4), inclusive, shall be printed in 8-point type, except those parts which, while intrinsic, are insertions of themselves, such as editorials, letters and telegrams, newspaper and magazine articles, statistics, citations, quotations, speeches, and other papers. These shall continue to be printed in 7-point type.

HOUSE SUPPLEMENT TO "LAWS AND RULES FOR PUBLICATION OF THE CONGRESSIONAL RECORD"—EFFECTIVE AUGUST 12, 1986

1. *Extensions of Remarks in the daily Congressional Record.*—When the House has granted leave to print (1) a newspaper or magazine article, or (2) any other matter not germane to the proceedings, it shall be published under Extensions of Remarks. This rule shall not apply to quotations which form part of a speech of a Member, or to an authorized extension of his own remarks: *Provided,* That no address, speech, or article delivered or released subsequently to the sine die adjournment of a session of Congress may be printed in the CONGRESSIONAL RECORD. One-minute speeches delivered during the morning business of Congress shall not exceed 300 words. Statements exceeding this will be printed following the business of the day.

2. Any extraneous matter included in any statement by a Member, either under the 1-minute rule or permission granted to extend at this point, will be printed in the "Extensions of Remarks" section, and that such material will be duly noted in the Member's statement as appearing therein.

3. Under the general leave request by the floor manager of specific legislation only matter pertaining to such legislation will be included as per the request. This, of course, will include tables and charts pertinent to the same, but not newspaper clippings and editorials.

4. In the makeup of the portion of the RECORD entitled "Extensions of Remarks," the Public Printer shall withhold any Extensions of Remarks which exceed economical press fill or exceed production limitations. Extensions withheld for such reasons will be printed in succeeding issues, at the direction of the Public Printer, so that more uniform daily issues may be the end result and, in this way, when both Houses have a short session the makeup would be in a sense made easier so as to comply with daily proceedings, which might run extremely heavy at times.

5. The request for a Member to extend his or her remarks in the body of the RECORD must be granted to the individual whose remarks are to be inserted.

6. All statements for "Extensions of Remarks," as well as copy for the body of the CONGRESSIONAL RECORD must be submitted on the Floor of the House to the Official Reporters of Debates and must carry the *actual* signature of the Member. Extensions of Remarks will be accepted up to 15 minutes after adjournment of the House. To insure printing in that day's proceedings, debate transcript still out for revision must be returned to the Office of Official Reporters of Debates, Room H-134, the Capitol, (1) by 5 p.m., or 2 hours following adjournment, whichever occurs later; or (2) within 30 minutes following adjournment when the House adjourns at 11 p.m., or later.

7. The CONGRESSIONAL RECORD shall contain a substantially verbatim account of remarks actually made during proceedings of the House, subject to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved. The substantially verbatim account shall be clearly distinguishable, by different typeface, from material inserted under permission to extend remarks.

Daily Digest

HIGHLIGHTS

House passed civil rights restoration bill.

Senate

Chamber Action

Routine Proceedings, pages S1673–S1788

Measures Introduced: Nine bills and one resolution were introduced, as follows: S. 2116–2124, and S.J. Res. 268.

Page S1745

Measures Reported: Reports were made as follows:

S. 450, to recognize the organization known as the National Mining Hall of Fame and Museum. (S. Rept. No. 100–294)

S. 840, to recognize the organization known as the 82nd Airborne Division Association, Incorporated. (S. Rept. No. 100–295)

Page S1745

Polygraph Protection Act: Senate continued consideration of S. 1904, to strictly limit the use of lie detector examinations by employers involved in or affecting interstate commerce, with a committee amendment in the nature of a substitute, taking action on additional amendments proposed thereto, as follows:

Page S1678

Adopted:

(1) By unanimous vote of 96 yeas (Vote No. 35), Quayle modified Amendment No. 1606, to provide an exemption for preemployment tests for use of controlled substances.

Page S1701

(2) Thurmond Amendment No. 1607, to provide a restricted exemption for security services. (By 20 yeas to 76 nays (Vote No. 36), Senate earlier failed to table the amendment.)

Page S1701

(3) Nickles Amendment No. 1608 (to Amendment No. 1607), of a perfecting nature.

Page S1701

(4) Cochran Amendment No. 1617, to remove the provisions establishing qualifications for polygraph examiners.

Page S1726

(5) Gramm Amendment No. 1618, to provide for national security exemptions.

Page S1728

(6) Gramm Amendment No. 1619, to provide a nuclear power plant exemption.

Page S1728

(7) Metzenbaum Amendment No. 1621, to express the sense of the Senate that the proposed loan by the World Bank to provide Mexico's steel companies with subsidized financing is not in the best interests of the United States or in the best interests of Mexico's own economic revitalization, and that the World Bank should rejected the proposed plan. (By 45 yeas to 48 nays (Vote No. 41), Senate earlier failed to table the amendment.)

Page S1733

Rejected:

(1) Boschwitz Amendment No. 1610, to permit an employer to administer a lie detector test to an employee if the employee requests the test. (By 56 yeas to 38 nays (Vote No. 37), Senate tabled the amendment.)

Page S1717

(2) Gramm Amendment No. 1615, to provide a common carrier exemption. (By 55 yeas to 37 nays (Vote No. 38), Senate tabled the amendment.)

Page S1721

(3) Cochran Amendment No. 1616, in the nature of a substitute. (By 65 yeas to 29 nays (Vote No. 39), Senate tabled the amendment.)

Page S1723

(4) Gramm Amendment No. 1620, to provide an exemption for use of polygraph tests administered in accordance with Department of Defense Directive 5210.48. (By 57 yeas to 35 nays (Vote No. 40), Senate tabled the amendment.)

Page S1728

Withdrawn:

(1) Helms Amendment No. 1488, to express the sense of the Senate that the United States is violating the ABM Treaty.

Page S1683

(2) Boschwitz Amendment No. 1609, to permit an employer to administer a lie detector test to an employee if the employee requests the test.

Page S1714

A unanimous-consent agreement was reached providing for further consideration of the bill and amendments proposed thereto.

Page S1732

Senate will continue consideration of the bill and amendments proposed thereto on Thursday, March 3, with a cloture vote to occur thereon, with the required quorum call having been waived.

Motion to Request Attendance: During today's proceedings, the following also occurred:

By 67 yeas to 27 nays (Vote No. 34), Senate agreed to a motion to instruct the Sergeant at Arms to request the attendance of absent Senators.

Page S1679

Statements on Introduced Bills: Page S1746

Amendments Submitted: Page S1759

Additional Cosponsors: Page S1759

Notices of Hearings: Page S1772

Authority for Committees: Page S1772

Additional Statements: Page S1772

Quorum Calls: One quorum call was taken today. (Total—12)

Page S1678

Record Votes: Eight record votes were taken today. (Total—41)

Pages S1679, S1701, S1712, S1719, S1723, S1726, S1731, S1737

Recess: Senate convened at 10 a.m. and recessed at 10:09 p.m., until 9 a.m., on Thursday, March 3. (For Senate's program, see the remarks of Senator Byrd in today's Record on page S1787.)

Committee Meetings

(Committees not listed did not meet)

CORPS OF ENGINEERS

Committee on Appropriations: Subcommittee on Energy and Water Development held hearings to review those programs administered by the U.S. Army Corps of Engineers, receiving testimony from Robert W. Page, Assistant Secretary of the Army for Civil Works; Lt. General E.R. Heibert III, Chief of Engineers; and Major General Henry J. Hatch, Director of Civil Works.

Subcommittee recessed subject to call.

APPROPRIATIONS—DOE

Committee on Appropriations: Subcommittee on the Interior and Related Agencies held hearings on proposed budget estimates for fiscal year 1989, receiving testimony in behalf of funds for their respective activities from Chandler L. van Orman, Deputy Administrator, Economic Regulatory Administration, Helmut A. Merklein, Administrator, Energy Information Administration, and George B. Breznay, Director, Office of Hearings and Appeals, all of the Department of Energy.

Subcommittee will meet again on Tuesday, March 16.

DOD—SPECIAL ACCESS PROGRAMS

Committee on Armed Services: Subcommittee on Strategic Forces and Nuclear Deterrence concluded closed joint hearings with the Subcommittee on Conventional Forces and Alliance Defense to review special access programs of the Department of Defense, and the assessment of the INF Treaty's possible impact on DOD's special access programs, after receiving testimony from officials of the Department of Defense and the Armed Services.

1989 BUDGET

Committee on the Budget: Committee continued hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget, receiving testimony from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

Hearings continue tomorrow.

BUSINESS MEETING

Committee on Energy and Natural Resources: Committee ordered favorably reported H.R. 2629, to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska.

EPA/NRC BUDGETS

Committee on Environment and Public Works: Committee concluded hearings to review those programs which fall within its jurisdiction as contained in the President's proposed budget for fiscal year 1989, after receiving testimony in behalf of funds for their respective activities from Lee M. Thomas, Administrator, and A. James Barnes, Deputy Administrator, both of the U.S. Environmental Protection Agency; Lando W. Zech, Jr., Chairman, and Thomas M. Roberts, Kenneth M. Carr, Frederick M. Bernthal, and Kenneth C. Rogers, all Commissioners, all of the Nuclear Regulatory Commission.

BUSINESS MEETING

Committee on Labor and Human Resources: Committee ordered favorably reported the following business items:

An original bill to authorize funds for the Community Health Centers Program;

H.R. 3097, to authorize grants to assist organ procurement organizations, with an amendment;

H.R. 3235, to revise the program of assistance for health maintenance organizations, with an amendment;

S. 1943, to revise and extend the authority with respect to block grants and other matters concerning alcohol abuse and alcoholism, drug abuse, and mental health services, with an amendment in the nature of a substitute; and

The nomination of Howard W. Cannon, of Nevada, to be a Member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation.

TIMBER SET-ASIDE PROGRAM

Committee on Small Business: Committee held hearings to review the U.S. Forest Service proposed changes in the small timber sale set-aside program, receiving testimony from Senator DeConcini; Monika Edwards Harrison, Associate Administrator for Procurement Assistance, Small Business Administration; George Leonard, Associate Chief of the Forest Service, Department of Agriculture; Charles Thomas, Shuqualak Lumber Company, Inc., Shuqualak, Mississippi; Joe Miller, Western Forest Industries Association, Washington, DC; Richard G. Bennett, Bennett Lumber Products, Princeton, Idaho; Marlin Clausner, Potlatch Corporation (Western Division), Lewiston, Idaho; C.D. Fisher, Bohemia, Inc., representing the Public Timber Purchasers Group, and R. Dennis Hayward, North West Timber Association, both of Eugene, Oregon; and James L. Matson, Kaibab Forest Products Company, Phoenix, Arizona.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 20 public bills, H.R. 4053–4072; 1 private bill, H.R. 4073; and 12 resolutions, H.J. Res. 479–483, H. Con. Res. 255–258, and H. Res. 393–395 were introduced.

Page H630

Bill Reported: One report was filed as follows: H.R. 2032, to authorize the conveyance of the Liberty ship *Protector,* amended (H. Rept. 100–509).

Page H630

Journal: By a yea-and-nay vote of 270 yeas to 124 nays with 1 voting "present", Roll No. 15, the House approved the Journal of Tuesday, March 1.

Page H549

Alabama Metropolitan Statistical Area: By a yea-and-nay vote of 284 yeas to 122 nays, Roll No. 16, the House voted to suspend the rules and pass S. 1447, to designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area—clearing the measure for the President. This bill was debated on Tuesday, March 1.

Page H554

Committee Elections: By a yea-and-nay vote of 278 yeas to 122 nays, Roll No. 17, the House agreed to H. Res. 393, electing Representative Lancaster to the Committee on Armed Services and Representative Clement to the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries.

Page H555

Civil Rights Restoration: By a yea-and-nay vote of 315 to 98 nays, Roll No. 20, the House passed S. 557, to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964—clearing the measure for the President.

Page H565

Rejected the Sensenbrenner amendment that sought to broaden exemptions under title IX of the Education Amendments of 1972 to include institutions receiving Federal funds "closely identified with the tenents" of a religious organization and to eliminate special categories of institution-wide coverage and provide only plant-wide coverage for corporations or entities providing federal funded education, health care, housing, social services, or parks and recreation (rejected by a recorded vote of 146 ayes and 266 noes, Roll No. 19).

Page H587

The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as might be necessary in the engrossment of the bill.

Page H598

H. Res. 391, the rule under which the bill was considered, was agreed to earlier by a voice vote. Agreed to order the previous question on the rule by a yea-and-nay vote of 252 yeas to 158 nays, Roll No. 18.

Page H555

Subcommittee to Sit: Subcommittee on Criminal Justice of the Committee on the Judiciary received permission to sit during proceedings of the House under the 5-minute rule on Thursday, March 3.

Page H600

Railroad Retirement Reform Commission: The Speaker appointed Mr. Robert J. Myers of Silver Spring, Maryland, as a member on the part of the House from private life to the Commission on Railroad Retirement Reform.

Page H600

Women's History Month: House passed and cleared for the President S. J. Res. 262, to designate the month of March, 1988, as "Women's History Month."

Page H600

Commerce Department Day: House passed and cleared for the President S. J. Res. 251, to designate March 4, 1988, as "Department of Commerce Day."

Page H601

Quorum Calls—Votes: Five yea-and-nay votes and one recorded vote developed during the proceedings of the House today and appear on pages H549, H554, H555, H565, H597. There were no quorum calls.

Adjournment: Met at 2 p.m. and adjourned at 10:25 p.m.

Committee Meetings

MILK PRODUCTION TERMINATION PROGRAM

Committee on Agriculture: Subcommittee on Livestock, Dairy and Poultry held a hearing on H.R. 3870, to amend the Agricultural Act of 1949 to establish joint liability for certain breaches of contracts made under the milk production termination program. Testimony was heard from the following officials of the USDA: Milton J. Hertz, Administrator, Agricultural Stabilization and Conservation Service; James R. Ebbitt, Assistant Inspector General, Audit; and Craig L. Beauchamp, Assistant Inspector General, Investigations, both with the Office of Inspector General.

COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on Office of the U.S. Trade Representative, and International Trade Commission, and Commission on Civil Rights, and State Justice Institute. Testimony was heard from Clayton Yeutter, U.S. Trade Representative; Susan Wittenberg Liebeler, Chairwoman, U.S. International Trade Commission; Clarence M. Pendelton, Jr., Chairman, Commission on Civil Rights; and Judge C.C. Torbert, Jr., Chairman, State Justice Institute.

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense continued hearings on fiscal year 1989 Defense Budget, with emphasis on Environmental Restoration and Civilian Manpower Overview. Testimony was heard from the following officials of the Department of Defense: Capt. Michael J. Carricato, USN, Director, Environmental Restoration, Office of the Assistant Secretary (Production and Logistics); David J. Berteau, Deputy Assistant Secretary (Resource, Management and Support); and Claire E. Freeman, Deputy Assistant Secretary (Civilian Personnel Policy).

Hearings continue tomorrow.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on Corps of Engineers-South Atlantic Division, and Remaining Items. Testimony was heard from the following officials of the Department of the Army: Maj. Gen. C. Ernest Edgar III, Division Engineer, South Atlantic Division; and Maj. Gen. Henry J. Hatch, Director, Civil Works.

FOREIGN ASSISTANCE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs met in executive session to receive classified briefing on the following: Nuclear-Non-Proliferation; Afghanistan; Middle East Military Balance; and Iran-Iraq. The Subcommittee was briefed by departmental witnesses.

HUD-INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on HUD-Independent Agencies held a hearing on Federal Home Loan Bank Board and the Council on Environmental Quality. Testimony was heard from M. Danny Wall, Chairman, Federal Home Loan Bank Board; and the following officials of the Council on Environmental Quality: A. Alan Hill, Chairman; William L. Mills and Jacqueline E. Schafer, members; Joseph R. Jehl, Jr., Chief Scientist; Dinah Bear, General Counsel; and Lucinda Swartz, Deputy General Counsel.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior continued appropriation hearings with emphasis on Indian issues. Testimony was heard from public witnesses.

Hearings continue tomorrow.

LABOR-HHS-EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor-HHS-Education held a hearing on Health Resources and Services Administration, Alcohol, Drug Abuse

and Mental Health Administration, and St. Elizabeths Hospital. Testimony was heard from the following officials of the Department of Health and Human Services: Dr. David Sundwall, Administrator, Health Resources and Services Administration; and Robert Trachtenberg, Deputy Administrator, Alcohol, Drug Abuse and Mental Health Administration.

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Construction held a hearing on Army Military Construction. Testimony was heard from the following officials of the Department of the Army: John W. Shannon, Assistant Secretary (Installations and Logistics); and Maj. Gen. Peter J. Offringa, Assistant Chief of Engineers.

RURAL DEVELOPMENT, AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Rural Development, Agriculture and Related Agencies held a hearing on Office of the Inspector General Overview and the Office of Governmental and Public Affairs. Testimony was heard from the following officials of the USDA: Robert W. Beuley, Inspector General and Wilmer D. Mizell, Assistant Secretary, Governmental and Public Affairs.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on Interstate Commerce Commission. Testimony was heard from Heather J. Gradison, Chairman, ICC.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Treasury-Postal Service-General Government held a hearing on Alcohol, Tobacco and Firearms, Federal Law Enforcement Training Center, and Office of the Secretary/International Affairs. Testimony was heard from the following officials of the Department of the Treasury: Stephen E. Higgins, Director, Bureau of Alcohol, Tobacco and Firearms; Charles E. Rinkevich, Director, Federal Law Enforcement Training Center; and Jill E. Kent, Deputy Assistant Secretary, Departmental Finance and Management.

DEFENSE COMMITMENTS

Committee on Armed Services: Defense Burdensharing Panel continued hearings on U.S. defense commitments, the cost of those commitments, how the burden of providing for allied defense is shared among nations, and the defense alliances. Testimony was heard from public witnesses.

Hearings continue tomorrow.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Military Installations and Facilities held a hearing on the military construction portion of the fiscal year 1989 defense budget. Testimony was heard from Maj. Gen. Peter J. Offringa, Assistant Chief of Engineers, Department of the Army; the following officials of the Department of the Navy; RAdm. Benjamin F. Montoya, Commander, Naval Facilities Engineering Command; and Brig. Gen. Michael P. Downs, Director, Facilities and Services Division, Installations and Logistics Department, USMC, and Maj. Gen. George E. Ellis, Director, Engineering and Services, Department of the Air Force.

Hearings continue tomorrow.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Procurement and Military Nuclear Systems held a hearing on the fiscal year 1989 Department of Energy defense programs authorization request. Testimony was heard from the following officials of the Department of Energy: John S. Herrington, Secretary; and Troy Wade, Acting Assistant Secretary, Defense Programs; and Robert Barker, Assistant to the Secretary, Atomic Energy, Department of Defense.

Hearings continue tomorrow.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Readiness continued hearings on the operation and maintenance portion of the fiscal year 1989 defense budget. Testimony was heard from the following officials of the Department of the Navy: VAdm. Stanley Arthur, Deputy Chief, Naval Operations for Logistics; Lt. Gen. Joseph J. Went, Deputy Chief of Staff, Marine Corps, Installations and Logistics; and RAdm. Raymond M. Walsh, Director, Operations, Fiscal Management Division, Office of the Chief of Naval Operations.

Hearings continue tomorrow.

ESTABLISHING AN OFFICE OF SPECIAL OPERATIONS AND LOW-INTENSITY CONFLICT

Committee on Armed Services: Subcommittee on Readiness, Special Operations Panel held a hearing and status report regarding the establishment of the Office of the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict. Testimony was heard from John O. Marsh, Jr., Acting Assistant Secretary, Special Operations and Low-Intensity Conflict, Department of Defense.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Research and Development continued hearings on the

research, development, test and evaluation portion of the fiscal year 1989 defense budget. Testimony was heard from the following officials of the Department of the Army: Jay R. Sculley, Assistant Secretary, Research, Development and Acquisition; Lt. Gen. Donald S. Pihl, Military Deputy to the Assistant Secretary, Research, Development and Acquisition; and Robert B. Oswald, Jr., Director, Research and Technology, Office of the Assistant Secretary, Research, Development and Acquisition; and Maj. James K. Womack, Threat, Armor, Scientific and Technical Officer, Threat and Intelligence Division, Office of the Deputy Chief of Staff for Intelligence.

Hearings continue tomorrow.

BUDGET PROPOSALS

Committee on the Budget: Continued hearings on the Administration's fiscal year 1989 budget proposals. Testimony was heard from William J. Bennett, Secretary of Education; and public witnesses.

Hearings continue tomorrow.

CLEAN AIR ACT AMENDMENTS AND ACID DEPOSITION CONTROL ACT

Committee on Energy and Commerce: Subcommittee on Health and the Environment continued markup of the Clean Air Act Amendments of 1987; and the Acid Deposition Control Act of 1987.

Subcommittee recessed subject to call.

U.S./JAPAN NUCLEAR COOPERATION AGREEMENT

Committee on Foreign Affairs: Held a hearing on the U.S.-Japan Nuclear Cooperation Agreement. Testimony was heard from public witnesses.

REAL ESTATE APPRAISAL REFORM ACT

Committee on Government Operations: Subcommittee on Commerce, Consumer and Monetary Affairs continued hearings on H.R. 3675, Real Estate Appraisal Reform Act of 1987. Testimony was heard from public witnesses.

Hearings continue March 10.

OVERSIGHT

Committee on Interior and Insular Affairs: Held an oversight hearing on fiscal year 1989 Department of the Interior budget request. Testimony was heard from Donald Paul Hodel, Secretary of the Interior.

BOEING'S PROPOSAL TO REMOVE OVERWING EXITS FROM 747-SERIES AIRCRAFT

Committee on Public Works and Transportation: Subcommittee on Investigations and Oversight held a hearing on the Boeing Commercial Airplane Company's proposal to remove overwing exit doors on certain existing and future production B–747 series aircraft, and on the FFA's proposed rule to limit distance between emergency exit doors. Testimony was heard from T. Allan McArtor, Administrator, FAA, Department of Transportation; and public witnesses.

TOXIC POLLUTION IN THE GREAT LAKES

Committee on Public Works and Transportation: Subcommittee on Water Resources held a hearing on toxic pollution in the Great Lakes, including accumulated toxics in bottom sediments, the effect of such pollution, and remedial efforts. Testimony was heard from Carol Finch, Director, Great Lakes National Program Office, EPA; Richard Celeste, Governor, State of Ohio; Thomas Jorling, Commissioner, Department of Environmental Conservation, State of New York; and public witnesses.

DOE AUTHORIZATION

Committee on Science, Space, and Technology: Subcommittee on Energy Research and Development held a hearing on Department of Energy fiscal year 1989 budget request, with emphasis on Fossil Energy. Testimony was heard from J. Allen Wampler, Assistant Secretary, Fossil Energy, Department of Energy; and public witnesses.

Hearings continue tomorrow.

HOTEL AND MOTEL FIRE SAFETY ACT

Committee on Science, Space, and Technology: Subcommittee on Science, Research and Technology held a hearing on H.R. 3704, Hotel and Motel Fire Safety Act of 1987. Testimony was heard from Clyde Braggdon, Administrator, U.S. Fire Administration, Federal Emergency Management Agency; and public witnesses.

HEALTH THREAT POSED BY INACCURATE LABORATORY TESTING

Committee on Small Business: Subcommittee on Regulation and Business Opportunities held a hearing on potential public health threat posed by inaccurate laboratory testing. Testimony was heard from Dr. David Axelrod, Health Commissioner, State of New York; and public witnesses.

VA BUDGET

Committee on Veterans' Affairs: Held a hearing on proposed VA budget for fiscal year 1989. Testimony was heard from Thomas K. Turnage, Administrator, VA.

Hearings continue tomorrow.

CHILD SUPPORT ENFORCEMENT PROGRAM

Committee on Ways and Means: Subcommittee on Public Assistance and Unemployment concluded hearings on the Child Support Enforcement program. Testimony was heard from Representative Roukema; Wayne Stanton, Director, Office of Child

Support Enforcement, Department of Health and Human Services; Jim Mattox, Attorney General, State of Texas; and public witnesses.

LOW-INCOME HOUSING TAX CREDITS

Committee on Ways and Means: Subcommittee on Select Revenue Measures held a hearing on low-income housing tax credits and the role of tax policy in preserving the stock of low-income housing. Testimony was heard from Senators D'Amato and Mitchell; C. Eugene Steuerle, Deputy Assistant Secretary (Tax Analysis), Department of the Treasury; C. Duncan McRae, General Deputy Assistant Secretary, Policy Development and Research, Department of Housing and Urban Development; Vance L. Clark, Administrator, Farmers Home Administration, USDA; and public witnesses.

Hearings continue tomorrow.

TRADE AGREEMENT BETWEEN U.S. AND CANADA

Committee on Ways and Means: On March 1, the Subcommittee on Trade continued hearings on United States and Canada Free Trade Agreement. Testimony was heard from public witnesses.

MENTAL HEALTH AND AGING

Select Committee on Aging: Held a hearing on "Mental Health and Aging: A Call for Federal Action". Testimony was heard from Lewis Judd, Director, National Institute of Mental Health, Department of Health and Human Services; Richard F. Celeste, Governor, State of Ohio; and public witnessses.

IMPACT OF MEDICARE AND MEDICAID CUTS

Select Committee on Aging: On March 1, the Committee concluded hearings on "Less Profit, Less Care?? Reassessing Medicare and Medicaid Cuts on Patients", Part 2. Testimony was heard from Dr. William Roper, Administrator, Health Care Financing Administration, Department of Health and Human Services.

NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET

Permanent Select Committee on Intelligence: Subcommittee on Program and Budget Authorization met in executive session to continue hearings on fiscal year 1989 National Foreign Intelligence Program Budget. Testimony was heard from departmental witnesses.

On March 1, the Subcommittee met in executive session to hold hearings on fiscal year 1989 National Foreign Intelligence Program Budget. Testimony was heard from departmental witnesses.

Hearings continue tomorrow.

COMMITTEE MEETINGS FOR THURSDAY, MARCH 3, 1988

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on Agriculture, Rural Development and Related Agencies, to hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, focusing on the Animal and Plant Health Inspection Service, Federal Grain Inspection Service, Food Safety and Inspection Service, and the Agricultural Marketing Service, 10 a.m., SD-138.

Subcommittee on Defense, to hold hearings to review proposed budget estimates for fiscal year 1989 for the Department of Defense, 10 a.m., SD-192.

Subcommittee on Transportation and Related Agencies, to hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Highway Administration, and the National Highway Traffic Safety Administration, 10 a.m., SD-124.

Subcommittee on Treasury, Postal Service, and General Government, to hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Election Commission, Bureau of Alcohol, Tobacco and Firearms, and the Federal Law Enforcement Training Center, 1 p.m., SD-116.

Committee on Armed Services, Subcommittee on Manpower and Personnel, to hold hearings to review Department of Defense officer promotion procedures, 9:30 a.m., SR-385.

Full Committee, to hear and consider the nomination of Jack Katzen, of Connecticut, to be an Assistant Secretary of Defense for Production and Logistics, 1:30 p.m., SD-562.

Committee on the Budget, to continue hearings in preparation for reporting the first concurrent resolution on the fiscal year 1989 budget, 9:30 a.m., SD-608.

Committee on Commerce, Science, and Transportation, to hold hearings on S. 1848, to authorize a Minority Business Development Administration in the Department of Commerce, 9:30 a.m., SR-253.

Full Committee, to hold hearings on the nomination of William Evans, of California, to be Under Secretary of Commerce for Oceans and Atmosphere, 2 p.m., SR-253.

Committee on Energy and Natural Resources, to hold oversight hearings to review those programs which fall within the jurisdiction of the committee as contained in the President's proposed budget for fiscal year 1989, focusing on the Forest Service, and the Federal Energy Regulatory Commission, 9:30 a.m., SD-366.

Subcommittee on Public Lands, National Parks and Forests, to hold hearings on S. 1544, to provide for cooperation with State and local governments for the improved management of certain Federal lands, and H.R. 2652, to revise boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, 2 p.m., SD-366.

Committee on Environment and Public Works, Subcommittee on Water Resources, Transportation, and Infrastructure, to hold hearings on proposals to improve the effi-

ciency and effectiveness of management of public buildings, 10 a.m., SD-406.

Committee on Finance, business meeting, to consider the nomination of Mark Sullivan III, of Maryland, to be General Counsel, Department of the Treasury, and S. Con. Res. 94, to express the sense of the Congress with respect to the subsidization of European Community soybean products; to be followed by hearings to review those programs which fall within the committee's jurisdiction as contained in the President's proposed budget for fiscal year 1989, 10 a.m., SD-215.

Committee on Foreign Relations, business meeting, to consider pending calendar business, time to be announced, S-116, Capitol.

Full Committee, to resume hearings on the Treaty Between the United States and the U.S.S.R. on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11), 5 p.m., SD-419.

Committee on Governmental Affairs, Subcommittee on Federal Spending, Budget, and Accounting, to hold hearings on S. 1647, to revise provisions of Federal law relating to the official expenses of former Presidents and the protection of former Presidents and former Vice Presidents, 2 p.m., SD-342.

Committee on the Judiciary, Subcommittee on Patents, Copyrights and Trademarks, to resume hearings on S. 1301 and S. 1971, bills to implement the Berne Convention for the Protection of Literary and Artistic Works, 9:30 a.m., SD-106.

Select Committee on Indian Affairs, business meeting, to mark up S. 721, to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies, S. 1236, to authorize funds for fiscal year 1988 for housing relocation under the Navajo-Hopi Relocation Program, and S. 802, to transfer ownership of certain lands held in trust for the Blackfeet Tribe, 2 p.m., SD-628.

NOTICE

For a listing of Senate committee meetings scheduled ahead, see page E493 in today's Record.

House

Committee on Appropriations, Subcommittee on Commerce, Justice, State and Judiciary, on FCC, 10 a.m., and on SBA, 2 p.m., H-310 Capitol.

Subcommittee on Defense, on fiscal year 1989 Army Posture, 10 a.m., and 1:30 p.m., H-140 Capitol.

Subcommittee on Energy and Water Development, on TVA, 10 a.m., 2362 Rayburn.

Subcommittee on HUD-Independent Agencies, on Neighborhood Reinvestment Corporation, 10 a.m, H-143 Capitol.

Subcommittee on Interior, to continue on Public Witnesses (Indian Issues), 10 a.m., and 1:30 p.m., B-308 Rayburn.

Subcommittee on Labor-HHS-Education, on NIH—Overview, 10 a.m., and on National Heart, Lung and Blood Institute, and National Institute of Neurological and Communicative Disorders and Stroke, 2 p.m., 2358 Rayburn.

Subcommittee on Military Construction, on Quality of Life in the Military, 9:30 a.m., B-300 Rayburn.

Subcommittee on Rural Development, Agriculture and Related Agencies, on General Agriculture Outlook, 1 p.m., 2362 Rayburn.

Subcommittee on Transportation, on Inspector General of Department of Transportation, 10 a.m., and 2 p.m., 2358 Rayburn.

Subcommittee on Treasury-Postal Service-General Government, on Federal Election Commission, U.S. Tax Court and on Office of Federal Procurement Policy, 10 a.m., and 2 p.m., H-164 Capitol.

Committee on Armed Services, Defense Burdensharing Panel, to continue hearings on U.S. defense commitments, the cost of those commitments, how the burden of providing for allied defense is shared among nations, and the defense alliances, 2:30 p.m., 2203 Rayburn.

Subcommittee on Military Installations and Facilities, to continue hearings on the military construction portion of the fiscal year 1989 defense budget, 10 a.m., and 2 p.m., 2337 Rayburn.

Subcommittee on Military Personnel and Compensation, hearing on the manpower portion of the fiscal year 1989 defense budget, 10:30 a.m., B-318 Rayburn.

Subcommittee on Procurement and Military Nuclear Systems, to continue hearings on the fiscal year 1989 Department of Energy defense programs authorization request, 9:30 a.m., 2212 Rayburn.

Subcommittee on Readiness, to continue hearings on the operation and maintenance portion of the fiscal year 1989 defense budget, 2 p.m., 2325 Rayburn.

Subcommittee on Research and Development, to continue hearings on the research, development, test and evaluation portion of the fiscal year 1989 defense budget, 10 a.m., and 2 p.m., 2118 Rayburn.

Subcommittee on Seapower and Strategic and Critical Materials, to continue hearings on the seapower-related procurement portion of the fiscal year 1989 defense budget, 10 a.m., 2216 Rayburn.

Committee on the Budget, to continue hearings on the Administration's fiscal year 1989 budget proposals, 9:30 a.m., 210 Cannon.

Committee on Education and Labor, to consider budget recommendations for the report to the Committee on the Budget, 9:30 a.m., 2175 Rayburn.

Subcommittee on Labor Standards, to mark up H.R. 1834, Minimum Wage Restoration Act of 1987, 10 a.m., 2261 Rayburn.

Committee on Energy and Commerce, Subcommittee on Energy and Power, hearing on Department of Energy fiscal year 1989 budget, 10 a.m., 2123 Rayburn.

Subcommittee on Transportation, Tourism and Hazardous Materials, hearing on the following bills: H.R. 3781, DOE Waste Cleanup Act of 1987; H.R. 3782, to amend the Solid Waste Disposal Act to improve compliance by Federal facilities with the requirements of subtitle C of the act; H.R. 3783, to amend the Solid Waste Disposal Act to improve compliance with hazardous waste laws at Federal facilities; H.R. 3784, to amend the Solid Waste Disposal Act to clarify the regulation of certain Depart-

ment of Energy waste under subtitle C of that act; and H.R. 3785, to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities; 9:30 a.m., 2322 Rayburn.

Subcommittee on Transportation, Tourism and Hazardous Materials, to mark up H.R. 3070, to amend the Toxic Substances Control Act to require persons handling polychlorinated biphenyls to comply with the manifest and financial responsibility requirements of the Solid Waste Disposal Act and to require persons carrying out certain intermediate activities with respect to polychlorinated biphenyls to obtain approval from the Environmental Protection Agency, 2 p.m., 2322 Rayburn.

Committee on Foreign Affairs, Subcommittee on Asian and Pacific Affairs and the Subcommittee on Human Rights and International Organizations, joint hearing and markup of legislation on the Palau Compact, 10 a.m., 2200 Rayburn.

Task Force on International Narcotics Control, hearing on Worldwide Narcotics Review; and to review the 1988 International Narcotics Control Strategy Report, 9:30 a.m., 2172 Rayburn.

Committee on House Administration, Subcommittee on Accounts, to mark up committee funding resolution, 10 a.m., H–328 Capitol.

Subcommittee on Personnel and Police, executive, to consider pending business, 2 p.m., H–328 Capitol.

Committee on Interior and Insular Affairs, Subcommittee on Energy and the Environment, oversight hearing on fiscal year 1989 budget request for the NRC, 9:45 a.m., 1324 Longworth.

Subcommittee on National Parks and Public Lands, to mark up H.R. 1975, to protect cave resources on Federal lands, 10 a.m., 340 Cannon.

Committee on the Judiciary, Subcommittee on Administrative Law and Governmental Relations, hearing on H.R. 3897, Federal Charter Act of 1988; and to mark up H.R. 3997, The Ethics in Government Act Authorization Extension Act of 1988, 10 a.m., 2237 Rayburn.

Subcommittee on Civil and Constitutional Rights, to continue markup of H.R. 1158, Fair Housing Amendments Act of 1987, 10 a.m., 2226 Rayburn.

Subcommittee on Monopolies and Commercial Law, to continue oversight and authorization hearings on the Antitrust Division of the Department of Justice, 9:30 a.m., 2141 Rayburn.

Committee on Merchant Marine and Fisheries, hearing on the U.S. Department of Transportation issues, including the U.S. Coast Guard and maritime policy, 10 a.m., 1334 Longworth.

Subcommittee on Fisheries and Wildlife Conservation and the Environment, hearing on Arctic National Wildlife Refuge: Wildlife Issues, 2 p.m., 1334 Longworth.

Committee on Post Office and Civil Service, Subcommittee on Census and Population, hearing on H.R. 3511, Decennial Census Improvement Act of 1987, 9:30 a.m., 311 Cannon.

Committee on Public Works and Transportation, Subcommittee on Aviation, to consider and markup H.R. 2238, General Aviation Standards Act of 1987, 2 p.m., 2253 Rayburn.

Committee on Science, Space, and Technology, Subcommittee on Energy Research and Development, to continue hearings on Department of Energy fiscal year 1989 budget request, with emphasis on Fossil Energy, 9:39 a.m., 2318 Rayburn.

Subcommittee on Space Science and Applications, posture hearing on NASA authorization, 9:30 a.m., 2325 Rayburn.

Committee on Small Business, Subcommittee on Energy and Agriculture, hearing on H.R. 3865, to amend the Internal Revenue Code of 1986 to permit tax-free sales of diesel fuel for use on a farm or for other off-highway uses, 10 a.m., 2359A Rayburn.

Committee on Veterans' Affairs, to continue hearings on proposed VA budget for fiscal year 1989, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Select Revenue Measures, to continue hearings on low-income housing tax credits and the role of tax policy in preserving the stock of low-income housing, 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, Subcommittee on Program and Budget Authorization, executive, to continue hearings on fiscal year 1989 National Foreign Intelligence Program Budget, 9 a.m., H–405 Capitol.

Joint Meetings

Conferees, on the small business provisions of H.R. 3, Omnibus Trade and Competitiveness Act of 1987, 2:15 p.m., S–146, Capitol.

Next Meeting of the SENATE

9 a.m., Thursday, March 3

Senate Chamber

Program for Thursday: After the transaction of any morning business (at not later than 9:30 a.m.), Senate will continue consideration of S. 1904, Polygraph Protection Act, and a cloture vote will occur thereon, with the required quorum call having been waived.

Next Meeting of the HOUSE OF REPRESENTATIVES

11 a.m., Thursday, March 3

House Chamber

Program for Thursday: Consideration of H.J. Res. 482, providing for assistance to support the peace process in Central America (modified rule, two hours of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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