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House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. EMERSON].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 27, 1995.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SCHIFF] for 5 minutes.

WHAT NEW BUDGET FROM THE PRESIDENT?

Mr. SCHIFF. Mr. Speaker, as our colleagues are aware, the House and Senate budget committees reached a resolution of the differences between the House budget resolution and the budget resolution of the other body, and we may get their conference report on the future budget as soon as this week, and I want to say that they have had to make a number of hard choices, just as each body, the House and the other body, had to make hard choices within their own budget resolutions.

Nevertheless, I have noticed a great deal of media discussion again comparing the President's new budget that he talked about in his televised presentation to the Nation a couple of weeks ago with the proposed united congressional budget, and by united congressional budget, I mean the House-Senate conference report which is coming to us.

Now, I have to say with the utmost respect: ''What new budget from the President of the United States?''

Now, Mr. Speaker and colleagues, this is a budget. In fact, this is the President's budget submitted to the Congress in February of this year, which, as you can see by its size, goes through each agency and each program and point by point proposes spending in the next fiscal year and beyond. There is no such document from the White House, at least as of this time, which gives comparable point-by-point proposals for spending.

There is, if one contacts the White House, available some talking points about the President's new budget goals. But talking points are not by themselves a budget. A budget is program-by-program recommendations on spending.

The fact of the matter is in most respects we do not know what is in the President's new budget and, therefore, when the media compares the President's budget with the congressional budget, they are comparing our real budget with the President's talking points, and, as such, there cannot be a point-by-point comparison.

We do not know how the President's new budget will affect so many programs that are federally funded. We have a brief reference in the President's televised address to the Nation referring to a 20-percent cut in funding for discretionary programs except for the military and except for education, and the President stated he wanted to boost spending on education. But what does that 20-percent cut mean? First of all, is it a 20-percent real cut? Did the President mean that Federal agencies will have 20 percent less budget or did he mean it will be a Washington cut, there will be a 20 percent decrease in the amount of new spending? I think that is a reasonable question, but there is no answer to it.

Further, does that mean a 20-percent cut across the board? That means, however you define a cut, will every single agency except for the military and except for the agency, have a 20 percent reduced budget, or does it mean an average 20 percent reduction so that some agencies and some programs will, say, remain the same and other agencies and programs will be reduced by 40 percent? We do not know any of that either.

So, to give some specific examples, we do not know what the congressional proposal is being compared to. Let me give three examples very briefly. First of all, to start with, my home State of New Mexico, there has been a great deal of discussion about how the future funding of the Federal Government will affect the two national laboratories in New Mexico and there has been a good deal of debate about what the congressional figures will mean in various programs. I want to say that all of this is fair commentary, that the national laboratories, I think, are important programs, but they understand, as everyone understands, that they will be affected as all Federal programs will, in the goal to reach the balanced budget. But the evaluation of how they are being treated by Congress cannot be made in a vacuum.

How will all the national laboratories fare in the President's new budget if the President's new budget is adopted as the spending blueprint for the Congress? Well, we just do not know because we have not seen those figures. Nobody thus far can answer that question.

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Just this morning, just to show this applies anywhere, as I was leaving my apartment to come here, I saw one of the national morning news programs. They were centered around the national park system, and one of the comments I heard is they said we will be talking about how proposed congressional cuts will affect the National Park Service.

I just wanted to say, to be a full player, Mr. Speaker, the President has to provide a full proposed budget.

COMPACT-IMPACT AID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to again call attention to the problem of unrestricted immigration to Guam allowed by the compact of free association and the failure of the Federal Government to fulfill its promises to Guam to reimburse our local government for the cost of educational and social services that this immigration policy causes.

This legal immigration allows the citizens of the three nations of the former trust territory to travel unrestricted to the United States, without passports or visas, and to reside, work, or attend school without going through the usual INS applications. In opening the door to this unusual and generous policy, the Federal Government also promised in Public Law 99–239 to reimburse the American islands in the Pacific for the expected costs. Guam, because of its proximity, has received the greatest share of this immigration.

Since 1985, when the compact was enacted, and compact-impact aid was authorized, Guam has incurred over $70 million in costs. Guam has received a grand total of $2.5 million in reimbursement.

Mr. Speaker, Congress has spoken out loud and clear on unfunded Federal mandates. As we consider the Interior appropriations bill this week, I urge my colleagues to ensure that the funding for Guam's reimbursement is included. Let us make sure that on this issue, promises are kept.

THE FEDERAL BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized during morning business for 5 minutes.

Mr. HOKE. Mr. Speaker, I rise today to talk about the Federal budget and to talk about the context in which it is being discussed both by the President and in the media and on the floor, and I particularly want to thank my good friend, the gentleman from New Mexico who spoke before me in his remarks regarding highlighting what the fundamental problems are in the way that we talk about the budget itself.

Let me just share a couple of numbers with you that may be helpful. Total spending for 1995 was $1.531 trillion; that is, $1.531 trillion. The projected spending for the year 2000, under the Republican conference bill that was just approved by the conference committee, will be $1.778 trillion, that is, $1.778 trillion. Let us go over those again:

In 1995, $1,531,000,000,000, in 2000, $1,778,000,000,000: More than $350 billion more will be spent in the year 2000 by the Federal Government under the Republican plan that gets us to a balanced budget than was spent or is being spent right now in the fiscal year 1995.

Now, let me put that in the context of something that the President said on the CBS This Morning program about 2 years ago, May 27, 1993. He was being interviewed by Paula Zahn, and he said in response to a question about the budget he said, ''We have about $100 billion in cuts, but they are still going up very rapidly.'' I will say that again: ''We have about $100 billion in cuts in various entitlement programs, but they are still going up very rapidly.''

Now, what does that mean? Think about those words. How can we have $100 billion in cuts but they are still going up very rapidly? That is the problem with Washington doublespeak. We talk a lot about Orwellian language. We talk a lot about the problem that George Orwell so brilliantly talked about and exposed there is his novel ''1984,'' and it is the problem of the debasement of language, the abuse of language and the use of language in a way that, in fact, confuses people instead of bringing clarity and light, and that is the problem we have got with the budget, because the reality is that we talk about money inside Washington in a way that is very different from how we talk about it over kitchen tables in Cleveland, OH, or over corporate board tables in corporate boardrooms or the way that people in churches discuss their budget for the next year or the way that people with nonprofit foundations and corporations and universities and institutions of that sort discuss their budget. The fact is that we can talk about money in Washington in terms of a projected amount of growth that was created by a bureaucratic agency known as the Congressional Budget Office, and that budget office, the CBO, talks about we are going to have this much growth projected; therefore, if you project spending less than that, that is a cut, and if you project spending the same as that, then you have not spent more money, but the reality is that in Cleveland, OH, if you are going to spend $5,000 on food and clothing in 1996 and you spent $4,700 on food and clothing for your family in 1995, that is a $300 or 6 or 7 percent increase in spending. It is not a cut. It cannot be a cut under any circumstances, and until and unless we begin to use language in Washington the same way that we use language in the rest of the country, the public is going to continue to be confused about this.

Let us look at Medicare as an example, because this is where you will hear the greatest exploitation of these projected increases in terms of political exploitation, and these numbers will be used to inject fear into the debate, to scare senior citizens and, frankly, to confuse for political gain. The reality is that in 1995 we are spending $178 billion on Medicare. In the year 2000, under the Republican budget plan, if that is what is finally approved and passed by both the Senate and the House and then signed into law this coming August or September by the President of the United States, we will spend $214 billion, $178 billion in Medicare in 1995, $214 billion on Medicare in the year 2000.

Does that or does that not sound like an increase? Clearly, it is an increase, and yet you will hear it described as a cut.

ELECTIONS IN HAITI

Mr. SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, speaking of the budget as the previous colleagues have from this point of view, I think it is important to note that today the Members of this body will be discussing the appropriation for our foreign operations assistance, and that, of course, is part of our budget process, how much money are we going to parcel out for the different things we undertake as the United States of America through the governance in Washington.

Today I am here to talk a little bit about a specific budget item and a little bit about a situation where American taxpayers' dollars go in very substantial amounts, because I think there is some interest in it. I think there should be some interest in it.

I am reporting about the situation in Haiti today, discussing a little bit the question about foreign aid for Haiti, how much is right and how should we handle it.

As we go through the foreign operations appropriations bill, I will be submitting an amendment that will deal directly with the subject, so in a way I am going to use these few moments just to say that I have come back from the elections in Haiti, and I think that there is a very important message in those elections, and I also feel that there is much work ahead and much accountability ahead.

Let me be specific. The headline this morning in one of the Washington papers was, ''A step for Democracy?'' After reviewing showing pictures and reviewing the reports that are coming from Haiti, I would conclude, having been there for 4 days and gotten around part of the country and been in charge

of a team that had observers spread countrywide, that it was a very small step, a very halting step, a very hesitant step for democracy, but it was a step. It was a very expensive step for the American taxpayers also.

It turned out that by our standard, you would probably not recognize it as much of an election. It was a very compressed election time, virtually no campaign, which I think many Americans would probably applaud, but unfortunately that meant for Haitians they did not know what the issues were or what was going on, and in that country, generally, you vote for an individual out of a loyalty or a personal conviction, and the issues seem to take a subordinate role.

There were an extraordinary amount of unaddressed administrative problems, and when I say unaddressed, that is the critical word because the people in charge of the election apparently got the complaints but never gave any answers out. It created a tremendous amount of frustration that led to a lack of transparency. The people did not know what was going on. The people making decisions were not sharing why they were making those decisions, and that, in turn, eroded credibility. Credibility is vital for full, free elections.

It turned out not only was there no campaign to speak out, there was no training in advance of poll workers, no preparation of the people. As a result, there was no great enthusiasm to go out and vote and, in fact, the turnout was disappointingly light. It turned out when you went to vote, if you were a Haitian, there were missing candidates. The candidate you wanted to vote for was not on the ballot or the polling workers were not at the polling station to help you vote or to open the polling station, because they had not been paid, or there were no materials to vote. You might have gotten to the right place and your candidate was on the ballot, but there was no other material to deal with, say, no ballot boxes. We found these kinds of problems widespread everywhere.

The end result is people were dissatisfied. There was frustration, and as we have all seen in the pictures from the television and newspapers, widespread disturbances, nothing like the violence in past elections in Haiti. We are all glad abut that. but, still, some very serious incidents did take place in the country, when you are burning down voting stations and stoning candidates, as did happen in some places, and we do not know all of these details yet.

We have got a problem. The mood was clearly more relaxed than in the last election in 1990, when I was also there as an observer, but there is still concern about personal security, and the light turnout was in part described by some Haitians due to the fact they did not have enough security at the polls. They wanted to see somebody out there who could protect them if they want to vote, because they could remember what happened if they went to vote in the past and they did not have that security. Bad things happened.

Another good part of the news, of the good news, is that the political parties are beginning to work better in Haiti. The one thing that did work in these elections was the poll watchers were there and doing their job on behalf of the parties, and I am happy to say that after the election voting process is pretty much over, that the parties are the ones who are getting involved in making the complaints and making things happen in Haiti, and that is the way it should be. The parties were doing a better job than the government did of running, by and large.

What is ahead? We have got about a quarter billion dollars in aid going to Haiti. That means a lot of accountability. I think most Americans want to know what has been spent there, for what purposes, what specifically, how much more are we going to spend.

We have the Presidential elections coming in December 1995, and that is the big one. That is the one that matters. I think we had better be better prepared than we were for these parliamentary elections.

THE NEW ENOLA GAY EXHIBIT AT THE SMITHSONIAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas, Mr. SAM JOHNSON, during morning business is recognized for 5 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, just a few short months ago, the Smithsonian Institution was surrounded with controversy. The planned exhibit of the historic Enola Gay, the plane that actually dropped the atomic bomb on Japan, was overcome with historic revisionism and distortion of fact by a group of people that was determined to editorialize and promote an anti-American message about the end of World War II, which we are celebrating this year, as you know.

I am happy to report that starting tomorrow, that exhibit is going to be open to the public, and Secretary Heyman and the Smithsonian have created a new Enola Gay exhibit that every American can be proud of. The new exhibit, which I had an opportunity to view last week, tells the amazing story of the development of the B–29 airplane, and it talks about how America researched and how American industry and how American ingenuity developed our air power so that we actually were able to win World War II, and it shows the brave crew that flew on a historic mission.

Most importantly, the exhibit shows the true role America played in ending World War II, in saving both American and Japanese lives.

Mr. Speaker, I congratulate the Smithsonian. I think the National Air and Space Museum is back on track as an exemplary museum for America, and I urge all Americans to visit the National Air and Space Museum here in Washington and see this great tribute to American aviation, American veterans, and American history.

RECESS

The SPEAKER pro tempore. Purusant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 10 o'clock and 52 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FOLEY) at 12 noon.

PRAYER

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

We admit, O gracious God, that often we know the route we should follow but we lack the will to take the step, we understand where we should be and what we should do, but we lack the resolution to follow through on our beliefs. On this day we pray, O God, that, armed with Your good spirit, we will have the courage to act as well as to think, to do as well as to talk, and finally, to accomplish the works of faith and hope and love in all we do. Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. BISHOP] come forward and lead the House in the Pledge of Allegiance.

Mr. BISHOP led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 18. Concurrent resolution authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service.

S. Con. Res. 19. Concurrent resolution to correct the enrollment of the bill H.R. 483.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) ''An act to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute speeches on each side.

THE RETIREMENT OF E.C. ''GUS'' GUSTAFSON, CHIEF REPORTER OF OFFICIAL REPORTERS OF DEBATE

(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, when the House adjourns this week, it will literally mark the end of an era. From the days of the Pharaohs, from the days of Moses, to the time of King Arthur, to the founding of our great Constitution and the words of our Founding Fathers, all of the great spoken words were memorialized by hand, pen, quill, and ink.

Not any more. Now this new high-technology stenotype machine, handled by lovely people such as Ms. Mazur and others of the official Office of the Reporters of Debates, shall memorialize all the great debates that take place in the House, including that today on foreign operations.

But the reason why this great era is ending, Mr. Speaker, is because a beautiful man, the chief of the Office of the Reporters of Debates, E. Charles Gustafson, known to us all as Gus, is finally retiring.

My colleagues, this beautiful man was born in 1921, on June 26, in West Clarksville, NY. Gus then graduated from the Gregg College of Court Reporting in Chicago, IL, and began his great career in the early 1940's in nearby Cleveland, OH, to my hometown of Youngstown. Many of my colleagues may not realize that when the war broke out, World War II, Gus enlisted in the Navy and served his Nation aboard the battleship U.S. *New Jersey* and in the Philippines, and upon his discharge, Mr. Speaker, Gus resumed his career in my hometown, Youngstown, OH, and from 1946 to 1972 did tremendously, establishing the foundation of what would be called the ultimate for a reporter, to in fact be summoned to Washington, DC.

When the House adjourns this week, my colleagues, Gus Gustafson will join his beautiful wife, Betsy, his two sons, Charles and Richard, and his beautiful grandchildren, Ann and Alex, in that retirement.

My colleagues, if Gus could speak on the floor, he would say: ''Take care of your country, take care of America; that's why you were elected.''

He would also say, ''Help the American people get jobs, and they won't need that much government,'' and he would also say, ''Pass H.R. 390 to change the burden of proof in tax cases.''

My colleagues, I want to present on his retirement, Gus Gustafson. Hear, hear, Gus. My colleagues, one of the great men of the United States Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to thank the gentleman from Ohio [Mr. TRAFICANT], and on behalf of the Speaker and the entire House of Representatives, the Chair wishes to take this opportunity to thank our dear friend, E.C. ''Gus'' Gustafson, for a very special service to the House. Gus' retirement does represent the end of a great tradition of shorthand official reporting in the House. His attention to detail, his patience, his mastery of proper parliamentary terms and references, and his willingness to communicate his knowledge and experience to other official reporters deserves special commendation at this time. We all wish him well.

WHAT IS IT LIKE TO FIGHT FOR DEFICIT REDUCTION FROM FIRST CLASS?

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

Mr. TIAHRT. Mr. Speaker, we have been working hard in the House for months to eliminate four Cabinet departments and balance the budget because we are serious about trimming the size of the Federal Government. We started with our own budget, cutting committees, cutting committee staff, and congressional mailings by a third. But we also believe it is time for the Cabinet to step up to the plate, and there is not a better place to start than the Department of Energy.

Mr. Speaker, at committee hearings Energy Secretary O'Leary tells us that she cannot find even one more dollar to cut in her department. She says she wants to reform the Department of Energy. But in next year's budget she wants an additional $337 million and $360 million for travel.

Well, the L.A. Times tells us the real story. Secretary O'Leary spends more on travel than any other member of the Clinton Cabinet. She is flying first Class at taxpayers' expense. She is staying in four-star hotels, luxury hotels. I guess she thinks it is proper for taxpayers to foot the bill for her Robin Leach lifestyle.

My question for the Secretary is: ''What's it like to fight for deficit reduction from first class?''

WHY DOESN'T THE REPUBLICAN PARTY ABIDE BY THE RULES?

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

Mr. VOLKMER. Mr. Speaker, Members of the House, I hold up this little book, and I ask, ''Why don't the majority abide by this book?''

Mr. Speaker, this is a bible of the House of Representatives. It is the Rules of the House of Representatives. Yet under section 10, subsection 62(a), it says no Member of this House may be a member of more than four subcommittees. That is a rule of the House of Representatives.

Mr. Speaker, that was changed by the majority of Republicans under Speaker GINGRICH back in January when we used to be able to have five subcommittees. He said, ''No, only four.'' Well, we now have 30, 30 members of the majority Republican Party, who have more than four subcommittees, some as many as six.

Mr. Speaker, I ask, ''Why doesn't the leadership of the Republican Party say that they will abide by the rules of this House? Why?''

Because, Mr. Speaker, they make a constant effort not to abide by the rules of the House.

AID TO RUSSIA

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

Mr. HEFLEY. Mr. Speaker, today the House is going to debate the foreign operations appropriation bill. During the debate on this bill I think we should work to spend this money wisely and responsibly. While the bill today is better than in past years, many of us have been concerned about the spending that has gone into foreign aid in the past, particularly aid directed at the former Soviet Union.

Mr. Speaker, we have given the former Soviet Union billions of dollars in foreign aid and wonder how wisely this has been spent. I am convinced that much of it has not been spent wisely at all. That is because between 50 and 90 percent of the money in these aid packages has not reached the pockets of one single pro-democracy, pro-market, pro-reform Russian.

Instead, much of the money has been found in the pockets of consultants right here in the beltway, the ''beltway bandits,'' and much of the rest of it has just disappeared into the former Soviet Union without any real accounting of where it went or how it was being spent. Too much of it has been given to consultants, too much of it has disappeared, too little of it has gone to solid pro-democracy reformers in Russia.

Therefore, my colleagues, let us look at this Russian section of the foreign aid bill very carefully today.

PROPOSED LEGISLATION WOULD GUARANTEE LONGER HOSPITAL STAYS ON CERTAIN VAGINAL DELIVERIES

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

Mr. MILLER of California. Mr. Speaker, having a baby is surely one of the most wonderful and important events for a family. Unfortunately, to maximize their profits, many insurance companies treat this event as just another opportunity to cut costs.

Many insurance companies cover only 1 night's stay in the hospital after a normal vaginal delivery. For some women, this is enough time to recover from the delivery and get adjusted to breast feeding and caring for the baby. But for many other women, this is not enough time.

Doctors are increasingly alarmed that babies are being discharged from hospitals within 24 hours. In that short time they cannot receive critical health assessments to prevent routine child illnesses from becoming serious health problems.

Unfortunately, the decision to give more extensive care to a newborn baby and the mother—such as monitoring for early signs of jaundice—is in the hands of insurance companies, which either limit stays or pressure doctors to recommend short stays.

Today I am introducing legislation with my colleague, PETER DEFAZIO, to require insurance plans contracting with the Federal Employee Health Benefits Program to cover a minimum stay in the hospital of 48 hours after a normal vaginal delivery, and 96 hours after a caesarean section. In the case of plans that offer at-home visits, this minimum is waived as long as the plan provides extensive at-home, postpartum visits.

Mr. Speaker, let us start our babies off on the right foot. The health of the baby, not of insurance company portfolios, should be our No. 1 concern. I urge my colleagues to support this legislation.

ENOUGH GAMESMANSHIP

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

Mrs. SEASTRAND. Mr. Speaker, as I read the paper this morning, I could not believe what I read about what the liberals are up to today. As we are reaching an agreement between the House and the Senate regarding a balanced budget by the year 2002 by responsibly slowing the rate of government spending increases, the other side of the aisle is planning another spate of July fireworks.

According to the Washington Times, the minority leadership is encouraging their Members to go to a local nursing home and engage in scare tactics about what they call unfair Medicare cuts. Have they no shame? They want their Members to go to our senior citizens in a nursing home, many of whom are on fixed incomes and dependent on Social Security and their Medicare benefits, and try to scare them into thinking their benefits will be cut. Is this what the once mighty Democrat Party has been reduced to? Are they completely bankrupt of ideas?

We want to work together to increase Medicare spending every year, for every eligible person for 7 years. Is that a cut? No. We want to increase Medicare spending by 33 percent over 7 years.

Mr. Speaker, it is time for partisanship, gamesmanship, and scare tactics to be set aside. We must work together and solve the Medicare problems.

REMOVING THE ROADBLOCKS TO A COLLEGE EDUCATION

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

Mr. DOGGETT. Mr. Speaker, I have just this moment come from a meeting with many young Americans who are deeply troubled about why the Republican budget proposes the largest cut in Federal assistance to students who want to attend college of any time in our Nation's history, and they are asking why, and one of the individuals who is asking why down in my district is a woman named Tina Henderson, who I had the opportunity and privilege to meet a few weeks ago in Austin.

Tina Henderson is the first person in her family to go to college. She did so after working as a member of the U.S. Air Force. She is a single mom. She has a great daughter, a 5-year-old, Erica, that she is mighty proud of, but she told me that without Federal student assistance she would not be able to go to college.

Mr. Speaker, every family like hers across America is being told in this budget, ''Come up with an extra $5,000 if you want to support a young person through college in America in the future.'' With the tremendous cuts that are being made in this budget, roadblocks are being erected to Tina Henderson, to her daughter, Erica, and we need to get those roadblocks out of the way.

THE LARGEST DEBT EVER IN THE HISTORY OF MANKIND

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

Mr. HOKE. Mr. Speaker, $3 per month over the 10-year period; that is the amount extra that students who take out student loans are being asked to pay in response to the gentleman from Texas; $3 per month over 120 months.

Mr. Speaker, for the last 30 years the Federal Government has ignored the simple virtues that made America a great Nation. For generations, the American people built their lives around simple virtues: Thrift, hard work, and personal responsibility.

Starting in the 1960's, though, the Federal Government began to reject these tried and true American virtues in favor of a value system that placed government at the center of any policy consideration.

The results have been phenomenally disastrous.

The Federal Government has racked up the largest debt ever in the history of mankind; a debt that will passed to future generations.

Mr. Speaker, this week, Congress will vote to balance the budget in 7 years. Not only will this budget return sanity to chaotic Federal spending, it will return our Government to the basic American virtues of thrift, hard work, and personal responsiblity.

CLOSING OF FORT McCLELLAN SEEN AS A DANGEROUS MISTAKE

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

Mr. BROWDER. Mr. Speaker, I am asking Alabamians and all Americans concerned about chemical weapons and terrorism to write or call President Bill Clinton and urge him to save the world's only live-agent chemical defense training base.

The recommendation to close Fort McClellan is a serious and dangerous mistake. Closure of the only live-agent chemical defense training facility will disrupt and degrade the ability of America's military forces to fight and survive chemical warfare.

Furthermore, with the threat of terrorism on the rise, this is no time to deprive American civilians of the only base that can respond to chemical attack.

Again, I am asking Alabamians and all Americans concerned about chemical weapons and terrorism to write or call President Bill Clinton and urge him to save the world's only live-agent chemical defense training base.

PROMISES MADE, PROMISES KEPT IN NEW JERSEY

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

Mr. ZIMMER. Mr. Speaker, I rise today to salute Governor Christie Whitman and the legislature of the State of New Jersey.

Yesterday, Mr. Speaker, the New Jersey Legislature by overwhelming bipartisan majorities voted to pass the third and final phase of Christie Whitman's 30 percent income tax cut.

Two years ago, when Governor Whitman and the Republican candidates for the legislature promised that they would cut taxes in New Jersey by 30 percent, a lot of people did not believe that they were going to do it, but they

kept their promise. They cut taxes, they cut spending, and they delivered for New Jersey families and for the New Jersey economy. No wonder Governor Whitman has made New Jersey a model for the other 49 States and for this Congress.

Promises made, promises kept. Lower taxes, more jobs. The New Jersey message resonates throughout the Nation and should be remembered in this Chamber.

STUDENTS PROTESTING PROPOSED CUTS IN STUDENT LOANS

(Ms. LOFGREN asked and was given permission to address the House for 1 minute.)

Ms. LOFGREN. Mr. Speaker, today in the Capitol hundreds of students will be visiting with each of us protesting the proposed cuts in student loans. Why? Because these cuts are like opening up with an assault weapon on the American people.

As my colleagues know, 8,000 students at San Jose State University in my district received help in education last year, and many of those students would not be able to go to college without the loans and grants and work student programs that have been provided.

I was terribly shocked to read in the paper the other day the supposition that somehow this is class warfare, that the high school graduates of the country should not be asked to use their tax money for students to get ahead and become college graduates and even more.

□ 1220

I think the person who said that does not understand blue collar America. I grew up the daughter of a truck driver and secretary, and I will tell you the thing that mattered most to my parents and every adult on the block, none of whom had college degrees, was that all the kids get ahead and be successful. Do not cut down on the American dream. Allow students who work hard to get good grades to get ahead.

TAX RELIEF

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

Mr. JONES. Mr. Speaker, when President Clinton was running for the Presidency, a tax cut was one of the main features of his campaign. But when the President was elected, he raised taxes on the middle class. Where does the President stand now? Who knows.

Mr. Speaker, in the absence of leadership from the White House, Republicans have introduced a tax relief plan that allows working Americans to keep more of the money they earn. We have not flip-flopped or changed our position. Instead, we stand with the vast majority of Americans who know all too well the impacts of higher taxes and who struggle to make ends meet.

Mr. Speaker, the President may not know where he stands, but Republicans have consistently stood for tax relief, smaller Government, and a balanced budget.

CONGRATULATIONS TO DETROIT RED WINGS AND 1995 STANLEY CUP CHAMPIONS NEW JERSEY DEVILS

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

Mr. SMITH of Michigan. Mr. Speaker, the National Hockey League playoffs concluded last Saturday with the victory of the New Jersey Devils. I am here today as a result of a friendly bet with my colleague from New Jersey, BOB FRANKS.

Unfortunately, my favorite team, the Detroit Red Wings, lost to the Devils after a brilliant run in the playoffs, defeating Dallas and San Jose and Chicago. In the finals, New Jersey and Detroit battled through four grueling games, but the Devils prevailed. Due to the excellent play of Devils skaters such as Claude Lemieux, Scott Stevens, goalie Martin Brodeur, and the other excellent skaters, they secured Lord Stanley's Cup.

I wish to commend both teams in advancing in the playoffs and further to the NHL finals.

In closing, consistent with our bet, I show my tail, I show my horns, and I show my fork, and I would like to present this to BOB FRANKS, the Stanley Cup winners, the New Jersey Devils.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). The Chair would rule that the gentleman should not wear those materials on the floor.

DO NOT SUPPORT A BALANCED BUDGET THAT IS ANTIFAMILY AND ANTIELDERLY

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

Ms. DELAURO. Mr. Speaker, tonight the Republicans will release the details of their budget, setting the stage for national debate on budget priorities. The top priority of their budget is a $245 billion tax cut to the wealthy, better known as the crown jewel. Yet the Republican leadership will tell the American people that this plan is fiscally responsible.

Fiscally responsible? Where is the responsibility to working families? Is it responsible for Republicans to cut $11 billion from student loans for the middle class to help to pay for a tax break to the wealthy?

Fiscally responsible? Where is the responsibility to our seniors? Is it responsible for Republicans to steal $270 billion from Medicare to finance a tax giveaway to their wealthiest friends?

Seniors have every reason to be scared. Democrats support a balanced budget, but we will not support a plan that is antifamily and antielderly. We will not support a plan that asks the middle class working families to sacrifice not to balance the budget, but to pay for a tax cut for the privileged few.

CALIFORNIA TIMBER WORKERS WANT A HAND UP, NOT A HANDOUT

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

Mr. RIGGS. Mr. Speaker, I might point out to the gentlewoman that the Republican family tax credit will completely remove or eliminate the tax liability for 4.7 million working poor families.

Mr. Speaker, 3 weeks ago, Bill Clinton told thousands of timber workers they could not go back to work in productive highwage private sector jobs when he vetoed the timber salvage amendment. This veto, his first, triggered a protest back here in Washington, DC, by mill workers and loggers and their family members in a stormy headlined loggers protest in the District of Columbia.

Today, the President is announcing extra unemployment grants and some loans for our area, northwest California. Well, we are glad that the administration has not forgotten about us completely, but do not insult the hard working people in northern California with your charity at taxpayer expense, when you personally vetoed the bill that would have put thousands of California loggers back to work.

The fact that he would provide us welfare style assistance, but will not let loggers go back to work, tells us a lot with the President. There is just one problem: California timber workers want a hand up, not a handout.

GIVE YOUTH OF AMERICA THE FUTURE THEY DESERVE

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

Mr. HILLIARD. Mr. Speaker, I rise today to recognize the students who are visiting our Capital City. These students have brought a message to Congress, stressing the importance of funding the student loan programs. If the Republicans cut or eliminate student aid, many bright young people will not be able to go to college.

I have seen the wonderful results of education funding. I have hosted several financial-aid recipients as interns in my congressional office. Currently, I am proud to have Vernetta, from Selma, AL. Without the benefits of the student aid program, Vernetta would

not be able to complete her college education.

Each of my interns has demonstrated great intelligence and drive, and I feel very fortunate to have benefited from their talent and enthusiasm. Let us not deprive this country of these bright minds by denying them the opportunity for an education. Let us give the youth of America the future they deserve.

MEDICARE CUTS WILL BE DEVASTATING

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

Mr. KLINK. Mr. Speaker, I have stood in this well before and I have defended the policies of my leadership, and I have also taken them on in some instances. So I think that I have got some credibility that I do not necessarily go along party lines with every issue. But when it comes to Medicare cuts, the Democrats are completely correct and the Republicans are completely wrong. I tell you this after going throughout the Fourth Congressional District of Pennsylvania and talking to Republican doctors and Republican hospital administrators who say, ''Congressman, we are going to lose 1,000 health care jobs in your district if the Republican plan goes through to cut Medicare this deeply.''

You see, in my district, 1 in 5 residents are on Medicare. Many of those on Medicare are elderly and poor, and are also on Medicaid. They cannot afford these kind of cuts. And is it a cut or isn't it a cut? When you get less and pay more for it, it is a cut. And when you take a look at the dollars, and you know those dollars are equal to the amount of dollars that we are giving wealthy people, those who make over $200,000, in tax cuts, then you know it is a direct offset we are taking from the elderly poor to give to the rich.

EARLY DISCHARGE OF NEWBORNS AND MOTHERS A THREAT TO HEALTH

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

Mr. DEFAZIO. Mr. Speaker, we have all heard about drive-by-shootings. How about drive-through deliveries? This latest threat to the health of newborns and their moms comes from insurance companies and managed health programs. They are requiring physicians and hospitals to put mothers and newborns out of the hospital in as little as 12 hours. Not to meet the wishes of the new mother, not to foster the health of the newborns, not because it is best in the professional medical opinion of the attending physicians. These arbitrary limits have been imposed, possibly jeopardizing the health of the newborns and their new moms, only to increase the profits of the insurance companies and these for-profit managed health care plans.

Today the gentleman from California [Mr. MILLER] and I have introduced legislation to restrict this growing threat to the public health and to our most vulnerable newborns and their mothers. I urge my colleagues to join us in stopping this outrageous practice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Spectators in the gallery will refrain from displaying approval or disapproval for Members' remarks.

TROUBLES IN CALIFORNIA NEED TO BE ADDRESSED

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

Mr. TUCKER. Mr. Speaker, I take the well this morning to stand and be counted. I take the well this morning to ask the President of the United States to also stand and be counted. For in my great State of California, we have troubles.

Mr. Speaker, it was 2 years ago when I came to this House on the wings of riots and destruction, fires and earthquakes. Since then, we have had all kind of layoffs and cutbacks in aerospace.

But now, Mr. Speaker, the most devastating thing that has happened is the Base Closure Commission has said that the Long Beach Shipyard and McClellan Air Base and other bases in California must bear additional burdens of other additional layoffs.

Mr. Speaker, in my area of Long Beach, 3,000 additional jobs are going to be lost. It is time for the President of the United States to stand up and make good on the promise that he made to the people in California. We cannot lose 3,000 more jobs in Long Beach and 2,000 more jobs in Los Angeles County. The Rams have left, the Raiders are leaving. We have problems in California, and we need the President of the United States to stand up and be counted.

AUTHORIZING TRANSFER OF THE CATAFALQUE TO THE SUPREME COURT

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 18) authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

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

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that the said catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Warren Burger, former Chief Justice of the Supreme Court of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on Resources; Committee on Science; Committee on Transportation and Infrastructure; and Permanent Select Committee on Intelligence.

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

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

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. AIR FORCE ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 9355(a) of title 10, United States Code, the Chair announces the Speaker's appointment as members of the Board of Visitors to the U.S. Air Force Academy the following Members of the House: Mr. YOUNG of Florida, Mr. HEFLEY of Colorado, Mr. DICKS of Washington, and Mr. TANNER of Tennessee.

There was no objection.

EXTENSION OF HEALTH CARE TO VETERANS EXPOSED TO AGENT ORANGE

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1565) to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care

to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards, as amended.

The Clerk read as follows:

H.R. 1565

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

SECTION 1. AUTHORITY OF PROVIDE PRIORITY HEALTH CARE.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

''(e)(1)(A) A herbicide-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease suffered by the veteran that is— I21''(i) among those diseases for which the National Academy of Sciences, in a report issued in accordance with section 2 of the Agent Orange Act of 1991, has determined—

''(I) that there is sufficient evidence to conclude that there is a positive association between occurrence of the disease in humans and exposure to a herbicide agent;

''(II) that there is evidence which is suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent, but such evidence is limited in nature; or

''(III) that available studies are insufficient to permit a conclusion about the presence or absence of an association between occurrence of the disease in humans and exposure to a herbicide agent; or

''(ii) a disease for which the Secretary, pursuant to a recommendation of the Under Secretary for Health on the basis of a peer-reviewed research study or studies published within 20 months after the most recent report of the National Academy under section 2 of the Agent Orange Act of 1991, determines there is credible evidence suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent.

''(B) A radiation-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease suffered by the veteran that is—

''(i) a disease listed in section 1112(c)(2) of this title; or

''(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.'';

(2) in paragraph (2)—

(A) by striking out ''Hospital'' and inserting in lieu thereof ''In the case of a veteran described in paragraph (1)(C), hospital''; and

(B) by striking out ''subparagraph'' and all that follows through ''subsection'' and inserting in lieu thereof ''paragraph (1)(C)'';

(3) in paragraph (3), by striking out ''of this section after June 30, 1995,'' and inserting in lieu thereof '', in the case of care for a veteran described in paragraph (1)(A), after December 31, 1997,''; and

(4) by adding at the end the following new paragraph:

''(4) For purposes of this subsection and section 1712 of this title:

''(A) The term 'herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to a herbicide agent.

''(B) The term 'herbicide agent' has the meaning given that term in section 1116(a)(4) of this title.

''(C) The term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(4) of this title.''.

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out ''and'' at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon;

(C) by adding at the end the following new subparagraphs:

''(E) during the period before January 1, 1998, to any herbicide-exposed veteran (as defined in section 1710(e)(4)(A) of this title) for any disease specified in section 1710(e)(1)(A) of this title; and

''(F) to any radiation-exposed veteran (as defined in section 1112(c)(4) of this title) for any disease covered under section 1710(e)(1)(B) of this title.''; and

(2) in subsection (i)(3)—

(A) by striking out ''(A)''; and

(B) by striking out '', or (B)'' and all that follows through ''title''.

SEC. 2. SAVINGS PROVISION.

The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply on and after such date with respect to the furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions, but only for treatment for a disability for which such care or services were furnished before such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes, and the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

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

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1565.

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

There was no objection.

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

Mr. Speaker, first of all, I want to thank the leadership for allowing us to bring H.R. 1565 to the floor as it extends authority which expires at the end of this month.

Mr. Speaker, H.R. 1565, extends VA's authority to provide health care to veterans exposed to agent orange.

It also makes permanent VA's authority to provide health care to veterans exposed to ionizing radiation.

The provisions incorporate the findings of the National Academy of Sciences while still giving the benefit of the doubt to veterans already being treated.

Where the National Academy of Sciences has found evidence suggesting certain conditions have no association with exposure, H.R. 1565 does not extend authority for future health care.

However, those veterans previously or currently receiving care would be grandfathered for treatment under the bill.

I want to thank my good friend from Mississippi, SONNY MONTGOMERY, the distinguished ranking member of the committee for his assistance on this measure.

Before yielding to him, I also want to express my appreciation to TIM HUTCHINSON, chairman of the Subcommittee on Hospitals and Health Care, as well as CHET EDWARDS, the subcommittee's ranking member for their work on the bill.

They have maintained the committee's bipartisan approach to matters affecting veterans.

Concerns were raised at the subcommittee markup about some provisions by Mr. FOX, who had drafted an amendment, as well as Mr. GUTIERREZ and Mr. KENNEDY.

Mr. EVANS also raised some concern.

I believe Mr. HUTCHINSON and Mr. EDWARDS responded very well to those concerns and have done an excellent job working with other members on the bill.

The cooperation of all Members on these matters is greatly appreciated, and I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON], chairman of our Subcommittee on Hospitals and Health Care.

Mr. HUTCHINSON. Mr. Speaker, I urge my colleagues to support H.R. 1565, bipartisan legislation to extend the priority health care program for veterans exposed to agent orange and ionizing radiation through December 31, 1997.

I would like to thank Chairman STUMP, along with full committee ranking member MONTGOMERY and my subcommittee colleague, ranking member CHET EDWARDS, for their tireless efforts to ensure that this bill receives full consideration in an expeditious fashion.

Furthermore, I wish to recognize LANE EVANS, JOE KENNEDY, LUIS GUTIERREZ, and JON FOX for their bipartisan work in fashioning compromise language when concerns were raised about the bill at the subcommittee level. Without the work of these veterans' advocates, this bill might have never come to the floor.

Mr. Speaker, H.R. 1565 would incorporate for a 2-year extension period the findings of the National Academy of Sciences, which provide rational scientific evidence on which determinations of eligibility for health care can be based. The bill is supportive of veterans and continues to give them every benefit of the doubt. It would authorize the VA to provide treatment for three broad categories of conditions identified by the NAS and would grandfather

for continued care those veterans who have been previously treated at the VA but for which the NAS has found no association to exist between certain diseases and exposure to herbicides.

Additionally, the bill would provide special eligibility in the case of radiation-exposed veterans for care of a long list of cancers as well as for any disease for which the VA determines there is credible evidence of a positive association between disease occurrence and radiation exposure. This bill also contains a generous grandfather clause for those veterans who have previously been treated at the VA for which no positive association between the disease occurrence and radiation exposure has been found. Under this bill both groups of veterans would receive substantially expanded outpatient services on a priority basis.

Mr. Speaker, this legislation also takes into consideration the possibility of a lag time between NAS reports and the discovery of new credible evidence on agent orange. It would provide a mechanism to add additional diseases based on new research findings.

H.R. 1565 would authorize the Secretary, based on recommendations of the Under Secretary for Health, to add to the list of covered conditions. A disease could be added based on peer-reviewed research published within 20 months of the most recent NAS report regarding agent orange. The addition of new diseases must meet the test of providing credible evidence suggestive of an association between that disease and exposure to agent orange.

Mr. Speaker, H.R. 1565 enjoys unanimous support from the Veterans' Affairs Committee. The bill passed at markup 29 to 0.

Again, I would like to thank my colleagues on both sides of the aisle for their support and assistance in writing this legislation, and I urge Members to support the bill.

□ 1240

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

I rise in strong support of this measure and commend the chairman of the committee, the gentleman from Arizona [Mr. STUMP], for bringing the measure to the floor; also to the gentleman from Arkansas [Mr. HUTCHINSON], the chairman of the subcommittee, for his quick action as well as the gentleman from Texas [Mr. EDWARDS] on the minority side.

Mr. Speaker, this is the first veterans bill to be considered by the House in this Congress. It is very fitting that this measure is one that reforms and expands the health care services which veterans can obtain from the Veterans' Administration. Health care eligibility reform is one of the most important veterans issues that will face this Congress. Although this measure only affects a small number of veterans, it is important, Mr. Speaker, and it is a step in the right direction.

The bill comes at a time when the VA health care system is undergoing very significant changes. At many VA facilities throughout the country, efforts are under way to treat more veterans on an outpatient basis rather than putting them in the hospitals. That saves a lot of money. That is a big change.

There is an emphasis on making VA services more convenient and delivering them in a more cost-effective manner, and to do that on outpatient clinics. The new Under Secretary for Health, Dr. Kenneth Kizer, is moving the VA system into the 21st century. His leadership and vision for the state-of-the-art health care for veterans have turned the VA toward a goal of making all VA health care the first choice for the service-connected and low-income veterans. His understanding of what VA needs to do is very, very encouraging. But there are some problems, Mr. Speaker, that will be facing Dr. Kizer.

Dr. Kizer does not have some of the basic tools he needs to make the VA health care system more efficient. One of the things he needs most from the Congress is a modest capital investment so that the VA can shift from that is still a hospital-based system to provide more outpatient care.

We have had these great 171 veterans hospitals, but we are trying to move into more outpatient clinic care. That is what the General Accounting Office has recommended. Such an investment will make VA care more convenient and cost-effective, moving toward more outpatient clinic care.

I am advised that the VA currently has over $940 million in planned projects to improve outpatient facilities. If these projects are delayed and are not a priority in the appropriations process, the VA will be unable to become the efficient health care system veterans expect and deserve.

Finally, Mr. Speaker, it has been well explained by the chairman of the subcommittee, it is appropriate that the first veterans bill taken up by the House in the 104th Congress deals with health care problems of veterans exposed to agent orange and ionizing radiation. The Congress originally authorized health care services for these veterans in 1981, when we had little knowledge about the long-term effects of the exposure of these agents. Over time, as a result of objective scientific review, the Congress and the executive branch have tried to treat and compensate those veterans whose lives and health have been affected by their exposure. Today, Mr. Speaker, we take a step that honors our commitment to these veterans.

I would certainly ask my colleagues to give us a unanimous vote on H.R. 1565.

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

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH], the vice chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 1565, legislation to extend the priority health care program for veterans who were exposed to agent orange or ionizing radiation.

As vice chair of the Committee on Veterans' Affairs, I would look to recognize the gentleman from Arkansas [Mr. HUTCHINSON] and the gentleman from Arizona [Mr. STUMP] for their unyielding dedication to these veterans who have suffered a wide range of illnesses because of their service to their country.

Mr. Speaker, as you know, H.R. 1565 would take into consideration the findings of the National Academy of Sciences, which has done extensive and exhaustive studies on agent orange linkage. This legislation would authorize the VA to continue priority health care treatment for the first three categories identified by NAS. Additionally, it would grandfather those veterans who have been previously treated by the VA for illnesses which now the NAS finds evidence of no linkage to agent orange exposure. So they are protected and they are grandfathered.

This bipartisan bill—and the minority side has been very, very helpful and very strong in their views which has helped to craft this important bill—also takes into account the fact that NAS is not the only reputable scientific agency doing research on this matter.

An amendment offered by Chairman HUTCHINSON and supported by the entire committee allows the Secretary of Veterans Affairs to add diseases to the list of covered conditions based on peer reviewed research which provides credible evidence of association between that disease and agent orange exposure.

Once more, Mr. Speaker, I strongly support this legislation. I urge my colleagues to give it unanimous support.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS], the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. EDWARDS. Mr. Speaker, I want to rise in support of H.R. 1565, as amended. I want to pay my respects to the gentleman from Arkansas [Mr. HUTCHINSON] for his fine work on this. I want to express a personal thanks to the gentleman from Arizona [Mr. STUMP] and to the gentleman from Mississippi [Mr. MONTGOMERY] for the way in which they have not only helped craft this legislation in a fair bipartisan manner but the way in which the gentleman from Arizona has run the committee on a bipartisan basis that I think is a role model that the people of this country would have high respect for. I appreciate the gentleman's leadership on this and other legislation and the way he runs the committee.

My colleagues, H.R. 1565 would maintain our commitment to provide medical care to veterans who suffer disease as a result of exposure in service to

certain toxic substances. The authority under which the VA provides such care, first established in 1981, will expire at the end of this month. H.R. 1565, as amended, would extend the VA's treatment authority. Current law, however, reflects the limited knowledge we had in 1981 regarding the relationship between exposure to agent orange and an occurrence of specific diseases.

This bill would incorporate the findings of the National Academy of Sciences to identify the diseases for which treatment is available. At the same time, the bill extends veterans every benefit of the doubt, as we should, and expands the scope of treatment which the VA may provide.

Mr. Speaker, Members on both sides of the aisle have worked hard to produce an excellent bill. I think this legislation is a statement that even in tough budget times, we do ask the American people to tighten our belts, this Congress and our Nation owe a deep debt of gratitude to those who have fought and been willing to put their lives on the line for our country and its freedoms. I enthusiastically support this bill and thank those who have played such an important role in its development.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 1565, legislation to extend through December 31, 1997, health care benefits for military veterans suffering from the possible long-term side-effects of agent orange, ionizing radiation, and other environmental hazards. This legislation, demonstrates our continuing efforts to provide our veterans with the benefits and the medical care that they have valiantly earned. Furthermore, I commend the distinguished chairman of the Veterans' Affairs Committee, Mr. STUMP, for his diligent efforts on behalf of our service men and women.

I strongly support this legislation, as we must provide treatment to our veterans whose health has been affected by their service. The National Academy of Sciences has conducted a comprehensive review of scientific and medical literature to determine the specific health affects of certain chemicals that may have been used during armed conflicts. Based upon their research, the NAS has developed four categories to classify diseases and their association to agent orange exposure.

These categories include: sufficient evidence of association, limited/suggestive evidence of association, inadequate/insufficient evidence to determine whether an association exists, and limited/suggestive evidence of no association.

H.R. 1565 authorizes the VA to offer treatment for illnesses that fall under the first three of these categories. Thus allowing veterans to claim treatment for any disease that is conceivably related to wartime herbicide exposure unless scientific evidence has clearly shown that the condition is not linked.

The measure we are discussing today is significant legislation that provides a framework for continued health service to our Nation's veterans who may have been exposed to hazardous substances during their military service. With this in mind, I am proud to vote in strong support of H.R. 1565, and I urge my colleagues to join in adopting this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER] who is a member of the Committee on Veterans' Affairs.

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 1565, legislation to renew our obligation to provide medical treatment for veterans suffering from exposure to agent orange.

Between 1962 and 1971, the military forces of the United States used 11.2 million gallons of agent orange and 8 million gallons of other herbicides in Vietnam, in order to strip the thick jungle that concealed the opposition forces. Most of these spraying operations were completed using airplanes and helicopters, but herbicides were also sprayed from the ground by soldiers with back-mounted equipment.

After a scientific report in 1969 concluded that one of the primary chemicals used in agent orange could cause birth defects in laboratory animals, U.S. forces suspended use of this herbicide—and stopped all herbicide spraying the following year.

But thousands of soldiers had already been exposed to this chemical for months at a time. Today, many of these soldiers have a significantly higher rate of diseases and death than those who did not go to Vietnam. Since the end of the Vietnam war, a growing body of evidence has connected several diseases to agent orange.

I join a truly bipartisan effort in urging support for this bill. We can do no less for the brave men and women who answered their country's call to fight in an unpopular war. They came home to find that jobs were hard to come by, as was emotional support for the terrors they had experienced. No hero's welcome for these veterans.

Today, I would also like to recognize the work of my colleague, the gentleman from Illinois, Congressman LANE EVANS. Without his perseverance, it is unlikely that we would be voting on this legislation today—and it is unlikely that thousands of Vietnam veterans would be receiving the health care that they need and deserve.

I also want to acknowledge the work of Chairman BOB STUMP and ranking member SONNY MONTGOMERY of the Veterans' Affairs Committee, as well as the entire committee. This bill is the latest in a long line of bills crafted in a truly bipartisan manner for the good of our veterans.

Whatever our views on the Vietnam war, we must all help to heal its wounds—and these are few wounds greater than those suffered from the effects of agent orange. These veterans had to wait for decades to receive recognition and medical care. We must not make them wait again.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I commend the gentleman for mentioning the work of the gentleman from Illinois [Mr. EVANS]. He did have a lot of interest. He has put a lot of hard work in this legislation on the agent orange issue.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN], a strong supporter of veterans' programs.

Mrs. THURMAN. Mr. Speaker, I rise in strong support of this legislation, H.R. 1565, the extension of health care to veterans exposed to agent orange. Both the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Arizona [Mr. STUMP] know of the gentleman that I am going to speak of because they have been trying to help me with this particular man's case.

Mr. Speaker, this bill concerns veterans who are sick today because they were exposed to a herbicide later found to be dangerous.

John Nichols, a constituent of mine from Bayonet Point, FL, is one of the 2.7 million U.S. service men and women who had their lives interrupted and changed by the Vietnam war. Recipient of the Bronze Star and three Army Commendation medals, John Nichols left active duty after 10 years as a U.S. Army master sergeant.

Sergeant Nichols suffers from severe osteoporosis, a gradual loss of bone tissue that makes his bones brittle. John has suffered a number of fractures of his spine since his condition was first diagnosed.

The Department of Veterans Affairs concedes that Sergeant Nichols was exposed to agent orange based on his service in Vietnam. The VA claims, however, that there is no legal or medical basis to associate this exposure with his current medical condition.

Distinguished specialists in bone diseases have recognized that Mr. Nichols' osteoporosis could be associated with his exposure to agent orange. He watched it sprayed regularly from helicopters outside his base camp.

He has been examined by some of the best specialists in the country. Thy cannot find any other explanation for his condition except exposure to agent orange. However, the Veterans Administration has still not recognized his condition as one related to exposure of the herbicide.

If we send young men and women into military combat in support of our national objectives, we had better be willing to follow through once the fighting ends. We must make good on our commitment to take care of those who were willing to fight for this country. A tight budget does not free us from this commitment. Mr. Nichols' disease will not take a rest while we struggle with the deficit.

Mr. Speaker, this bill is a step in the right direction and I believe that it is a positive step for John Nichols and veterans with similar ailments throughout our country.

Again, I want to thank the two gentlemen who have helped me so much with this constituent.

Mr. MONTGOMERY. Mr. Speaker, we have some blue sheets that further explain this bill. If Members would come by the stands here, they could pick up these sheets.

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

Mr. STUMP. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to once again thank the distinguished gentleman and ranking member of the full committee for all his efforts, and also to the gentleman from Texas, [Mr. EDWARDS], the ranking member of the subcommittee, for all his hard work, and to the gentleman from Arkansas [Mr. HUTCHINSON], who is chairman of the subcommittee.

But we also owe a lot of thanks to the staff who have put in many hours in putting this bill together. I thank Members on both sides of the aisle. I urge, once again, passage of H.R. 1565.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, as you know, I expressed the concerns of many of our veterans with the original version of H.R. 1565, which reauthorizes care for agent orange and radiation exposed veterans.

I am pleased that the House will now consider a compromise version which addresses this situation. It is important that we ensure that no agent orange-affected veterans are overlooked in the period between National Academy of Sciences reports.

I firmly believe that we must honor our commitment to care for our veterans, particularly those who have borne the sacrifices of battle for our country. I would like to express my appreciation to the men and women of the Vietnam Veterans of America and the American Legion, as well as to many of my colleagues on the House Veterans' Affairs Committee, for their hard work on this issue.

I look forward to continuing our work together to address the needs of our Nation's veterans.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. EVERETT].

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

Mr. EVERETT. Mr. Speaker, I would just like to congratulate the committee chairman, the gentleman from Arizona [Mr. STUMP], the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Arkansas [Mr. HUTCHINSON], the gentleman from Texas [Mr. EDWARDS], the gentleman from Pennsylvania [Mr. FOX], the gentleman from Illinois [Mr. EVANS], the gentleman from Illinois [Mr. GUTIERREZ], and the gentleman from Massachusetts [Mr. KENNEDY].

This truly, Mr. Speaker, has been an outstanding effort of bipartisanship, and I want to congratulate all those involved.

Mr. Speaker, I am proud to have been a part of the bipartisan effort that has unanimously brought H.R. 1565 to the floor out of the Veterans Committee. This is a necessary and important bill, and I am glad to speak in support of it today.

H.R. 1565 clarifies and simplifies the conditions for coverage for victims of agent orange exposure. Veterans who exhibit characteristics of the exposure will be covered, as will those whose condition demonstrates an association with the disease. Even when available medical data merits no conclusion on the source of their condition, the veteran will be covered. This bill gives veterans every benefit of the doubt.

In addition, veterans exposed to radiation during their time on active duty will be eligible for hospital and nursing home care where credible evidence exists of a positive association with the disease and the defoliant. As an extension of the Agent Orange Act of 1991, this bill will also require the Department of Veterans Affairs to work with the National Academy of Sciences to evaluate and review all issues pertaining to agent orange. This is a positive step that will allow veterans access to the best available information on their ailments.

In short, Mr. Speaker, this is a good day for our veterans and those who have suffered from agent orange. We must work together to protect the interests of our Nation's veterans, and this legislation marks a positive step in that direction.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 1565, the extension of health care to veterans exposed to agent orange. The evidence continues to accumulate how horribly our Vietnam veterans are suffering due to this defoliant agent, which saturated their lungs, their food, and their skin.

During the war, millions of gallons of dioxin-contaminated agent orange and other herbicides were sprayed over Vietnam. Two decades later, we are seeing more and more health effects of that exposure among our 3 million service men and women who served there. The National Academy of Sciences is investigating reports of cancer, metabolic dysfunction, and a multitude of other disorders of the reproductive, respiratory, digestive, circulatory, and immune systems. We have no way of knowing what additional illnesses may develop. This bill very wisely leaves the option open for new illnesses and disorders to be treated.

This bill also makes VA benefits permanent for those military men and women exposed to radiation during the post-World War II occupation of Japan and during cold war nuclear testing in the Pacific. Diseases triggered by radiation-exposure continue to plague veterans, half a century later. While we remember our victory 50 years ago, we must not forget the suffering of those who helped bring that war to a close.

FInally, this bill ensures top treatment priority for veterans exposed to either radiation or agent orange. This is fitting, as these veterans have struggled to cope with their illnesses have experienced much frustration and uncertainty over the years in their dealings with the Government. Today, it is the least we can do to respond to their illnesses without further delay.

Mr. Speaker, the Congress is talking a great deal about patriotism these days, during our debate over flag burning. But protecting the American flag is completely meaningless unless we take care of our surviving veterans who have sacrificed their health for this country. We must help them heal. We should decisively pass H.R. 1565.

Mr. QUINN. Mr. Speaker, I rise today in favor of H.R. 1565, which provides for priority health care to veterans exposed to agent orange, ionizing radiation, or other environmental hazards.

In 1992, this body required the National Academy of Science to conduct a comprehensive study of the health effects of exposure to agent orange and other herbicides. The NAS findings serve as the basis of H.R. 1565 which requires certain specific diseases to be considered related to exposure for treatment purposes—including those where there is insufficient evidence to prove a connection.

Often, many of our veterans, who served this country with distinction during their tour in Vietnam, have felt let down. They have felt that the Government has not recognized that some of their problems stem from exposure to agent orange and other herbicides. It is my hope that this legislation will help drive home the fact that we are aware of their tremendous sacrifices and give our support.

H.R. 1565 also provides for treatment for veterans subjected to ionizing radiation. These veterans also deserve our assistance.

I wish to compliment my colleagues, Representatives HUTCHINSON and EDWARDS, for their leadership on this legislation. I am pleased to offer my support.

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

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 1565, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: ''A bill to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange and to make such authority permanent in the case of certain veterans exposed to ionizing radiation, and for other purposes.''.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1868, and that I may include tabular and extraneous material.

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

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1868.

□ 1258

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

□ 1300

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 22, 1995, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles and each title shall be considered as having been read.

Before consideration of any other amendment, it shall be in order to consider the amendments printed in part 1 of House Report 104–147. Those amendments will be considered in the order printed, by a Member designated in the report, may amend portions of the bill not yet read for amendment, are considered as having been read, are not subject to amendment, and are not subject to a demand for division of the question. Debate on each amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

After disposition of the amendments printed in part 1 of the report, the bill as then perfected will be considered as original text.

An amendment printed in part 2 of the report shall not be subject to a demand for division of the question.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The clerk will read.

The clerk read as follows:

H.R. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to refresh the Members as to where we are. We had general debate, and since that time the weekend has intervened.

Just to bring the Members of Congress up to date on where we are on this foreign operations appropriation bill, H.R. 1868, let me tell the Members we have worked out a bipartisan agreement with both sides of the aisle, working very hard to bring to this floor a bill that both sides could support. The ranking member on the committee, the gentleman from Texas, CHARLIE WILSON, has been most cooperative, as have all Members of the other side that have approached the committee. We do not want to deny any Member the opportunity to address any issue they want to in this bill. Thus, the open rule.

However, I must tell the House that we have 73 pending amendments to this bill. We would like for them to be considered as expeditiously as possible. I have informed the leadership, and I have discussed it with the ranking member of our committee, we are willing to stay here until 4 o'clock in the morning if that, indeed, is what the Members want to do. We want to have everybody here. However, at the same time, we are going to ask Members to be as brief as possible.

First of all, this bill is $11.99 billion in budget authority. Most importantly, it is a 22-percent reduction from 1995. It is nearly $3 billion less than what the administration has requested.

The American people have sent us a strong message telling as to cut Government spending, and they said to cut foreign aid as well. That is precisely what this bill does. It is drafted in such a manner that it gives the administration a great deal of latitude. I would hope that we do not fall prey to some today who will be coming before us asking us to increase this measure.

The CHAIRMAN. The Clerk will designate title I.

The text of title I is as follows:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $786,551,000 to remain available until September 30, 1997: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until 2010 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1996 and 1997: *Provided further,* That up to $100,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $45,228,000: *Provided,* That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further,* That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1996.

OVERSEAS PRIVATE INVESTMENT CORPORATION NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided,* That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $26,500,000: *Provided further,* That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $79,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: *Provided,* That such costs, including

the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1996 and 1997: *Provided further,* That such sums shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996, and through fiscal year 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1997. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000: *Provided,* That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 1997, for necessary expenses under this paragraph: *Provided further,* That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $67,550,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $5,269,000 may be expended for the purchase of such stock in fiscal year 1996.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $70,000,000 to remain available until expended.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to echo what the chairman of our subcommittee said. The minority is perfectly willing to stay here until 4 o'clock in the morning to finish the bill.

I would also like to underline that the bill is a fairly fragile compromise, and I hope that we can keep it from being fundamentally changed. As it is now, I think it is veto-proof. I think that would be a very constructive thing for the House to do.

AMENDMENT OFFERED BY MR. GILMAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILMAN:

Page 8, beginning on line 9, strike ''shall be made available notwithstanding any other provision of law, and''.

Page 9, beginning on line 15, strike *''Provided further,''* and all that follows through ''Committees on Appropriations:''.

Page 16, line 23, strike ''and for other purposes,''.

Page 19, line 8, strike ''1.5'' and insert ''1''.

The CHAIRMAN. Pursuant to House Resolution 170, the gentleman from New York [Mr. GILMAN] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Chairman, I strongly support this bill, which is the product of careful consultation with our Committee on International Relations by the subcommittee, under the leadership of the gentleman from Alabama [Mr. CALLAHAN]. I commend the distinguished chairman, the gentleman from Alabama, and the ranking minority member, the gentleman from Texas [Mr. WILSON]. The bill as a whole deserves the support of the House. I strongly urge Members to support it on final passage.

Mr. Chairman, my en bloc amendment is designed to overcome certain concerns I had with the bill as reported. Chairman CALLAHAN, Chairman SOLOMON, and I agreed that the best way to handle these concerns, which might otherwise be subject to a point of order, would be for me to offer two amendments. This is the first of those amendments.

The amendment would strike three legislative provisions and alter a third.

The first provision strikes legislative language in the Child Survival and Diseases Fund Program that would allow funds appropriated to the fund to be made available notwithstanding any other provision of law.

This language is inappropriate, in my view, because it would set aside appropriate provisions of the Foreign Assistance Act and give the administration little guidance beyond the bill's six child survival purposes.

In recent days, Members expressed concerns about the child survival section of the Foreign Assistance Act. The International Relations Committee will be considering legislation later this summer to update the Child Survival Program. We will update provisions of the FAA and take care of any concerns with current law. I trust it will be a bipartisan bill and would seek its rapid adoption in the Congress.

The second provision would strike the provision that allows the transfer of funds from AID's Development Assistance account to the Treasury Department for debt restructuring. Given the cuts to the Development Accounts in the authorizing bill, our International Relation Committee chose not to allow the transfer funds from development assistance to other accounts in violation of section 109 of the Foreign Assistance Act. The policy of section 109 of the FAA is clear—funds may not be transferred from development assistance. I think it was wise policy when it became law. I do not think this law should be waived. I will also point out that during debate on the authorizing bill, the House decisively rejected an attempt to provide additional funds for debt restructuring.

The third provision strikes language that expands the purposes of the appropriation for the Freedom Support Act—assistance to the former Soviet Union—to unspecified other purposes, notwithstanding any other provision of law. This is the kind of legislative language that could have the effect, however unintentional, of weakening the appropriate oversight role of the authorizing committees, since it is not at all clear what the other purposes of such additional aid would be or what authorities they would employ. If this language were not stricken, the House would be appropriating, to some degree, in the blind with respect to the somewhat troubled aid program for Russia and the New Independent States.

Finally, the amendment changes the ratio of required private participation in certain programs in Russia. This amendment reflects the reality that, in dollar terms, indigenous contributions by Russians, valued in dollars, are necessarily going to be very small, and it will be very difficult to reach the required ratio for many projects.

In a compromise with Chairman CALLAHAN, we agreed to reduce this ratio from 1.5 to 1 down to 1 to 1. It will reflect an equal partnership between the public and private sectors It was my understanding from the appropriations committee staff that this change would help groups like Save the Children in Russia and other New Independent States.

Mr. Chairman, I appreciate the effort made by Chairman CALLAHAN and Rules Committee Chairman SOLOMON to help me address several concerns that have come up during consideration of this bill.

We had unprecedented cooperation between the subcommittee and our Committee on International Relations. Chairman CALLAHAN addressed some of my concerns through an amendment he offered in full committee and I thank him for that. With the adoption of this amendment and the one that I will offer next, our committees will be in sync.

The CHAIRMAN. Is there a Member opposed to the amendment offered by the gentleman from New York?

Mr. WILSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] is recognized for 5 minutes.

Mr. WILSON. Mr. Chairman, I rise in opposition to the amendment.

This amendment would delete a provision that waives legislative restrictions for programs for child survival.

Over the past several years the committee has included this provision in the bill because programs for children

should be carried out without technical or political restrictions.

The provision has enabled aid to help displaced children, orphans, and other children in distress in Bosnia, Mozambique, Somalia, and Rwanda.

It enables the United States to respond quickly to assist children as a result of natural disasters, war, and the spread of disease.

Assistance to children for immunization, family reunification, and other assistance is the one area in the foreign assistance area where we can statistically show that benefits are achieved and in fact lives are saved. UNICEF has estimated that the United States program for child survival has saved more than 1 million lives during the past 10 years.

Mr. Chairman, there are a number of legislative provisions in this bill that have been here for a number of years—since there hasn't been an authorization bill signed into law for more than 10 years.

I do not know why the gentleman has chosen this one to strike. But I think for the sake of saving lives of children, Members should vote against the Gilman amendment.

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

Mr. WILSON. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the pending first amendment provided for under the rule, by the chairman of the Committee on International Relations, and incidentally, I want to thank the chairman for his cooperation during this process, and for helping me through his very knowledgeable history in foreign relations.

However, the amendment of chairman of the Committee on International Relations reflects discussions between us prior to the Committee on Rules hearing last week. By way of explanation, the ''notwithstanding'' provision that is deleted in this amendment was inserted by the Committee on Appropriations to allow the executive branch to act more expeditiously than the Foreign Assistance Act would allow in the case of epidemics. The diphtheria epidemic now sweeping across the former Soviet Union is a case in point.

According to the General Accounting Office, AID delayed contracting with the Centers for Disease Control in Atlanta, when diphtheria struck the Ukraine more than a year ago. Now that the epidemic has spread, we accept the chairman's assurances that the ''notwithstanding'' clause is unnecessary to prevent future delays in responding to epidemics to prevent future delays in responding to epidemics abroad.

The two language changes in the heading ''Assistance for the New Independent States of the Former Soviet Union'' should not change the Committee on Appropriation's original objectives. Administration lawyers have assured us that reverting to the customary term ''and for related programs'' as a result of the deletion proposed by the chairman, the gentleman from New York [Mr. GILMAN], will in no way reduce the ability of the coordinator and special advisor to obligate these funds. They may be used for any activities in the former Soviet Union that were requested by the administration and the Committee on Appropriations.

Mr. Chairman, I am not going to ask for a recorded vote, I would say to the gentleman from Texas [Mr. WILSON].

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

Mr. GILMAN. I am pleased to yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH], a senior member of the Committee on International Relations.

Mr. WILSON. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH].

The CHAIRMAN. The gentleman from Wisconsin [Mr. ROTH] is recognized for 1 minute.

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

Mr. Chairman, we have two amendments here that are very important. The first one deletes authorizing language from the bill which runs directly contrary to the provisions that came out of the Committee on International Relations and were written in the law.

In one instance, the bill waives all provisions of law in providing funds for certain health-related programs. In another instance, the bill authorizes $15 million of debt relief in Africa. In another, the bill authorizes the transfer of $15 million from the development fund for Africa. That is why these amendments are important.

In offering these amendments, the gentleman from New York is making a very important point. The point is this: appropriations bills should be consistent with the authorization bills. This is not the case here. I understand the tendency, as has been pointed out by the gentleman from Texas [Mr. WILSON], that in the past 10 years we have not had an authorization bill enacted. Now we have an authorization bill that has been passed. Before, yes, the appropriations bill carried the burden of the authorization bill.

Mr. WILSON. Mr. Chairman, if the gentleman will yield, he means he has had an authorization bill passed.

Mr. ROTH. Yes, Mr. Chairman. What we are saying is the authorization bill should set the standard. The appropriations should dovetail into the authorization bill.

The CHAIRMAN. All time has expired.

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent for 2 additional minutes to engage in a colloquy with the maker of the amendment.

The CHAIRMAN. The Chair would advise the gentleman, only if the time is equally divided by each side can the Chair entertain that request.

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent for an additional 3 minutes, and that it be equally divided between both sides.

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

There was no objection.

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

Mr. SMITH of New Jersey. Mr. Chairman, I am concerned with the part of the amendment that would delete the phrase ''notwithstanding any other provision of law'' from the Child Survival and Disease Programs Fund in title II. I would just ask the chairman of the full committee for a clarification. If the amendment passes, can the House be assured that the money in the fund would not be used or available for population assistance?

□ 1315

We have such money designated. It has been used in the past. My hope is that this day on point for child survival interventions, immunizations, oral rehydration, and the like, and those things that were expressed on the bottom of page 7 and page 8 of the bill.

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

Mr. SMITH of New Jersey. I yield to the gentleman from New York.

Mr. GILMAN. If the amendment passes, the House can be assured the money in the fund would not be available for population assistance.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for clarifying that.

The CHAIRMAN. Under the unanimous-consent argument, the gentleman from Texas [Mr. WILSON] is recognized for an additional 1½ minutes.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GILMAN].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part 1 of House Report 104–147.

AMENDMENT OFFERED BY MR. GILMAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILMAN: Page 8, line 16, strike ''$669,000,000'' and insert ''$645,000,000''.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

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

Mr. Chairman, I urge Members' support for the Gilman-Brownback amendment. This amendment simply reduces

the foreign aid development assistance budget to the level approved by the House on June 8.

When the House debated the American Overseas Interests Act (H.R. 1561), we supported a total funding level of $858 million for development assistance. This amount reflected a balanced reduction in foreign aid to meet our budget reduction targets included in the House-passed budget resolution. I strongly support these programs but must note that we must show spending restraint in a time of $200-billion deficits.

Chairman CALLAHAN's bill was marked up in subcommittee while the Overseas Interests Act was debated on the floor—therefore amounts in the bill are not identical to the authorizing bill. Our amendment would simply reduce the amounts in the bill for this particular account to the authorized level as passed in the House. We support Chairman CALLAHAN's Child Survival Program and our amendment would not cut a penny from that account or AID funds for Africa. My colleagues recall that the budget savings in the Overseas Interests Act were endorsed by Chairman KASICH and the following organizations: the National Taxpayers Union Foundation, Americans for Tax Reform, the Association of Concerned Taxpayers, and Citizens Against Government Waste. Remembering the support of these budget-conscious groups, I urge support for the Gilman-Brownback amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Chairman, I rise today in strong support of the Gilman-Brownback amendment to reduce the Development Assistance Fund to the level authorized by H.R. 1561, the American Overseas Interests Act.

My support for reducing the Development Assistance Fund is not based on a desire to gut USAID's development assistance program. Nor is it based on a desire to unfairly single out individual projects for outright elimination.

The problem is we are broke. This fiscal year, the Federal Government is forecasted to spend over $200 billion more than it takes in. That annual deficit will add to our current national debt of almost $5 trillion.

We cannot afford to continue our current spending habits. That is why the new Republican majority in the House has crafted a balanced budget resolution, and we must meet our budget targets.

I cosponsor this amendment to the foreign aid authorization bill, H.R. 1561, to bring its funding levels in compliance with the budget resolution target.

Although this foreign operations bill overall spends even less on foreign aid than the budget resolution's target, H.R. 1868 raises the level of the Development Assistance Fund by approximately $25 million.

I applaud the Appropriations Committee for lowering the level of taxpayer funding of foreign assistance. However, the committee should not have used the additional savings to raise the funding levels of the Development Assistance Fund.

I agree that the United States should be providing development assistance for programs that further U.S. interests abroad. However, because of the importance of balancing the budget and reducing the deficit, we need to reduce our overall level of development assistance. As a result, we need to reevaluate our development assistance priorities.

Providing more than $27,000,000 to Nepal is not a priority.

Providing almost $19,000,000 to Sri Lanka is not a priority.

Providing almost $10,000,000 to Yemen is not a priority.

I do not want to gut these programs of the entire fund. But I cite these programs as examples of areas in which cost-cutting could and should occur.

Mr. Chairman, I ask for the passage of the bill.

Mr. WILSON. Mr. Chairman, I am confused. Do I control 5 minutes of the time?

The CHAIRMAN. Is the gentleman from Texas opposed to the amendment?

Mr. WILSON. I am extremely opposed, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] is recognized for 5 minutes in opposition to the amendment offered by the gentleman from New York [Mr. GILMAN]. The gentleman from New York [Mr. GILMAN] has 1 minute remaining.

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

Mr. Chairman, I am extremely opposed to this amendment for many, many reasons, but basically because the funding levels in this bill were reached after very, very careful negotiations in order to bring a bipartisan bill to the floor, a bill that would be veto-proof, a bill that could gain wide acceptance through all elements of both parties, and to cut $25 million here out of development assistance, which would mean a 40 percent total cut, I think would endanger that compromise.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would simply say this: If the House wants to have bipartisan support for this bill, it needs to defeat this amendment. If it does not care about getting support for this bill from this side of the aisle and wants to pass it all on your own, then vote for the amendment, because that is going to be the result.

When we came out of the subcommittee, we had reached a very delicate compromise. Basically what we had done is, taking into account the level of DA already recommended by the subcommittee, we simply suggested that other accounts that had been increased over last year be reduced so that through a combination of development assistance and assistance to Africa, we would reduce somewhat the huge cuts that had already taken place in those accounts.

The problem with this amendment is that it is cutting an account which has already been cut by 40 percent at the same time that military assistance in this bill is $1 million above last year's level.

We do not believe that that is a balanced approach, we do not think you ought to do that, and frankly I do not instead to support a bill if it becomes nothing but a delivery mechanism for warped priorities.

It seems to me it is essential for us to stick with a bipartisan product. If this amendment is passed, you abandon that.

Mr. Chairman, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I was going to ask the gentleman from Alabama [Mr. CALLAHAN] to yield time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] controls the time.

Mr. OBEY. Mr. Chairman, it is my understanding that there is only 1 minute left.

Mr. WILSON. I think I control the time, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] controls the time in opposition. The gentleman from New York [Mr. GILMAN] has 1 minute remaining.

The gentleman from Wisconsin still has the time that was yielded to him, 3 minutes.

Mr. OBEY. That is my impression. My understanding is that there will be no time for the gentleman from Louisiana [Mr. LIVINGSTON] or the gentleman from Alabama [Mr. CALLAHAN] unless I yield to them, which I am trying to do.

Mr. CALLAHAN. Mr. Chairman, if I might, respectfully ask for unanimous consent to extend the debate for 3 additional minutes on each side and then I would ask the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations, to yield his 3 minutes to me so I can recognize the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations, and we each would have additional time.

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

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, we have, I think, 2 or 3 speakers on this side that have served on the Committee on Foreign Affairs/International Relations who feel very strongly about this amendment. We would like to have a minute or two for us to express our feelings.

I would ask unanimous consent instead of 3 minutes that we have 7 minutes so we can split it 3½ minutes on each side.

The CHAIRMAN. Does the gentleman from Alabama modify his request?

Mr. CALLAHAN. Yes, Mr. Chairman.

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

Mr. BURTON of Indiana. Mr. Chairman, further reserving the right to object, is the gentleman from Alabama [Mr. CALLAHAN] planning to give the chairman of the Committee on Appropriations 3 minutes?

Mr. CALLAHAN. Mr. Chairman, I am, when they yield to me.

Mr. BURTON of Indiana. Mr. Chairman, further reserving the right to object, that being the case, then I think we need more than the 3 minutes. We need 10 minutes.

Mr. OBEY. Mr. Chairman, is all of this coming out of my time?

The CHAIRMAN. Each side has to be equally treated in this area.

Mr. BURTON of Indiana. Mr. Chairman, I ask unanimous consent that debate on this amendment be extended by an additional 10 minutes equally divided on each side.

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

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] will be recognized for an additional 5 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for an additional 5 minutes.

Mr. OBEY. Could I ask the Chair how much time I have remaining?

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

Mr. OBEY. I thank the Chair.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full committee.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding me the time. I doubt I will use the full 3 minutes.

Mr. Chairman, the Gilman amendment reduces the development assistance account by $24 million in order to bring the bill in line with the authorization bill. I understand and support his desire to appropriate within House-passed authorization levels. However, I respectfully disagree with Mr. GILMAN on the merits, and the effect of this specific amendment.

Our committee was forced to not only work with the authorizing levels, but also to work out billions in cuts in a politically difficult bill.

Chairman CALLAHAN displayed amazing leadership and consensus building skills in developing a bipartisan consensus on how we should distribute the declining foreign assistance dollars. Each member of the subcommittee outlined their priorities and we compromised in order to report a bill with wide bipartisan support. Mr. WILSON and Mr. OBEY both support this legislation. I think it is important that we maintain the support of the minority in order to get this bill through.

However, if we agree to Mr. GILMAN's amendment, we break our bipartisan agreement and risk losing support from our minority party members. It seems extremely counterproductive to lose the bipartisan support we have worked so hard to achieve, merely to prove our unequivocal compliance with the authorizing legislation. Especially since we conform with the authorization bill in almost all respects, and overall $375 million below the total funding level assumed in the authorization bill.

In addition to breaking bipartisan support, this bill is wrong on the merits. Our committee provided a $25 million increase for child survival activities in the newly created child survival and disease programs fund This was done to accommodate a bipartisan effort to protect funding for child survival and infectious disease programs. Not only did we maintain a separate account, we were able to increase the level by $25 million because of wide support for protecting children.

Mr. GILMAN's amendment, while understandable for jurisdictional reasons, is a bad amendment for the children of the world. In order to keep bipartisanship and to protect children, I urge opposition to this amendment.

Mr. GILMAN. Mr. Chairman, I yield the balance of my time to the gentleman from Alabama [Mr. CALLAHAN], the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, and I ask unanimous consent that he be allowed to control that time.

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

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] is recognized for 6 minutes.

Mr. CALLAHAN. Mr. Chairman, I rise in strong opposition to the amendment, but I am going to speak last on it.

At this point, though, in fairness to all concerned, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding me the time.

Mr. Chairman, first of all, we are not going to be allowing children to starve if we pass this amendment. The authorizing committee came up with a reasonable amount of money to deal with the problems of the world. The problem is the authorizing committee came up with a figure and now we are going above that with the Appropriations Committee of $24 million. We do not need to be spending that money at a time when we are having fiscal problems.

I want to read what one of the Chief of Staffs of AID said, Larry Byrne. He said that AID was 62 percent through the fiscal year and they had only spent 38 percent of their dollar volume. They needed to spend a $1.9 billion in the next 5 months. Now, get that.

They were two-thirds through the year and they had only spent one-third of their money so they had to speed up the spending process, to blow American taxpayers' dollars, so they could ask for more money.

They don't need more money. We don't need to be spending this $24 million.

I say to my colleagues who are fiscally responsible, vote for this amendment. It takes it back to the authorizing level, which was a reasonable figure. We do not need to be going above authorized levels if we are really concerned about balancing the budget.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

□ 1330

Mr. MANZULLO. Mr. Chairman, very briefly, what we are trying to do here is to roll back the aid to the Development Assistance Fund $24 million, back to the authorizing levels. It is very simple. We are trying to save some money.

Mr. Chairman, I rise in support of Mr. GILMAN's amendment to strike $24 million from the Development Assistance Fund [DAF] in an effort to cut spending and reduce the deficit and national debt.

Today the national debt stands at over $4.89 trillion—that's right, trillion—dollars. In fact, the debt continues to increase by $9,600 every second, which means that by the time I conclude my remarks, the national debt will have risen by another $576,000—another half a million dollars of fiscal liability placed on the backs of our children.

Mr. Chairman, given this fiscal crisis, we as responsible legislators must continue to look for ways to make reasonable cuts in government spending. The amendment before us now makes such a reasonable reduction. Two weeks ago, we passed a foreign aid authorization bill that set spending levels for the Development Assistance Fund at $858 million. The appropriations bill we are currently considering proposes to spend $25 million above the authorized amount on the DAF. The Gilman amendment simply brings the appropriation in line with the levels authorized without touching the Child Survival Program.

I think we all agree, Mr. Chairman, that cutting spending to reduce the deficit and the debt is necessary and will bode well for the economy and for future generations of Americans. I think we can agree, too, that a very basic step in controlling spending is to keep appropriations within approved authorization levels. This amendment does just that. Let's stop the half-a-million-a-minute trend of debt accumulation. I support the amendment by the distinguished chairman and I urge the support of my colleagues.

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

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I basically have a question. I realize Chairman CALLAHAN and ranking member WILSON have done a good job and we congratulate them on that. As I interpret this amendment, the nub of the issue basically is this. The gentleman's amendment takes us back to the authorization bill and basically cuts it $24 million. It brings it back to the authorization fund. There is no jurisdiction fight

or anything as I read it; it is just going back to the authorization bill.

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

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

Mr. GILMAN. Mr. Chairman, the gentleman from Wisconsin is precisely correct. It cuts development assistance by $24 million, down to $645 million, to the level the House authorized back on June 8. It does not cut child survival or Africa development funds.

Mr. WILSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

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

Mr. BERMAN. Mr. Chairman, I urge the body to reject the amendment. The fact is the appropriations bill that is before us is below the 602(b) allocation for the 150 account. The total of the bill does not exceed the authorization level. it is $400 million below the authorization level.

As was mentioned by Chairman LIVINGSTON and Chairman CALLAHAN, the $24 million increase in the development assistance was a major part, a very small amount of money, but it was a major part of deciding whether this body is going to go back to a bipartisan approach trying to deal with the very important question of foreign assistance.

I ask my colleagues to remember, the appropriations bill is below the 602(b) allocation, that is in the budget resolution that passed the House. The appropriations bill in total is $400 million below the authorization level. And we are talking about $24 million for development assistance to support the most critical programs in the foreign assistance program; the kinds of aid that goes directly to people, that is not government-to-government, that is not going to be squandered.

And what is the benefit of this? We go back to a bipartisan approach to the foreign assistance program. That is worth something. I am sorry the amendment is being offered. I hope it is rejected. I think it is critical to the future of how we handle foreign assistance programs in this body.

Mr. WILSON. Mr. Chairman, I think it would benefit the House for the gentleman from Alabama [Mr. CALLAHAN] to close.

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

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

I too rise in opposition to the Gilman amendment. So just let me reinform the committee that we have worked hard. We have bipartisan support.

The Appropriations Committee has reported a bill that conforms with the authorization bill in almost all respects. In fact, overall we are $375 million below the total funding level assumed in the authorization bill.

Chairman GILMAN maintains that we are $25 million over the authorization level for the Development Assistance Fund. However, that is only due to the fact that the committee provided a $25 million increase for child survival activities in the newly created Child Survival and Disease Programs Fund.

Creation of this new fund was a response to a bipartisan effort to protect funding for child survival and infectious disease programs of the Agency for International Development. Members from both sides of the aisle on both the authorizing and appropriations committees discussed this matter with me, and I decided to protect these programs by creating a separate appropriations account.

Not only did we maintain funding for child survival programs at the 1995 level of $275 million, we were able to increase this level by $25 million.

In addition, I worked hard to achieve bipartisan support for this bill. Part of that compromise involved slightly higher funding levels for development assistance programs. I believe it is very important that foreign policy legislation, to the extent it is possible, be supported by Members on both sides of the aisle.

In my opinion, we do not violate the authorizing committee one iota. We have created a child survival account to make absolutely certain that the children that we are helping worldwide, the starving children that you see on television in these Third World countries and underdeveloped countries, are the ones that will suffer.

Let me encourage my colleagues in this House to keep this bipartisan agreement together; to reject the Gilman amendment.

Many of the funding levels in this bill were developed with that end in mind.

I want to stress that this bill already makes the largest reduction from a President's request for foreign aid in 20 years. It is 19 percent below the administration's request, and over 11 percent below last year's level. We have done our job on the Appropriations Committee to reduce spending on international relations.

I have the greatest respect for Chairman GILMAN. He did an outstanding job under very difficult circumstances when he successfully managed the authorization bill several weeks ago. Therefore I can understand his reluctance to agree to an appropriations bill that does not completely comply with the authorization.

However, I have developed a bipartisan bill with Mr. WILSON and Mr. OBEY, and I must oppose this amendment. I do so with the utmost respect for Chairman GILMAN, but I believe the committee process has resulted in a good bill that we can all support.

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the Gilman amendment that would slice $25 million from the Development Assistance Fund.

The Development Assistance Fund, which finances family planning programs, has become the slush fund of choice for Members of this body. Everyone is raiding the development assistance pot—a pot that is almost empty already.

Currently, this bill designates approximately $669 million for development assistance for all sectors including population assistance, once the child survival and disease programs earmark is deducted. Under the current bill, population assistance will get approximately a 49-percent cut from the 1996 request level. Now, Mr. GILMAN asks us to cut an additional $25 million. This cut would have a devastating and irreversible effect on the well-being of women and children throughout the world.

These cuts would directly result in the loss of family planning and other reproductive health services to millions of women who need them. Ultimately, cuts in USAID population funding will affect the size of the world's population for decades to come. Our decisions here today will determine whether the world's population stabilizes under 10 billion, or whether it doubles from its current size to reach 12 billion by 2050, and continues to grow thereafter.

Among the immediate consequences of a 50-percent cut are an estimated 1.6 million unintended pregnancies per year, which would have been directly prevented through USAID supported family planning activities. These pregnancies will result in 1.2 million unwanted births, 363,000 otherwise unneeded abortions, and 8,000 maternal deaths.

Programs lost or dramatically reduced due to severe budget cuts would include research programs developing new contraceptive methods and methods to help prevent HIV/AIDS transmission. In addition, programs targeted at reducing the heavy reliance on abortion in countries like Russia and the New Independent States would have to be reduced or discontinued.

Moreover, with the cuts proposed here today, USAID will be unable to continue its mission of bringing family planning and reproductive health services to the world. Over 120 million women have an unmet need for family planning services today. During the next decade, 200 million more women will reach their reproductive years, creating increased demand for services. The world cannot afford for the USAID programs to be crippled by severe budget cuts.

One of the most important forms of aid that the United States provides to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid that we provide is both valuable and worthwhile.

Mr. GILMAN's additional cut of $25 million is a gratuitous swipe at family planning. To demand additional cuts on top of the 49-percent reduction, is to say to the world that the United States does not care.

Mr. Chairman, I urge my colleagues to vote against the Gilman amendment.

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

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. GILMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 218, not voting 14, as follows:

[Roll No 420]

AYES—202

Allard
Armey
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Bono
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Cremeans
Cunningham
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klug
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (KY)
Lincoln
Linder
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Parker
Paxon
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Ramstad
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Young (FL)
Zeliff
Zimmer

NOES—218

Abercrombie
Ackerman
Andrews
Archer
Bachus
Baesler
Baldacci
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Callahan
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hunter
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Pryce
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stump
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—14

Baker (LA)
Camp
Collins (MI)
Cubin
Ford
Furse
Gunderson
Jefferson
Lantos
Mfume
Moakley
Reynolds
Torricelli
Williams

☐ 1356

Mrs. CHENOWETH changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment, amendment No. 44.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS: Page 4, line 26, strike ''$26,500,000'' and insert ''$1,000,000''.

Page 5, line 9, strike ''$79,000,000'' and insert ''$0''.

☐ 1400

Mr. SANDERS. Mr. Chairman, as my colleagues know, this country has a $4.7 trillion national debt, and this body has passed a budget which makes savage cuts in Medicare, Medicaid, student loans, veterans programs, and many other programs which mean a great deal to tens of millions of working Americans. Given that context, Mr. Chairman, it seems to me long overdue that the U.S. House of Representatives begins to stand up and take on the $100 billion a year in corporate welfare which goes to the largest corporations in America and to the wealthiest people, and this amendment begins that process.

Mr. Chairman, this amendment offers a crystal clear test case to show all of our constituents that Congress has the guts to take a bite out of corporate welfare. It will be a recorded vote to stop the Federal Government acting through the Overseas Private Investment Corporation, OPIC, from committing billions more in U.S. taxpayer dollars to help Fortune 500 companies.

What this amendment does very simply is, it says that OPIC, a Federal agency, can no longer commit and put at risk tens of billions of dollars of taxpayer money for the largest corporations in America.

OPIC is a small, obscure Federal agency which has its hands deep into the pockets of every American taxpayer. It receives at least $26 million every year in appropriated funds, but, more importantly, it has already placed at risk, at risk, $6.3 billion of taxpayer money, and it keeps on getting bigger.

Why is OPIC such a juicy target for cutting corporate welfare? It seems to me, Mr. Chairman, that it makes no sense at all that the Congress provide incentives for large American corporations to invest in politically unstable countries around the world. If huge Fortune 500 companies, like General Electric, duPont, Caterpillar, Westinghouse, and on and on it goes, want to make investments in unstable countries like Russia, they have every right in the world to do so. But they do not have the right to obligate American taxpayers to underwrite the insurance for the possible loss of their private investments.

Currently, if these giant corporations make a lot of money, well, the good news is that the owners of those companies become a little bit richer. However, if there is political turmoil in an unstable country, and these large companies lose their assets as a result of expropriation, or political turmoil, or civil war, guess what? It is Uncle Sam and the American taxpayers who have to bail out these companies.

Now, Mr. Chairman, OPIC does not make sense for two basic reasons. No. 1, we do not have to subsidize the largest corporations in America and stand a tremendous potential loss when we have a huge deficit. No. 2, from an economic point of view, why in God's name are we encouraging the largest corporations in America to invest abroad rather than reinvesting in America and creating jobs?

What are the outrages of OPIC can be seen on the chart to my right. We are providing incentives for corporations like Ford to invest abroad when Ford has laid off in the last 15 years over 150,000 American workers. We are providing incentives to GE to invest abroad when GE has laid off over 180——

The CHAIRMAN. The time of the gentleman from Vermont [Mr. SANDERS] has expired.

(By unanimous consent, Mr. SANDERS was allowed to proceed for 1 additional minute.)

Mr. SANDERS. Mr. Chairman, let us eliminate OPIC for two reasons. The largest, most profitable corporations in America do not need taxpayer incentives, and we do not have to cover through insurance their risky investments. No. 2, what does it say to companies in America who are reinvesting here? That we are going to subsidize large corporations who take our jobs abroad.

It is time to eliminate OPIC. I urge support for this amendment.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The Overseas Private Investment Corporation is not perfect. It does have room for improvement. Perhaps part of that can be privatized. This matter will be discussed in the amendments to be offered later in the day by the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, the amendment before us closes down the Overseas Private Investment Corporation. In fact, it does not leave enough money to even close it down. It cannot be done for $1 million. Many former Socialist nations are now looking to American investment and building the infrastructure needed for their own development. In the short term much of that American investment will involve OPIC insurance of financing, and, as long as these countries, such as India, do not have a track record of adherence to free market principles, OPIC is needed.

Mr. Chairman, if we are going to compete in a global economy, then our business people must compete with the Governments of Japan and Germany and all of the other industrialized nations because all of them have such an agency to assist the export of our American jobs overseas. This is the finest vehicle we have to do that, and I think that it would be a very serious mistake to do it especially in the way that the gentleman from Vermont proposes, and that is just to walk downtown, and give them a key, and tell them to lock the door, and do not even give them enough money to pay the rent for the rest of the month.

So I strongly oppose the amendment and urge my colleagues to support this bipartisan disagreement to the gentleman from Vermont's amendment and to vote ''no'' on this amendment.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I probably will not take the whole 5 minutes, but, if there has ever been a win, win, win situation in an institution in the United States, it is the Overseas Private Investment Corporation. The Overseas Private Investment Corporation generates an immense number of jobs in the United States and the production of heavy generation equipment, of airplanes, of airplane engines, of all the rest. It not only creates jobs, it creates a positive balance of payments. It creates a good competitive situation against Germany and Japan.

Mr. Chairman, many Members of the House really do not know what OPIC does, but what OPIC essentially does is allow companies to buy insurance against political instabilities in other countries, and then this insurance makes it possible for them to obtain private financing.

The final point that I would make, and we are going to be making these points all day, but the final point that I would make is that OPIC not only generates an enormous number of jobs in the United States, it not only generates a positive balance of payments for the United States, but most of all it returns money to the Treasury. It is one of the few agencies I know that has a positive impact on the Nation's deficit.

Mr. Chairman, since 1971 OPIC has contributed $2 billion to deficit reduction in the United States, and in 1996 we expect OPIC to contribute $100 million in addition to all of its other economic contributions to our country and to our balance-of-payments accounts.

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

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

Mr. ANDREWS. Mr. Chairman, I rise in strong support of the Sanders amendment.

Mr. Chairman, I myself introduced a virtually identical amendment. I would like to talk about who I think ought to be for this amendment.

First of all, let me say that I commend my colleagues on the Republican side for making some very difficult and controversial stands in favor of reducing the Federal budget. I do not agree with all that they have done, but I agree with the idea that they are addressing, in a very honest and aggressive way, the fact that we are spending far more than we take in. I invite them to continue that philosophy and continue that tradition by voting for Mr. SANDERS' amendment.

The bill, as it presently is written, calls for 79 million dollars' worth of appropriations for new loans, and new guarantees and new goals for OPIC, and it calls for, I believe, 29 million dollars' worth of operating money from the American taxpayer. Here is an opportunity, my colleagues, to say to duPont, ''Be a rugged individualist,'' to say to CocaCola in an entrepreneurial society, ''Make it on your own,'' to say to AT&T and GTE, ''Take risks with your own shareholders' money, but not with the taxpayers' money of the United States,'' to American Express, ''Leave home without it, leave home without the taxpayers' money the next time you want to make a deal somewhere overseas.''

Mr. Chairman, I say to my colleagues, If you will look, my friends, to cut unjustifiable welfare subsidies in the welfare budget, as I have when I voted with you on your welfare reform bill, then look to the Sanders amendment, and vote ''yes.'' If you think that it is a wrong-headed policy for the United States to subsidize a company that will create jobs overseas, but not create jobs in the United States, then vote for the Sanders amendment.

I say to my colleagues, You think about this the next time you return to your district. If a company in your district wanted a Federal loan guarantee to make their factory bigger, or their store employ more people, or do research and development, by and large the answer would probably be ''No, they wouldn't get that Federal loan guarantee,'' but if they chose to set up shop in Guatemala, or Malaysia, or Argentina, or somewhere else outside of the United States, here comes OPIC driven and funded by the American taxpayer to the rescue. If you think it is a bad industrial policy to subsidize the export of American capital and American jobs, then vote for the Sanders amendment.

Finally, Mr. Chairman, to my friends' concern about the foreign policy of our country, I say, If you think it is bad foreign policy for an unelected, unaccountable, private group of people to travel the world and make policy decisions on behalf of the United States, if you agree with the editors of the Wall Street Journal who said that OPIC is really nothing more than foreign policy conducted through another way, foreign aid conducted through another way then support the Sanders amendments.

Mr. Chairman, the majority is to be commended for making very difficult and sometimes unpopular decisions to try to bring our budget into balance. It is entirely consistent with that tradition that they support the Sanders amendment. I am going to; I would urge my colleagues on both sides of the aisle to do so, too.

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

Mr. Chairman, this amendment before us is a disaster for American exporters and, therefore, American jobs. This amendment reduces American exports, it costs American jobs, it does great harm to our competitive position in the world and will destroy a valuable tool for American exporters.

□ 1415

I think the chairman of the committee and the ranking member have explained it very precisely. This amendment simply denies OPIC the authority to function. It shuts down OPIC.

Last week's disastrous trade report underscores the reason why the House should reject this amendment. In April of this year our overall trade deficit was the worst in the 3 years, $11 billion, and the deficit in goods was $16 billion. The reality is, our exports are stalling.

If our exports do not grow, our economy will not grow, and probably will

slip into recession. Now, along comes this amendment, which would further reduce our exports. This amendment is economic unilateral disarmament. Who in this House wants to vote to cut exports, at the very time we are in danger of slipping into a recession?

OPIC essentially puts us in a position in the world markets where we can compete for jobs. OPIC provides two services for American business they cannot get anywhere else: Long-term insurance against risk and financing for trade and investment overseas.

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

Mr. ROTH. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, some of the other speakers have indicated that OPIC operates at a cost to the American taxpayers. Would the gentleman agree that is not so?

Mr. ROTH. Mr. Chairman, reclaiming my time, I have looked at OPIC and read the law. There is not 1 red cent of taxpayer money in OPIC. That is No. 1. No. 2, what is this talk about sending jobs overseas? OPIC has written in law that it cannot cost American jobs. That is part of the law.

Long-term financing is given so that we can compete in international markets. OPIC exists because American business cannot get this insurance and financing anywhere else. Over the past 25 years, OPIC has directly supported $40 billion in American exports, and that translates into 800,000 jobs.

Let me repeat that again—$40 billion in American exports. Where do you think our good-paying jobs are coming from? They come when we send our products overseas. You stop selling our products overseas, and you are not going to have jobs in New Hampshire, and Dallas, TX, or Green Bay, WI, or San Francisco. You are only going to have more good-paying jobs when you have more exports.

OPIC is the best managed Federal agency. OPIC has never lost 1 cent. OPIC has paid back to the Treasury every dollar; yes, my good friend from Ohio, every dollar it initially had to capitalize. So there is no taxpayer money, not 1 red cent.

Look at me. Am I blue in my face? There is not 1 red cent of taxpayer money involved in OPIC. Every year OPIC makes money for the Treasury. Do you know how much it made last year alone? It made $167 million. OPIC actually helps cut the Federal deficit. It has contributed $2 billion—yes, my friend from Texas, $2 billion to the U.S. Treasury. It has helped to reduce the deficit. If you shut down OPIC, we will not have this money to help reduce the deficit. And where will U.S. exporters obtain the long-term financing necessary to establish a presence in foreign markets? The answer is, without OPIC, you will not.

If this amendment would become law, our exporters will suffer, particularly in the emerging markets of Latin America, Asia, and parts of Africa, where OPIC insurance is so essential.

A loss of American exports translates into a loss of American jobs. That is what we are fighting for here today. We are fighting for American jobs, because we are staring a recession in the face. We have to have jobs for our people. You cut out OPIC, you cut out exports. You cut out exports, you cut out jobs.

So let us fight for the American worker for a change. Let us do something for the American worker. This amendment makes absolutely no sense.

So here is our choice. If we want to reduce American exports, if we want to kill jobs for American workers, and if we want to make America less competitive in the world markets, then vote for this amendment.

But if you want to increase exports—and let me just say, every indicator is that we are facing a recession—if you want to fight for American jobs, then let us vote against this amendment.

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

Mr. Chairman, I, with some reluctance because of my deep respect for the sponsor of the amendment, rise in strong opposition to this amendment. This will, in a word, lose jobs. It will not gain them.

I am in favor of eliminating unnecessary subsidies to business. I think where the private sector can do it, it should be able to do it, and it should be left to do it. But I think we have to be careful how we apply it. I believe when we talk about corporate welfare, and we need to look at it, we have to separate the wheat from the chaff. We have to look at business subsidies, but with some care, and not with simply a sword that cuts off some assistance where it is necessary.

Where does the purpose of OPIC lie? What does it do? Mainly it insures. And what does it insure against? Expropriation, currency problems, political violence. You cannot go to the private sector and get that kind of insurance. Period. The purpose of OPIC is not basically to give money to corporations to go overseas to do research and development.

That is not its basic purpose. It was founded to provide insurance so that American companies could compete with companies of other countries and be insured against contingencies where they could not cover those problems themselves.

Now, let me just say a word about what other countries are doing. They are providing this kind of insurance. Our competitors do that. So if you eliminate OPIC, what you are simply saying to the companies of the United States who are trying to do some exporting, trying to operate overseas, not to take jobs away from this country, but to help to create them here, is that they will not have the same kind of facility as is available to companies from other countries.

Now, let me say a word about job loss. Look, let us not confuse the issue. OPIC specifically provides, the statute does, that no money can be given, no insurance can be provided, where there would be a negative effect on U.S. jobs.

Our companies do operate overseas. When they do it appropriately, they create jobs here. Simply to say there will be no insurance available to them is going to result in job loss in the United States.

About 25 percent of the companies that now are insured by OPIC, as I understand it, are small businesses. So I do not think it is fair to simply take the big business label and simply to throw it around and say, ''This is a way to get at big business.''

Look, I do not like the downsizing, but the downsizing has nothing to do with OPIC. I do not like the downsizing when it comes to job loss. But OPIC's insurance activities have nothing to do with that downsizing. Indeed, what we need to do is to stimulate American companies to compete with their overseas competitors.

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

Mr. LEVIN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, it seems to me if we are going to provide subsidies and incentives to corporations who are laying off hundreds and hundreds, if not millions of workers, then at the very least, it would be appropriate to say stop laying off workers here in the United States. To simply give these people incentives to invest abroad and then turn a blind eye on their disastrous policies here in America is a real sell-out of American workers.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me say in response to my distinguished colleague from Vermont, if that is what the facts were, I would favor the Sanders amendment. The trouble is, those are not the facts. The facts are that the OPIC efforts have nothing to do with the downsizing in this country, and in fact, there is a provision that will not allow insurance.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Mr. Chairman, there is a provision that if the insurance would cause job loss, it will not be provided.

Now, look, everybody knows that some activities of companies overseas generate jobs in the United States. That is simply a fact. When we, for example, insure an activity, a powerplant activity in another nation for a U.S. company, that can create jobs in the United States, because it is likely that the equipment used by that power company will come from the United States.

So I think what you have to use here when it comes to corporate welfare is some objectiveness, some understanding of the facts. You have to sometimes use a scalpel and not a meat ax here, and I think this is essentially a meat ax proposal.

Mr. Chairman, in conclusion, I think this is not a wise amendment. I think

we have to protect American jobs, safeguard them in this country. I think we have to be sure that our policies stimulate growth of jobs in this country, and that is what OPIC's mission is. And while it has made some mistakes, it has done more good than it has done harm. So get at the problem, do not take this sword and cut American business and American workers, at the knees in many cases.

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

Mr. LEVIN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I just want to take a second to say that the gentleman from Michigan [Mr. LEVIN] and the previous speaker made a number of comments that I disagree with, and they made some that I agree with.

My problem with the Sanders amendment is it goes too far too fast from the standpoint of what my and the amendment of the gentleman from Wisconsin [Mr. KLUG] has, which is to privatize the operation of this corporation. If we were to adopt the Sanders amendment, we would have great difficulty.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. KASICH. So what I would argue, Mr. Chairman, is that we should resist the Sanders amendment and then quickly pivot and adopt the Klug amendment, which the chairman of the subcommittee has agreement with. That would do several things. It would bring the appropriation more in line with the game plan spelled out within our budget resolution, and would prevent the transfer of funds from the insurance fund into the investment fund, all of which will serve in a short period of time to privatize the operation of OPIC.

We may have a debate down the road as to whether the gentleman from Michigan [Mr. LEVIN] will support that. I happen to believe it is not something that should continue to be directly supported by taxpayers, and can in fact be a viable entity in the private sector.

So I would urge opposition to the Sanders amendment, but then quick support in favor of the Klug amendment that will take this out of the hands of the Government, privatize it, and make it an efficient operation, not directly funded by the taxpayers of the country.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me just say quickly in response, if we can privatize a function effectively, let us do it. But you, I think, will have the burden of showing, the burden of proof, that this indeed can be done by the private sector, the insurance against political turmoil, currency problems, and also expropriation.

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

Mr. LEVIN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, my understanding is not only is OPIC not a drain on the taxpayers, it has a return to the taxpayers every year. Estimates are as much as $2 billion has been brought to the Treasury since 1971.

So in effect what you are saying is we have two challenges on the floor to the Overseas Private Investment Corporation today. One says we are angry at business, so we want to hit anything that helps them. The problem with that approach is the layoffs will be greater if we do not have OPIC to help facilitate sales overseas.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 1 additional minute.)

Mr. LEVIN. Mr. Chairman, I continue to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the other challenge says the private sector can do it better. There is no demonstration of that anywhere that I have seen. I do not know where you replace the $140 million, $100 million a year that comes to the Treasury, and where you can get the kind of guarantee that the Federal Government brings in with its intelligence resources and other resources to make sure that American companies can stay competitive overseas.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me just say to the gentleman from Connecticut, I very much agree with that, and let me just close: Look, I think we need to get at subsidies that are unwise. I think we need to look after the taxpayers' needs. This is a shortsighted way to do it.

□ 1430

OPIC has been insuring activity that is creative of American jobs, not destructive. I urge defeat of this amendment.

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

Mr. Chairman, I rise in opposition to this amendment and will be speaking on behalf of the Klug amendment that the gentleman from Wisconsin [Mr. KLUG] and I are going to bring after this. But I want to correct one thing before I speak in opposition. That is, we hear repeatedly that OPIC has actually brought money to the Treasury over the past couple of decades that it has been in business. While in one sense there is some truth to that, I think that by saying that it is generating income is misleading. It really ought to be corrected.

What it has done is it has generated reserves against possible potential insurance claims, as any insurance company does. To say that that is income to the Treasury and has helped offset the deficit is essentially to mislead the fundamental aspects of what insurance underwriting is all about.

If there are and when there are claims against that amount, it could be wiped out very, very quickly. It happens that OPIC has done a very good job which, frankly, is a very powerful argument in favor of privatization.

The reason that I am opposed to the Sanders amendment is because it truly does not offer an opportunity to privatize. It immediately shuts everything down in a way that will make it impossible to in a thoughtful and orderly and regular way actually get to a privatization.

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

Mr. HOKE. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman from Ohio [Mr. HOKE] makes a very important point, and I hope the Members are listening. We have heard some Members say, this adds $2 billion to the Treasury. It is used for deficit reduction, et cetera, et cetera. Wrong. It is an insurance fund.

If my memory is correct, we have some $6.3 billion in liabilities out there. In point of fact, if we kill OPIC, then we would have $2 billion to use for deficit reduction. Right now, as the gentleman from Ohio [Mr. HOKE] indicates, this is an insurance fund.

Mr. HOKE. Mr. Chairman, reclaiming my time, if we kill OPIC, I do not agree that we would have that money for deficit reduction because I do not think that we can simply abrogate the liabilities of the U.S. Government by writing them off in a new agreement. At least, even if we can do that by law, it is something that I do not think that this Congress is going to do because we have made commitments in that area.

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

Mr. HOKE. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I think the gentleman and I have got conflicting information that we both believe is true. But I believe that the OPIC has steadily contributed to, has returned money to the treasury in addition to maintaining its $2.4 billion reserve. We need to clear that up.

Mr. HOKE. That is my understanding, Mr. Chairman.

Reclaiming my time, Mr. Chairman, and to finish up, I think that the reason that we do not want to go in this direction where we are going to shut it down is it will make it impossible to do what we need to do, which is essentially make it possible to privatize the whole operation. I think we can do that.

Clearly, the insurance end of it is making money. I think that the credit side of it is much more problematic, and it may not be able to be privatized. And frankly, it may not be worth going forward with. I am not sure that that is good use of taxpayer funds on the credit side.

I think most people do not understand that there are two different accounts. There is the credit account that guarantees the loans and then there is the insurance account that insures against losses due to politics or currency fluctuation, et cetera.

Mr. WILSON. Mr. Chairman, if the gentleman will continue to yield, I think you will find, and you probably do not disagree and it does not conflict with anything you said, but it is the insurance side that turns the big profit because there is no competition out there. They can charge whatever they think that the traffic will bear and that is the reason they are able to return money.

Mr. HOKE. Mr. Chairman, to sum up, I rise in opposition to the Sanders amendment.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is interesting what we have confronted here. OPIC is under attack because it has been successful. It has done a good job, and it has helped exports. It has protected the American economy, protected American workers, and, yes, it has helped American business. They are all in the same boat. We are all in the same boat.

To the Sanders amendment, I have to say that without these tools, frankly, more of the people that we are concerned about, the workers, would be being laid off. So if you take away the guarantees and they cannot sell the products that we make to a lot of these markets, when they are unstable, we are not going to be in there when these countries stabilize. The Germans, the French, the Japanese will have locked up these markets, and we will be back on this floor in 5 or 6 years wringing our hands about a larger trade deficit and more layoffs and more downsizing.

It is without question against America's best interests to do damage to OPIC. This is the Overseas Private Investment Corporation. It is not the one that dealt with the oil monopolies. This one helps us. The other one hurt us. It helps workers, and we ought to protect those workers.

How does it help us? When American products are made and we are entering markets that are just developing, there are oftentimes a number of challenges: stability in the regime; stability in the currency. Corporations, large ones and small ones alike, may not be able to, first, assess the danger and, second, take all that risk in a product being moved into that country. The Government guarantee helps us access those markets.

As those markets mature and become stable, once we are the ones that have established the generating system, we are going to get the replacement parts. We are going to get the new orders more likely, when there is a mature and stable market.

This program has made money for the taxpayers, made money for the treasury and made jobs for our country. It would be counterproductive, with all the anger that we share against people being unemployed, to hurt this program because it means more people would be unemployed.

I would hope we defeat this amendment. It is a bad amendment. It would hurt the workers of this country.

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

Mr. GEJDENSON. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, we talk about job creation. Where is your information about how many jobs have been created?

Second of all, the gentleman from Wisconsin previously talked about exports. Nobody in this House believes more than I do that we have got to rebuild our manufacturing base, create decent-paying jobs and exports. That is not what we are talking about here.

In fact, what we are talking about here is helping the largest corporations in America who have thrown hundreds of thousands of American workers out on the street, set up factories abroad. The jobs that are going to be created are over 90 percent abroad.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, I do not agree with those statistics. I would say that what we have seen across the board is that every billion dollars of exports means about 20,000 American jobs. And when you look at the OPIC guarantees, inevitably 70 and 80 percent of the product in those plants that make those plants operate are American-made products, in some cases as high as 90 percent.

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

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, to answer the question how many jobs OPIC created, I can answer that for the gentleman: $40 billion have been sold overseas because of OPIC. You had mentioned 20,000 jobs for every billion sold overseas, that means 800,000 jobs have been created because of OPIC. There is your answer.

The other point is, some people say that we are going to send some jobs overseas. Look who is on the board of directors of OPIC, the president of the International Association of Machinists and Aerospace Workers. Do you think he would be on the board sending jobs overseas?

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, what the gentleman from Wisconsin has just listed is the head of the machinists union, as I understand it, is a member of the OPIC board and making these decisions. The gentlemen from Wisconsin and I joined together with language several years ago to make sure that there was virtually no chance that we would do a net harm to the United States.

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

Mr. GEJDENSON. I yield to the gentleman from Michigan.

Mr. LEVIN. Let me say to the gentleman from Vermont, just take another look at this. We are now over in Geneva trying to force open the markets of Japan.

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

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

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, we are trying to get the Japanese to open their markets for American cars and American parts. We are spending a lot of time and some resources doing that.

The beneficiaries, if you want to call it that, will be Ford, GM, Chrysler, they are big companies, Allied Signal, TRW, and a lot of other parts companies, which would be able to build parts here in the United States and ship them to Japan. It simply is incorrect to say because a company is large, as it would be, because a company is small, they should not do business overseas. And what OPIC does, basically, is to insure companies. And we do not need this as to Japan. We need it other places, against currency difficulties, against political violence, and turmoil and expropriation.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, to continue on the gentleman's analogy, you would then have to argue that trying to open the markets in Japan are helping these big companies that downsize. That is not correct.

Mr. LEVIN. The opposite is true, Mr. Chairman, if the gentleman will continue to yield. We want to open up the Japanese market so that the downsizing in the auto industry will stop and they can continue to begin to hire more people.

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

Mr. GEJDENSON. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, it seems to me that we are missing a fundamental point here. To talk about opening up Japan for American products is something that we all agree on. That means products are being manufactured in the United States, employing American workers and sold in Japan. That is what we want. That is not what OPIC is about. OPIC is giving the largest, most profitable corporations in America help in setting up factories abroad.

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

(On request of Mr. LEVIN, and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 1 additional minute.)

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, if that were the history of OPIC, I would be in favor of its destruction. It simply is not true.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, I believe that it would be impossible to have the head of the machinists union on an organization that was moving jobs out of the country. The president of the machinists union is on this board particularly for that reason, to make sure that we protect American jobs.

Mr. SANDERS. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

There was no objection.

Mr. SANDERS. Mr. Chairman, the issue here is whether or not multibillion-dollar corporations, Mars Candy comes to mind, why Mars Candy? Because that family, the Mars family, is one of the very wealthiest families in America. Why do these people need subsidies and incentives to start factories and plants in other countries?

Some of my friends here have said, this is a job creator. The way you create jobs is to build plants and factories in the United States, manufacture and sell them abroad.

Some people say, well, it really does not matter, that we are encouraging companies to start factories abroad.

I respectfully disagree. A company looks at the bottom line and it says, I have got $1 billion here. Do I build in Detroit, MI or in Burlington, VT? Or do I go to Russia? And then they say, is it not nice, I cannot get Government subsidies to build in Detroit or Burlington, VT but I can get help to go to Russia or to Latin America?

□ 1445

Mr. Chairman, I have heard a whole lot about the beauties of the market system and the free enterprise system. If it is such a good system, then why do the largest corporations in this country need taxpayer subsidies in order for them to go out and make money? Right now one of the scandals facing this country, in my view, is that American corporations, while they are laying off hundreds of thousands of workers a year here, are investing $750 billion a year abroad. They do not need to help abroad. They are doing it just fine. Ask the workers in the UAW who have lot their jobs when companies, automobile companies, are set up in Mexico.

Mr. Chairman, if these programs are so good, let the private sector undertake the insurance. Let the multinationals go to private banks to get below-market financing. This Congress has voted to cut back on Medicare, student loans, veterans programs. We should not be providing subsidies and incentives to the largest corporations in America.

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

Mr. SANDERS. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, the gentleman has said several times, and I do not know why he has said it, but he has said several times that OPIC gives subsidies loans and is subsidizing American corporations. Is the gentleman aware that OPIC only makes loans at market rates?

Mr. SANDERS. Mr. Chairman, if OPIC makes loans at market rates, why do not companies go to the private market and get those loans?

Mr. WILSON. They do not go to the private market to get the loans, Mr. Chairman, because the loans do not bear the same significance as loans guaranteed by the Government of the United States, because it is impossible to get private financing against political instability.

Mr. SANDERS. Mr. Chairman, I should think that in a free market society, there would be some insurance companies that would love to be charging a high premium.

Reclaming my time, Mr. Chairman, over and over again what I am hearing from my Republican friends is, Get the Government out of this, get the Government out of that. The private sector does such a great job.

I am hard pressed to believe that a large insurance company could not provide insurance for some of these companies to invest in Russia and make some money. If it is such a good deal, let the private sector do it, and not the taxpayers of America.

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

Mr. Chairman, the gentleman's characterization of OPIC is not correct. Also, this is a bipartisan support. The committee on both sides, Republicans and Democrats, supported this bill.

The Overseas Private Investment Corporation, or more commonly known as OPIC, is a good thing for the country and a good thing for the American people. Mr. Chairman, I support downsizing Government more than anyone. However, abolishing OPIC will not further either of these goals.

OPIC is not some big Government subsidy program, as some have charged. It provides loans and political risk insurance, as we just heard, to American companies doing business abroad. It does not do this for free. As Members heard, it charges market rates.

Let me tell the Members about a company that I know of personally that has worked with OPIC. It recently got charged 11.9 percent for a financing rate, 11.9 percent to construct a powerplant in the Philippines. If it was not for OPIC, that company would have purchased 500 million dollars' worth of goods in the Japanese market.

Like most every other Federal agency, OPIC actually takes in more than it spends. As we have heard this year, this past year, it made over $167 million. At the end of each year it writes a check back to the Federal Government. Since 1971, it has contributed back $2 billion to the Federal Government. OPIC is a successful entity because it negotiates on a government-to-government basis. Its services are simply not available in the private sector. OPIC does not cost the taxpayers anything. It actually makes money for the Government, so its elimination would actually increase the deficit, not reduce it.

Mr. Chairman, in my opinion, OPIC is a model example of how a Federal agency should run. I oppose the Sanders amendment. Mr. Chairman, I ask for support for the committee's position.

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

Mr. CHRISTENSEN. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman is absolutely right. The gentleman from Vermont is looking at the Mars Candy Bar Co. I do not know what he is talking about. Why does he not look at some of the positive aspects of what OPIC is doing. Look at some of the generation plants that they are building. Large American companies, true. However, look at the fact that they are building power plants, that they are building infrastructure in countries that they would not be able to be in without the guarantee of OPIC. Who would be there? The Japanese would be there.

Do Members guess the Japanese would insist we buy General Electric generators? No, they would buy their generators from Japan. Do we guess then that people who bought the Japanese generator might need American parts to repair them? No. They would go to Japan.

Let me tell the gentleman, he is absolutely right. This is a way we can compete. The example of the Mars Candy Bar Co. to me makes no logic whatsoever, because the gentleman is talking about a small tip of the dog's tail, when he should be talking about the fact that this is the only vehicle that American business people have to compete internationally with the other G–7 nations, so the gentleman is absolutely right, we should reject the gentleman's amendment.

Mr. CHRISTENSEN. I thank the chairman for his leadership on this issue. Reclaiming my time, that is exactly the point. That is exactly what has happened with the people that I know of who have worked with OPIC in the past.

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

Mr. Chairman, I have been listening to the debate on this amendment, and am very concerned about the fact that what I hear is that this is a program that really benefits all of us here in America, but it is really to the benefit of the major corporations of America. Again, it is like the old trickle-down: We are going to be benefited when somebody builds a power plant somewhere else and uses American goods.

That is true, we all benefit when those jobs are created. However, what

if the people that bought that power plant do not pay for it? Then the taxpayers have to pay for it.

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

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, the insurance is not an insurance against the loss of an investment because it was unprofitable.

Mr. VOLKMER. I did not say unprofitable.

Mr. LEVIN. It is insurance against expropriation, against political turmoil, like a revolution, or because of currency problems, so no one could bring back their money to the United States. It is not an insurance to guarantee a profit.

Mr. VOLKMER. I did not say it was guaranteeing a profit. Mr. Chairman, I am saying basically it is a guarantee that we are going to receive our return for the investments.

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, it is not.

Mr. VOLKMER. In a way, it is.

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

Mr. VOLKMER. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to agree with the gentleman, that OPIC does in fact do loan guarantees, not just insurance. It gives loan guarantees. It says if the enterprise located in a foreign country does not pay its loan back, the American taxpayer does.

The other point in the gentleman's statement, I am sure in Missouri there are a number of communities that would like to build power plants, sewer plants, and factories, as well.

Mr. VOLKMER. Reclaiming my time, Mr. Chairman, I have all kinds of cities that would like to build an industrial tract in order to entice industry to come in, and does the gentleman know how much help those Missouri communities would get from OPIC?

They would not get any.

Mr. ANDREWS. Nothing, because it is not part of OPIC's charter.

Mr. VOLKMER. Mr. Chairman, it is basically to create jobs here, but basically the work goes elsewhere. What really bothers me, Mr. Chairman, is when I see the types of companies, many of which are huge conglomerates, worldwide companies, that have billions of dollars, and yet we have to guarantee a loan for them.

DuPont? I have to guarantee a loan for DuPont? Come on, Mr. Chairman. Why would I have to guarantee a loan for DuPont? Why do I have to guarantee a loan for CitiBank? I think they have enough of their own money. They have whole bunches of money. Why would I have to guarantee a loan for CitiBank? That is what this does.

This is what I call, if we talk about corporate welfare, and what really interests me is listening to the gentleman from Nebraska speaking in the well before me. If I remember, he is the same one who says we have to save a little money and do away with elevator operators, we have to do away with elevator operators, but we can keep this corporate welfare around. Who benefits from it?

Mr. Chairman, I want to let the people out there know that DuPont got a $200 million loan guarantee, and that CitiBank got a $113 million loan guarantee. How about a little Coca-Cola? Little bitty old Coca-Cola, a little bitty company, they do not have any money at all. They got a loan guarantee of $165 million.

What is going on in this world? We are cutting back, we are going to cut back on the increase that people need out there for food stamps, for school lunches, for Medicare, for Medicaid, but we cannot cut back on all of these loan guarantees for these huge major corporations. We cannot do that, Mr. Chairman. There is something wrong, I think, with this Congress, with our priorities.

I think it is time that we tell corporate America that they are no better off than individual citizens of this country, and just because they have a whole bunch of money to lobby down here and pay off people and get good benefits for their type of activity, it is time we told them no. I think it is time that we told corporate America that they, too, can survive under the Republican budget, and they do not need this kind of welfare.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 90, noes 329, not voting 15, as follows:

[Roll No. 421]

AYES—90

Abercrombie
Allard
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bonior
Brown (CA)
Canady
Chabot
Chenoweth
Chrysler
Coble
Condit
Conyers
Costello
Crane
Crapo
DeFazio
Dellums
Duncan
Ensign
Evans
Fattah
Fields (LA)
Fox
Franks (NJ)
Funderburk
Greenwood
Hancock
Hinchey
Hoekstra
Holden
Hostettler
Kanjorski
Kaptur
Kennedy (RI)
Kingston
Lewis (GA)
Lipinski
LoBiondo
Luther
Martinez
McHale
McInnis
McKinney
McNulty
Meehan
Mica
Miller (CA)
Minge
Mink
Montgomery
Nadler
Neumann
Owens
Pallone
Parker
Poshard
Rohrabacher
Royce
Rush
Salmon
Sanders
Sanford
Scarborough
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Smith (MI)
Souder
Spence
Stark
Stearns
Stump
Stupak
Taylor (MS)
Taylor (NC)
Towns
Traficant
Tucker
Velazquez
Volkmer
Wamp
Watt (NC)
Woolsey
Zimmer

NOES—329

Ackerman
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Cardin
Castle
Chambliss
Chapman
Christensen
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Cooley
Cox
Coyne
Cramer
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McIntosh
McKeon
Meek
Menendez
Metcalf
Meyers
Miller (FL)
Mineta
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Sabo
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spratt
Stenholm
Stockman
Stokes
Studds
Talent
Tanner
Tate
Tauzin
Tejeda

Thomas	Waldholtz	Wicker
Thompson	Walker	Williams
Thornberry	Walsh	Wilson
Thornton	Ward	Wise
Thurman	Waters	Wolf
Tiahrt	Watts (OK)	Wyden
Torkildsen	Waxman	Wynn
Torres	Weldon (FL)	Yates
Upton	Weldon (PA)	Young (AK)
Vento	Weller	Young (FL)
Visclosky	White	Zeliff
Vucanovich	Whitfield	

NOT VOTING—15

Camp	Gunderson	Mfume
Collins (MI)	Gutierrez	Moakley
Farr	Hilliard	Payne (VA)
Ford	Jefferson	Reynolds
Furse	Lantos	Torricelli

□ 1515

Messrs. PICKETT, PAXON, and MANZULLO, Ms. MOLINARI, and Ms. ROS-LEHTINEN changed their vote from ''aye'' to ''no.''

Messrs. HANCOCK, MCHALE, HINCHEY, and TUCKER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KLUG

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 5, line 9, strike ''$79,000,000'' and insert ''$60,629,334''.

Page 5, beginning on line 10 strike '', to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account''.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, close in 15 minutes and that the time be equally divided.

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

Mr. DOGGETT. Mr. Chairman, I object; there has been so much misinformation on this whole subject. And I fully and fairly object.

The CHAIRMAN. Objection is heard.

The gentleman from Wisconsin [Mr. KLUG] is recognized for 5 minutes.

Mr. KLUG. Mr. Chairman, as you know, we have just had a long debate about the proper role of OPIC in terms of helping to fund overseas investments and we had a choice in front of us several minutes ago. The amendment of the gentleman from Vermont [Mr. SANDERS] to essentially zero out OPIC funding immediately. But I think the suggestion of a number of my colleagues, including the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, is that we have a second alternative which is to take one of the facets of OPIC, privatize it, and sell it off, returning more money to the Federal Government.

The OPIC is divided into two funds. First of all, the credit program and second, an insurance program. One of the key components in OPIC is an insurance fund and what is does is insure against losses of U.S. companies who invest overseas in politically risky environments.

We have to ask ourselves why it is that the Federal Government in this day and age is in the business of essentially offering public insurance against private risk?

And OPIC has grown dramatically over the last several years where now U.S. taxpayers face a potential liability of nearly $800 million and is is not going to be terribly far off before we have a liability approaching a billion dollars?

Mr. Chairman, I have absolutely no objections whatsoever to keeping OPIC in place to help do low-interest loans which do return more money to the Treasury than they actually cost. It is an operation that stands in and of itself.

But there is absolutely no reason for the Federal Government to be involved in essentially guaranteeing high-risk political decisions by U.S. corporations.

My colleagues can look around and see all the other kinds of components of high-risk ventures one can do. A high-risk auto insurance driver can only go to the private sector to get insurance. If you play in a charity golf tournament where a car is offered on a hole, insurance is available to guarantee that the auto company does not have to pay the cost. Insurance is available to protect the charity sponsor.

Why is it that the Federal Government is involved in guaranteeing foreign investments if they decide to put U.S. operations or to sell U.S. products in a very risky political environment?

One of the great ironies I think is the fact that for example Ameritech received $200 million in political risk insurance to provide Hungary's long-distance telecommunications system. Yet we have a fight over whether OPIC should be privatized, but we will loan money to help U.S. companies to compete overseas.

We loaned Marriott $9 million for the privatization of hotels in Budapest. Clearly, what we need to do is have a transition window where OPIC is allowed to continue its job of offering loans which cannot be obtained in the private sector to help U.S. companies invest overseas.

But it is time, clearly, to spin off the privatization of OPIC's insurance function and actually return dollars to the U.S. Treasury and to eliminate what is close to a billion dollar risk for U.S. taxpayers.

That, I should say, was the intention of the House Committee on the Budget which recommended privatizing and phasing out OPIC over the next 3 years. It was also language in the original authorization bill, but we have discovered that the appropriations bill wanted to fund OPIC's operations by bleeding money out of its reserve accounts. And if money is taken out of those reserve accounts and OPIC's key asset is essentially depleted, guess what? We suddenly cannot privatize it.

Our amendment will reduce the funding levels from $79 million down to $60 million, consistent with the Committee on the Budget's recommendation and, second, rope off the reserve funds now approaching $2 billion to guarantee in the future that those funds will be available so that when we follow through on the authorizing committee's language moving toward privatization, an authority now granted to the President to begin privatizing some of OPICs functions, that that $2 billion in insurance funds, the most valuable component in OPIC's treasury, the most valuable asset in its portfolio, will be available as an attractive component in a move by the U.S. Government to privatize OPIC's insurance function.

Mr. LUTHER. Mr. Chairman, I offer my support for the Klug-Hoke amendment to H.R. 1868, allowing for the privatization of the Overseas Private Investment Corporation [OPIC].

Mr. Chairman, I believe we should provide appropriate assistance to promote and encourage U.S. exports. Exports increase American jobs at home and help encourage developing countries to move toward free-market economies.

However, I question whether we can afford to spend taxpayer dollars to provide below-market subsidies to major multinational corporations while we try to tackle an incredible Federal deficit and national debt.

With the dual goals of balancing the Federal budget while maintaining our strong presence and assistance in the developing world, the Klug-Hoke amendment makes common sense. It enables OPIC to become self-supporting within 3 years. It provides for export promotion as well as fiscal responsibility. I therefore encourage my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. CALLAHAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KLUG

Mr. CALLAHAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CALLAHAN as a substitute for the amendment offered by Mr. KLUG: Page 5, line 9, strike ''$79,000,000'' and insert ''$69,500,000''.

Page 5, beginning on line 10, strike '', to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account''.

Mr. CALLAHAN. Mr. Chairman, first of all I appreciate the articulate manner in which the gentleman from Wisconsin [Mr. KLUG] has addressed the problem he is concerned about. And I certainly share some of the concerns the gentleman has, and he is to be commended for coming before this body with a solution that we can live with.

The gentleman from Wisconsin [Mr. KLUG] and I have come to an agreement on this matter. We are both interested in moving the appropriate functions of the Overseas Private Investment Corporation to the private

sector. The resulting subsidy appropriation for OPIC will enable the organization to support American investment abroad in a robust manner.

The increase above the current subsidy appropriation is substantial and indicates the support of this House for OPIC's mission. But OPIC should recognize that this reduction from its request indicates that many Members of this House, led by the gentleman from Wisconsin [Mr. KLUG], expect OPIC to take seriously the proposals for it to move many or most of its functions into the private sector.

Mr. Chairman, I expect OPIC to closely consult with the committee as it prepares the report that we have requested on page 10 of the committee report, and to expand the scope of the report to include all OPIC activities and to provide the report in a timely manner.

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

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. KLUG. Mr. Chairman, I would like to tell my colleague from Alabama, Mr. CALLAHAN that I am in agreement with his amendment and with the reduction which I think is appropriate. And I want to commend the gentleman for keeping an open mind on the subject and I would hope in the future I could count on the gentleman's support to move OPIC toward privatization.

Mr. CALLAHAN. The gentleman certainly can.

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

Mr. CALLAHAN. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, what is the final figure that the two gentlemen have arrived at there?

Mr. CALLAHAN. Mr. KLUG's amendment was to strike $79 million and insert $60 million. My amendment brings it up back up to $69 million. It is a compromise.

Mr. WILSON. Mr. Chairman, I would like to ask the gentleman from Wisconsin [Mr. KLUG] a question.

I do not quite understand the effect of the gentleman's transfer language. Can he explain that to me?

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

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. KLUG. Certainly, OPIC has two accounts. The one account, obviously, involves the credit program, which provides investment financing through direct and guaranteed loans.

But then OPIC also has the reserve account which is essentially a reserve guaranteeing the insurance component of OPIC. If you begin to take that money out of the insurance fund to essentially cover operating costs, you have now begun to bleed down the insurance reserves, which essentially makes it much more difficult next year for those of us who want to privatize OPIC to indeed privatize it.

Mr. WILSON. Has that ever been done before?

Mr. KLUG. To the best of my knowledge, no.

Mr. WILSON. Mr. Chairman, I would like to have a little dialog here so we all know what we are talking about. We get varying numbers as to what that reserve account is, but it is somewhere between $2 billion and $2.5 billion. Is that the gentleman's understanding?

Mr. KLUG. In terms of the liability?

Mr. WILSON. In terms of the amount that is returned to the Treasury as well as its liability.

Mr. KLUG. Right, the money returned to the Treasury, I think the gentleman is accurate. But my concern is the fact that the taxpayers have an exposure of well over $800 million.

Mr. WILSON. Yes, but this is something that the gentleman may not know that I think he will be interested in, and that is we have done a lot of study in the committee as to their credit procedures and arriving at the creditworthy projects and over 24 years, they have only had to pay claims of $20 million. That is a pretty remarkable record, is it not, for the amount of loans they have made?

Mr. KLUG. It is, but as the gentleman knows, past performance is no guarantee of future performance, as they will tell you in any investment instrument.

Mr. WILSON. We could talk about what Harry Truman said about those who read history, too.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word. I will yield to the gentleman from Alabama [Mr. CALLAHAN], the subcommittee chairman, to answer my questions.

My understanding is in the present fiscal year the level of appropriation for OPIC is $33 million in the program account; is that correct?

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

Mr. ANDREWS. I yield to the gentleman from Alabama.

Mr. CALLAHAN. The gentleman is correct.

Mr. ANDREWS. It is further my understanding that the underlying bill that the chairman has brought to the floor increases that to $79 million for fiscal 1996; is that correct? In the program account?

Mr. CALLAHAN. The gentleman is correct, 69.5.

□ 1530

Mr. KLUG's amendment would have reduced that from 79 down to 60, and the effect of your amendment is to bring it back up to $69 million? Is that correct?

Mr. CALLAHAN. If the gentleman will yield, that is correct.

Mr. ANDREWS. I object to and oppose this amendment for the following reason: I think that the authorizing bill that we passed here 2 weeks ago was correct in moving us toward privatization of OPIC. I wish we had done it much sooner and much more aggressively.

I do not think it makes any sense, when we are moving toward privatization of a Government agency, to increase taxpayer liability, which is precisely what we are doing here. The impact of moving OPIC's program appropriation from 33 up to 69 is to increase the amount of exposure that the taxpayers can be exposed to by OPIC over the next fiscal year. That makes no sense to me, if we are going to, in fact, take a deliberate, thoughtful look at privatization, which I support, it makes no sense whatsoever to me, to be increasing the level of public risk at the same time we are doing that, for two reasons: First is the taxpayers ought not to be subjected to more risk, and second, it seems to me the more debt that you load up, the more difficult it is to sell. It makes it a more difficult object for privatization. For that reason, I would oppose respectfully the subcommittee's amendment.

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

Mr. ANDREWS. I yield to the gentleman from Wisconsin.

Mr. KLUG. During the authorization process there were a number of us who wanted to move this privatization process forward much more quickly. We were not successful in bringing that fight to the floor.

Clearly, what we are doing today is guaranteeing the Committee on Appropriations does not take us three steps backward. That is the importance of today's amendment, is to say if we are going to preserve that option next year, that is the only option in front of us today, given our ability to legislate on appropriations bills, then I think this is the best way to guarantee we will move toward privatization.

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

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. KASICH. Let me say to the gentleman from New Jersey that I share his concern on this, and let me say that there is no agreement that ever gets worked out that represents 100 percent. I mean, I wish it did, because I spent my whole life being frustrated because I cannot get everything I want, but you cannot in the real world.

The gentleman from Alabama [Mr. CALLAHAN] has stopped the transfer of money from this reserve account. Why do we not want to transfer it? Because it is the most valuable resource that OPIC has so that when, in fact, we move to privatize, that those funds are in place and it makes an attractive private sector investment.

Now, the fact that the chairman has moved, I mean, basically we kind of split the difference. I mean, that is really what we did in an effort to make sure that we get this done, that we do not raid the reserve fund, that we do not increase it like the appropriators were saying, and that next year, I will say to the gentleman from New Jersey,

we will have that reauthorization of this program, and we are going to have a pretty big fight on this floor.

I think what we have been able to do in stopping the transfer of these funds is to dramatically increase the chance we are going to privatize it.

The gentleman from New York [Mr. GILMAN] supports privatization. I am told the chairman supports privatization. The amendment offered by the gentleman from Wisconsin [Mr. KLUG] calls for privatization. I strongly believe in privatization. I suspect the gentleman from Texas and all of us will have a fight next year on privatization. I think we will win that fight.

What this amendment does is to guarantee us and sets us up for the privatization of OPIC and moves us closer to what our goals were within the budget and stops the transfer of those funds.

So I think this is a great victory for those people who want to make a big dent in corporate welfare.

Mr. ANDREWS. Reclaiming my time, I am going to support the amendment offered by the gentleman from Wisconsin [Mr. KLUG] even if amended in this way. I agree with what the chairman just said.

I would ask the chairman and the Republican leadership to consider actively inclusion of this issue in the reconciliation bill that is forthcoming. I see no reason why we have to wait until next year to resolve the underlying debate. That is obviously your call. I would respectfully request you consider dealing with this in the reconciliation bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG], as amended.

The amendment, as amended, was agreed to.

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I filed an amendment for consideration which would have provided $30 million for law enforcement training and judicial improvement efforts in Russia, the new independent states of the former Soviet Union, Central and Eastern Europe and the Baltic States. I will not offer the amendment today; however, I would like to raise this issue in the House and obtain an assurance from Chairman CALLAHAN that this training is a priority that will be addressed in conference.

Last year Congress set aside $30 million which enabled the FBI, DEA, U.S. Customs, and other U.S. law enforcement agencies to start new and innovative training programs to help professionalize the police in the region, and allowed on-going efforts to improve and strengthen prosecutorial and judicial agencies. Furthermore, the House Committee on International Relations has recognized the critical need and importance of this funding. In its report on the ''American Overseas Interests Act of 1995,'' which passed this House on June 8, the Committee urged that up to $30 million be allocated in each of FY96 and FY97 to support rule of law, law enforcement, and criminal justice assistance activities in the NIS, and East European and Baltic States. I agree that this is sound policy.

The goal of funding programs to assist the struggling democracies of the NIS and Eastern Europe will fail if criminal elements take over those countries. Moreover, organized crime that flourishes in Russia is spilling over into the United States. The problem is so prevalent that the FBI established a Russian Organized Crime Squad in May 1994. Earlier this year the FBI arrested in New York allegedly one of the most powerful Russian crime leaders along with five of his associates on federal charges of conspiracy to commit extortion.

According to the FBI, Russian organized crime groups use businesses in the NIS, Western and Central Europe, and the United States to serve as fronts for laundering the proceeds of illegal activities and for conducting highly profitable commerce in goods in the Commonwealth of Independent States. This commerce, rife with corruption, thrives on such illegal practices as extortion, kickbacks, bribery of public officials, and violence.

Last year Congress began to address the serious organized crime threat in the region and we should do so again this year. I would appreciate knowing whether the chairman of the Foreign Operations appropriations subcommittee will work with me to provide the necessary funding for this critical purpose.

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

Mr. WOLF. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I appreciate the gentleman yielding to me, and I also appreciate your bringing this important issue to the attention of the House. I share your concerns about the detrimental impact organized crime is having on the Newly Independent States, Eastern Europe, and the Baltic states, as well as the United States. I look forward to working with you, the members of the subcommittee, and our Senate counterparts in adequately funding cooperative programs for establishment of the rule of law, law enforcement, and criminal justice assistance to help foster the growth of democracy.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to join my colleague, the gentleman from Virginia [Mr. WOLF], in support of this very important effort to insure that adequate monies are available for U.S. police training and exchanges for Eastern Europe and the Baltic States.

Today organized crime and criminal elements in the region threaten the very reform and democracy most of our U.S. assistance and other U.S. government efforts are intended to help foster.

I was very pleased to have led the way initially in asking for and getting the FBI, DEA, U.S. Customs, and other U.S. law enforcement entities, monies in FY 1995 to carry on these critical police training programs in both the former Soviet Union and the NIS. These programs are intended to professionalize and made the local police better able to cope with this serious problem of crime, especially organized crime.

Since the initial $30 million was made available in FY 1995 for these police training programs, the FBI, DEA, U.S. Customs and others have trained more than 1,000 police officers in the former Soviet Union and the NIS. We are making progress and must continue these valuable efforts that benefits us, as well as these new nations in the region. I am pleased to join in this effort to keep these programs fully supported.

Finally, let me set the record straight. This isn't just another foreign aid program for police officers overseas. What is also at stake here is efforts by our FBI and other U.S. law enforcement agencies to get a handle on Russian organized crime here at home. Major crime elements that are fast spreading to the U.S., witness the arrest most recently in NYC of a major Russian organized crime figure still closely linked to his homeland.

These overseas police training programs give the FBI and other U.S. law enforcement known and reliable U.S. trained police counterparts in the region. These officers can in turn later work cooperatively with us to help solve the problem of transnational organized crime operating and threatening both our as well as their internal security and safety.

I compliment the efforts of my colleague, the gentleman from Virginia, [Mr. WOLF], and also urge that this matter receive the highest priority in conference as discussed here today.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1996, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of part I and chapter 4 of part II

of the Foreign Assistance Act of 1961, for child survival, assistance to combat tropical and other diseases, and related assistance activities, $484,000,000, to remain available until September 30, 1997: *Provided,* That this amount shall be made available for such activities as (1) immunization programs, (2) oral rehydration programs, (3) health and nutrition programs, and related education programs, which address the needs of mothers and children, (4) water and sanitation programs, (5) assistance for displaced and orphaned children, (6) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, polio, malaria and other diseases, and (7) a contribution on a grant basis to the United Nations Children's Fund (UNICEF): *Provided further,* That funds appropriated under this heading shall be made available notwithstanding any other provision of law, and shall be in addition to amounts otherwise available for such purposes.

DEVELOPMENT ASSISTANCE FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $669,000,000, to remain available until September 30, 1997: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further,* That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading and under the heading ''Development Fund for Africa'', not to exceed a total of $15,500,000 may be transferred to ''Debt restructuring'', and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading and under the heading ''Development Fund for Africa'', not to exceed a total of $15,000,000 may be transferred to ''International Organizations and Programs'' for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, $528,000,000, to remain available until September 30, 1997: *Provided,* That none of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Community shall be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the ''Foreign Assistance and Related Programs Appropriations Act, 1985'' (as enacted in Public Law 98–473) shall be superseded by the provisions of this section.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $200,000,000 to remain available until expended.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961, $7,000,000, to remain available until expended.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the subsidy cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

HOUSING GUARANTY PROGRAM ACCOUNT

For administrative expenses to carry out guaranteed loan programs, $7,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the ''Foreign Service Retirement and Disability Fund'', as authorized by the Foreign Service Act of 1980, $43,914,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $465,750,000: *Provided,* That of this amount not more than $1,475,000 may be made available to pay for printing costs: *Provided further,* That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of that Agency or the Administrator's designee.

In addition, for necessary expenses to carry out the provisions of section 667 related to the termination or phasing down of programs, activities, and operations of the Agency for International Development under chapters 1, 10, and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and for related purposes, $29,925,000, to remain available until September 30, 1997: *Provided,* That such funds are available in addition to amounts otherwise available for such purposes: *Provided further,* That, prior to the obligation of any funds appropriated in this paragraph, the Administrator of the Agency for International Development shall report to the Committees on Appropriations on the proposed use of such funds: *Provided further,* That by September 30, 1997, the use of such funds should result in the reduction of 500 full-time equivalent direct-hire employees from the onboard level existing on April 30, 1995: *Provided further,* That the authority of sections 109 and 610 may be used for the purpose of making funds available to fulfill the requirements of section 667.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $35,200,000, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,326,700,000, to remain available until September 30, 1997: *Provided,* That any funds appropriated under this heading that are made available for Israel shall be made available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of part I of the Foreign Assistance Act of 1961, up to $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until September 30, 1997.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $324,000,000, to remain available until September 30, 1997, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, and for other purposes, $595,000,000, to remain available until September 30, 1997: *Provided,* That the provisions of 498B(j) of the Foreign Assistance Act of 1961 shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in Principle Six of the Helsinki Final Act: *Provided,* That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: *Provided further,* That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief.

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability.

(f) Funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

(g) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(h) Funds appropriated under this heading may be made available for assistance for Mongolia.

(i) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be provided to the maximum extent feasible through the private sector, including small- and medium-size businesses, entrepreneurs, and others with indigenous private enterprises in the region, intermediary development organizations committed to private enterprise, and private voluntary organizations previously functioning in the new independent states.

(j) The ratio of private sector investment (including volunteer contributions in cash or time) to United States government assistance in projects referred to in subsection (i) shall be no less than a ratio of 1.5 to 1.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, $10,000,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $20,000,000.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $210,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $113,000,000: *Provided,* That during fiscal year 1996, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $671,000,000, of which not to exceed $12,000,000 shall be available for administrative expenses.

REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $5,000,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $17,000,000.

NONPROLIFERATION AND DISARMAMENT FUND

For necessary expenses for a ''Nonproliferation and Disarmament Fund'', $20,000,000, to remain available until expended, to promote bilateral and multilateral activities: *Provided,* That such funds may be used pursuant to the authorities contained in section 504 of the FREEDOM Support Act: *Provided further,* That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further,* That funds appropriated under this heading may be made available notwithstanding any other provision of law: *Provided further,* That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

AMENDMENT OFFERED BY MR. BROWNBACK

Mr. BROWNBACK. Mr. Chairman, I offer an amendment, amendment No. 64.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROWNBACK: Page 12, line 8 strike ''$7,000,000'' and insert ''$3,000,000''.

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike ''$595,000,000'' and insert ''$619,000,000''.

Mr. BROWNBACK. Mr. Chairman, I would like to inform the Members this amendment is designed to have several outcomes, and what we are doing with this I will describe briefly in this presentation.

It is intended to restore part of the funding for the newly independent states of the former Soviet Union provided by H.R. 1561, the American Overseas Interests Act, by removing some funds from other places.

My amendment is also intended to reduce the Treasury buy-back fund to the level authorized by the American Overseas Interests Act previously approved by this Congress and to eliminate the AID reform and downsizing account, a fund not authorized by H.R. 1561.

Finally, my amendment would cut an additional $22 million in foreign assistance funds.

Now, AID argues it needs the $30 million reform and downsizing account in order to make a 10-percent cut in budget, a $30 million reform and downsizing account to make a 10-percent cut in budget.

By analogy, the ICC is making a 33-percent cut. It is not asking for a dime. I realize downsizing AID is very complicated, particularly more so than the ICC. I am not certain about that.

But does AID need $30 million to make a $50 million cut? The GAO will be analyzing this issue and issuing a report in September. Let us appropriate what we agreed to authorize and revisit the issue in September if GAO thinks AID needs the money in order to downsize.

Now, on the second part of this is the Treasury buy-back fund performs an admirable foreign assistance function, reducing bilateral debt of Latin American countries to support environmental and child survival activities. However, we have $5 trillion in debt. We have our own to worry about. We need to put our own fiscal house in order. That is why I am calling for additional reduction here.

We have got to take care of this place so that we can have something to pass on to our own children, not worry about that so much in other countries.

Regarding the NIS, I would just want to put this briefly to my colleagues: I think we need to put these funds back in NIS. The NIS fund will have been cut by 27 percent from fiscal year 1995 level and by 75 percent from fiscal year 1994 level. This cut we are proposing would eliminate waste which has already been cut, get at the waste of this program. That is why I think we need to restore these monies in this particular area of the program.

I think we had better think about, ladies and gentlemen, what we are doing here in taking further, taking it down more than 75 percent from previously.

These are countries that are struggling to survive, struggling to democratize. We need to help them out. We need to do whatever we can here, and this small bit of money, I think, is far better spent here in helping INS countries to stabilize than to having AID reform and downsize and spend $30 million to make a $50 million cut.

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

Mr. BROWNBACK. I yield to the gentleman from New York, the chairman of the authorizing committee.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of the amendment by my good colleague, the gentleman from Kansas [Mr. BROWNBACK].

Our assistance program in the new independent states is a vital effort to support the growth of democracy and market-based economies in the region of the former Soviet Union.

It is also vital to alleviating humanitarian needs in the region—particularly in Armenia, Georgia and Tajikistan.

In short—in ways both large and small—this program is serving the American national interest in that region.

Frankly, in this time of difficult budget decisions, we have had to reduce this assistance program.

Under the amount contained in this bill, as reported by the Appropriations Committee, this assistance program is already: 30 percent below the fiscal year 1995 appropriation, and 24 percent below the fiscal year 1996 request.

Most important, the amount included in this measure is $48 million below the amount approved by this House when it recently approved the foreign aid authorization bill.

Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from Kansas.

Mr. BROWNBACK. Mr. Chairman, just in closing on this, this succinctly moves money from the AID reform account, which was not approved by the authorizors, into NIS, which is already being cut 75 percent, and it further reduces the deficit and cuts outlays an additional $22 million. It puts money where it ought to be. It cuts the budget. It cuts the deficit.

I urge my colleagues to support this amendment.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

First of all, I applaud the courage of the gentleman from Kansas today in introducing the amendment, and certainly I do not think there is any Member of this Congress, especially someone who has only been here such a short time as the gentleman from Kansas [Mr. BROWNBACK], who has grasped international affairs such as he has. I know that you are a very valuable ally to Chairman GILMAN on the Committee on International Relations.

The gentleman was not here the last years during the appropriation process when we first started funding for Russia and the independent states. I think that I was probably the only Member of the House that stood in opposition to that, because I felt that while we wanted to help Russia and the other independent states emerge as industrialized nations and we wanted to help them get on their feet and form a good democracy, it was I who stood on the floor and said we do not have the money to do that.

□ 1545

Mr. Chairman, the very fact that the gentleman is now coming before this committee that now I am chairing, and let me say we reduced the aid from $842 million in 1995 to $595 million in 1996, and I just feel like that we do not have the money to give more aid to Russia.

I say to my colleagues, If you want to reduce the deficit, that is another thing. I wouldn't have agreed to the $595 million. It was much more than I wanted. But in the spirit of compromise, in trying to work out some bipartisan arrangement to give the administration the ability to have an effective foreign policy, I finally agreed to the $595 million. To increase it further just sort of goes against my grain, but certainly not against the intent of what the gentleman is trying to accomplish, and that is to reduce AID money and to increase NIS money.

But I say to my colleagues, I think that the House has already decided and determined to radically downsize AID and to merge it into the State Department, which your committee wants, but that will take a couple of years, and the saving the gentleman is using may leave AID unable to administer the very program he wants to expand. With his amendment AID might have to shut down.

So, Mr. Chairman, I respectfully suggest to the sponsor that he withdraw his amendment and that we work with the managers on both sides of the aisle to see if some accommodation can be worked out. At this time I am obliged to oppose it because I feel like it infringes upon the agreement, the gentleman's agreement I have with the gentleman from Wisconsin [Mr. OBEY], and the gentleman from Texas [Mr. WILSON], and the other Members of the committee. Both sides of the committee, when this bill came out of subcommittee, went around the table, and I said if one member, if one member of our subcommittee on the Republican side opposed this agreement that we have structured, that fragile agreement which included more money for AID, well, then I said the agreement would not be put into effect.

So, we have a fragile agreement. I am going to live up to that commitment. Under no circumstances can I vote for any amendment that is going to increase AID to the independent states or to Russia because I feel that we have gone overboard with respect to our ability at this time in our history. So I respectfully oppose the amendment and would hope that the sponsor would withdraw it.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, too, would like to rise in opposition to the amendment.

Mr. Chairman, I will not take the entire 5 minutes, but I will say it is unfortunate that the full Committee on Appropriations is meeting at the present time because we have so many Members that are interested that are not here, but I will say that I feel certain that the ranking member, the gentleman from Wisconsin [Mr. OBEY] and the chairman of the full committee would both vigorously oppose this amendment because of the AID reductions. I think they would also certainly oppose the reduction in the loan forgiveness for the poorest of the poor

countries, and I think I pushed the chairman about as hard as he can be pushed on the NIS, and I do not want to try to push him any further.

So, for that reason I would oppose the amendment as well, and I hope the gentleman would withdraw it, and we will try very, very hard to work with him when we get to conference.

Ms. SLAUGHTER. Mr. Chairman, I rise today in support of the Brownback amendment to restore funding to the New Independent States. This funding will provide needed assistance to Ukraine, a nation which has consistently been a leader among these new and independent nations.

Although I strongly support AID and am not pleased with further cuts to AID in order to fund the New Independent States, I also feel we must send a strong message of support for Ukraine. I hope we can address the AID shortfall as this bill moves through Congress.

Ukraine has instituted democratic reforms which have made it one of the most politically stable nations in the region. Ukraine and her people play an undeniably important role in this post-cold war world and we would be foolish not to recognize this fact and do everything we can to foster stability and development in that nation.

With more than 18 percent of the population of the newly independent states, Ukraine has consistently received under 10 percent of the total U.S. aid provided to the former Soviet Union. To let this continue would be neither fair nor prudent.

Geographically, Ukraine is the largest nation solely in Europe. Seven decades of Soviet rule and collectivization destroyed Ukraine's once-rich agricultural system, while militarization and the arms race left a huge military-industrial complex which does nothing to feed or house Ukraine's 52 million people. This complex must continue to be converted to nonmilitary uses. If a humanitarian interest in helping our Ukrainian friends isn't a compelling enough reason to support aid to Ukraine, then certainly, my colleagues will agree that the United States has a significant security interest in making sure this conversion takes place.

Despite the recent developments in Russia, we simply cannot punish its neighboring nations, like Ukraine, by denying vital assistance to these new and struggling nations.

Mr. Chairman, I urge my colleagues' support for the people of Ukraine and their vote in favor of this amendment.

Mrs. LOWEY. Mr. Chairman, I rise in support of increased funding for Ukraine. Ukraine is one of our most important allies among the New Independent States [NIS] of the former Soviet Union. Since its independence, Ukraine has instituted democratic reforms, making it the most stable country in the region.

In 1994, Ukraine held democratic elections, voting in a new parliament and a new president. They have accepted all of our requests, including the ratification of START and NPT, and are in the midst of economic reform that has won praise from the IMF and G–7.

In the wake of this significant show of stability in an otherwise fragile region, it is imperative that the United States show strong economic support for Ukraine. Although Ukrainians make up almost one-fifth of the population of the NIS, they receive less than 10 percent of United States aid under the Freedom Support Act.

Although there are reductions in foreign aid in this bill, we must continue to make clear our international priorities. If we do not earmark $150 million for assistance to Ukraine, we send the wrong signal to that country, and all other countries that are instituting democratic reforms. We must not tell Ukraine that there is nothing to be gained by adopting democratic reforms, maintaining a good human rights record, progressing with economic reforms, and unilaterally disarming their nuclear arsenal.

There are battles being waged right now between President Kuchma and the Ukarainian parliament over Ukraine's economic reforms and unilateral disarmament. Many members of parliament are pointing to the lack of past support from the United States for Ukraine's reforms, and questioning the benefits of continuing down this road. We cannot afford to let the Ukrainians turn back. Ukraine and the other young nations of the world, struggling with the implementation of democracy, must know that they will benefit from those reforms.

Mr. Chairman, Ukraine is deserving of our respect, praise, and commitment. I urge my colleagues to support increased aid to Ukraine.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. BROWNBACK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWNBACK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 78, noes 340, not voting 16, as follows:

[Roll No. 422]

AYES—78

Baker (CA)
Ballenger
Bartlett
Barton
Blute
Brownback
Burton
Chabot
Christensen
Condit
Crane
Crapo
Ehrlich
English
Ensign
Flanagan
Fox
Franks (NJ)
Ganske
Gekas
Geren
Gilman
Graham
Gutknecht
Hancock
Herger
Horn
Hostettler
Inglis
Kasich
King
Klug
Largent
Linder
LoBiondo
Lowey
Luther
Martini
McCarthy
McIntosh
McKeon
McNulty
Mica
Myrick
Neumann
Norwood
Orton
Pallone
Peterson (FL)
Petri
Porter
Radanovich
Ramstad
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Sensenbrenner
Shadegg
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Stenholm
Stump
Tate
Tiahrt
Traficant
Upton
Walker
Weldon (PA)
Weller

NOES—340

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chambliss
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
Lofgren
Longley
Lucas
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (TX)
Spence
Spratt
Stark
Stearns
Stockman
Stokes
Studds
Stupak
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff

I71NOT VOTING—16

Camp	Gutierrez	Tauzin
Collins (MI)	Jefferson	Torricelli
Ford	Lantos	Young (AK)
Frost	Mfume	Zimmer
Furse	Moakley	
Gunderson	Reynolds	

□ 1609

Messrs. HASTERT, HINCHEY, DEFAZIO, LATHAM, and RUSH changed their vote from ''aye'' to ''no.''

Messrs. BARTLETT of Maryland, CHRISTENSEN, STUMP, PORTER, SMITH of Michigan, and SCARBOROUGH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment, amendment No. 37.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RICHARDSON: Page 14, line 22, strike ''2,326,700,000'' and insert the following ''2,325,500,000''.

Page 21, line 7, strike ''$671,000,000'' and insert ''672,000,000''.

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. A point of order is reserved.

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

Mr. RICHARDSON. Mr. Chairman, this amendment that I am offering with the gentleman from California [Mr. ROHRABACHER] will increase the migration and refugee assistance fund by $1 million to alleviate the refugee crisis on the Thai-Burma border. In keeping with budgetary guidelines, the increase in funding is offset by cuts to the Economic Support Fund.

The ramifications of the systematic repression conducted by Burma's ruling military junta, the State Law and Order Restoration Council or [SLORC], have created a refugee crisis along the Thai-Burma border that is worsening.

The launching of a major SLORC military offensive against the Karen refugees this spring resulted in an outflow of an estimated additional 20,000 refugees to Thailand bringing the population to over 90,000.

These new developments have serious implications for relief agencies. First, they are faced with unbudgeted expenses moving the refugees and establishing a new camp; and second, the new town-size camp will have different dynamics then the old village-size camps.

The Burma Border Consortium [BBC], the group of NGO's responsible for rice distribution and relief in the border camps, issued an appeal in March for an increase of $5 million in their budget to cover the continuing worsening refugee situation. The BBC anticipated that it would be stretched to the limit and experiencing a serious cash flow problem by April.

I have here a copy of a letter from the Burma Border Consortium Chairman Jack Dunford requesting additional funding.

Efforts to combat the growing refugee crisis along the Thai-Burma border could be expedited with this additional funding particularly if NGO's on both sides of the border were empowered with proper financing.

The Thai Government should not have to bear the burden of this refugee population alone. A clear signal must be sent that the international community is willing and able to assist the Thai, thus preventing the return of refugees to unsafe and unacceptable conditions.

The Richardson-Rohrabacher amendment increasing the migration and refugee assistance funds by $1 million will enable organizations working along both sides of the Thai-Burma border to facilitate the settlement of additional refugees.

Mr. Chairman, I insert for the RECORD a letter from Jack Dunford, chairman of the Burma Border Consortium.

THE CHURCH OF CHRIST
IN THAILAND,
March 20, 1995.

BURMESE BORDER CONSORTIUM
EMERGENCY UPDATE

The Burmese Border Consortium (BBC) six monthly report to the end of December incorporates a revised Appeal for 1995 and will be sent to you next week. The Appeal is for an increased budget of U.S. $5 million to cover a continuing worsening refugee situation.

The map shows the estimated refugee population at the end of February as 88,907, an increase of 12,000 or 15 percent since December. During March numbers have continued to increase and could now have reached 95,000. Most of the new arrivals are in the northern area, camps K1 to K6. Currently there is still military activity around the KNU 6th and 4th Brigade areas and there is still the potential for a lot more refugees from these areas if SLORC launches and all-out offensive.

The situation remains very volatile and extremely dangerous for both the refugees and NGO's working for them. SLORC and Karen rebels continue to make intrusions into Thailand, entering refugee camps, stealing rice, threatening, abducting and killing refugees. There is fear and panic and a small number of refugees (probably less than 2000) have returned to the Burma side.

Most of the new refugees have arrived in very remote areas which will be cut-off by road as soon as the rains start. This is adding to the normal burden of stockpiling supplies for the rainy season. The revised budget of U.S. $5 million is already 25% higher than 1994 but even this is based on a population of only 90,000 and a rice price of $580. We are currently paying $700 per sack for these new refugees.

The BBC is currently stretched to the limit. There will be a critical cash/flow crisis in April unless new funds arrive very soon, and any further increase in numbers will necessitate yet another increase in the budget.

It is difficult to estimate exact needs because many Donors have yet to indicate their proposed contributions for 1995. Present indications however suggest a shortfall of between U.S. $500,000 and U.S. $1 million for 1995. All Donors are urged to confirm commitments as soon as possible, and to transfer funds as quickly possible to support the rainy season stockpiling. We will issue another statement when the funding situation becomes clearer.

On a more optimistic note, the first reports of a Karenni cease-fire deal are coming through, the Mon are reported to be about to resume talks with SLORC, and even the Karens are said to be discussing possible negotiations. There is still hope for a better future, but the needs of the BBC programme are unlikely to reduce in 1995.

JACK DUNFORD,
BBC Chairman.

THE CHURCH OF CHRIST
IN THAILAND,
Bangkok, June 14, 1995

BURMESE BORDER CONSORTIUM 1995

EMERGENCY/FUNDING UPDATE NO. 4

Previous updates described two phases of the current emergency on the Burmese border. From January through March SLORC launched a major military offensive against the Karen National Union opposite Tak and Mae Hong Sen Provinces sending as many as 15,000 new refugees into Thailand. Although a de-facto cease-fire has been in place since then, the second phase of the emergency saw SLORC-backed Karen rebels entering Thailand, burning down refugee camps and attempting to pursuade the refugees to return to Burma.

At the time of writing the incursions have stopped and, for the relief agencies providing assistance, the emergency has entered a third phase. To improve security for the refugees the Thai authorities have ordered a consolidation of the camps located in the areas where incursions occurred. In Tak Province camps K8 to K14 are to be consolidated in two locations, Sho Khlo (K10) and Mae La (K14), and in Mae Hong Sen Province camps K1 to K7 are to be consolidated at Mae Ra Ma Luang (K7). For the time being all other camps will remain as before.

The consolidation of camps K8 to K14 has started (see map) and Mae La will eventually house a population of over 20,000. This has two implications for the relief agencies. Firstly we have been faced with unbudgeted expenses moving the refugees and establishing a new camp, and secondly the new town-size camp will have different dynamics than the old village-size camps. We have already incurred costs in buying building materials because there is not enough available locally and we will now also have to start providing firewood. The Ministry of Interior will set up office in the camp but wishes to maintain the low key, self-support nature of the relief activities as much as possible. The need for other support services however seems inevitable. It is hoped to complete this consolidation within a month although further moves have been temporarily suspended because of an outbreak of diarrhea resulting in at least four deaths.

Although the order has already been issued for consolidating camps K1 to K7, heavy rains could make this impractical until later in the year.

All of this has been taking place against a background of speculation that the refugees might soon start repatriating to Burma. This has been fuelled to some extent by the fact that only about 50% of the refugees are turning up at Mae La during the camp moves. Some are interpreting this to mean that the others have all chosen to go back to Burma, but there is no reliable information. Some certainly have gone back but others are probably hiding out elsewhere in Thailand. There have also been continuing new

refugee arrivals mostly escaping village relocations and forced labour.

The border situation is tense. SLORC seems to have reverted to a hardline policy against all opposition and refugees tell of ongoing human rights abuses throughout the border States. From our perspective there seems little justification to claim, as some do, that the situation has ''returned to normal''. There could still be further offensives or incursions resulting in new refugee movements. Relations between SLORC and Thailand are strained to the point that most border points are closed, construction on the ''Friendship'' bridge has been stopped, and both sides have been moving troops into border areas.

The result of all of this for the BBC is that we are facing additional expenditures because of the emergencies, and cannot rule out the possibility of new emergencies as the year progresses. Even without emergencies the BBC budget has not increased to over US$6 million for this year:

	US$
Food items	4,750,000
Household items/medical	370,000
Emergency items/transport	900,000
Administration	180,000
Total	6,200,000

Donor response has again been magnificent and this budget is currently covered by projected income totalling US$6,311,100.

	US$
ADRA	4,000
Anonymous	200,000
American Baptist Ministries	6,000
Anglican Church of Canada	7,000
Australian Churches of Christ	3,600
Bangkok Community Theatre	4,100
Bread for World, Germany	100,000
Burmese Relief Centre	16,000
Burma Action Group, UK	3,000
CAFOD, UK	20,000
Christ Church Bangkok	1,200
CARITAS Switzerland	255,000
Christian Aid—UK	159,000
Church World Service, USA	245,000
Canadian Council of Churches	180,000
Compassion International	6,400
DIAKONIA, Sweden	[1] 1,136,000
DOEN, Netherlands	[1] 15,000
Dutch Interchurch Aid	[1] 1,745,000
International Church BKK	2,000
International Rescue Committee	608,000
Jesuit Refugee Service	65,200
Korean Church	5,000
German Embassy	55,500
National C.Churches Australia	[1] 365.000
Norwegian Church Aid	[1] 168,000
Open Society International	30,000
Refugees International Japan	35,000
Swissaid	[1] 290,000
Trocaire	[1] 23,000
United Society Prop Gospel	3,100
ZOA Refugee Care Netherlands	560,000
Interest/Misc	4,000

[1] Part or all of these amounts have yet to be confirmed.

Funds from the Governments of Australia, Canada, European Union, Germany, Great Britain, Netherlands, Norway, Sweden, Switzerland and USA are channelled through these Donors.

Approximately US$3,650,000 has already been received but BBC is currently carrying no reserves. Donors still processing grants are urged to transfer funds as quickly as possible to avoid further cash/flow problems, and to provide cover for new emergencies.

Further funding appeals/updates will be issued if and when the situation changes.

JACK DUNFORD,
Burmese Border Consortium,
Chairman.

Mr. Chairman, the gentleman from California [Mr. ROHRABACHER] and I have had a long interest in this issue. Let me say that we have met with the chairman of the subcommittee, who has made a very, very strenuous effort to ensure that there are adequate funds for this effort.

□ 1615

Now, we have at this time $1.5 million that are allocated for the Thai-Burma border for the refugee crisis. It is the understanding of myself and the gentleman from California [Mr. ROHRABACHER] that the chairman will ensure that the funds that are in the legislation, that are in the refugee and migration account, will be moved over so that there will be a total of $2.5 million for this amendment.

For that reason, Mr. Chairman, the gentleman from California and I are considering withdrawing the amendment once we enter into a colloquy with the chairman of the subcommittee.

Mr. Chairman, let me just say that, again, the reason that there is this repression, that this is taking place on the Thai-Burma border is we have a government called the SLORC, easily the most repressive of all time, that clearly is in a situation where because of this repression they are increasing the number of refugees along their border. There are squalid, horrendous conditions on this border. The Thais do not have the funds to adequately ensure that they can deal with the refugee crisis. So what we are doing is, we are moving these funds and we are ensuring that there are adequate medical facilities and that the United States, the State Department has not entirely spent their budget on this effort. For some reason, they have said in the past, we do not need these funds. So what the practical effect of this amendment does is, it would move ahead with $2.5 million total for this effort.

The CHAIRMAN. Does the gentleman from Alabama [Mr. CALLAHAN] insist on his point of order?

Mr. CALLAHAN. Mr. Chairman, I withdraw my point of order.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to stand in support of my friend and colleague from New Mexico and everything that he stated. I would just say that there is a tragedy, an ongoing tragedy in Burma. The people of the United States have historically stood for freedom and democracy and if, indeed, we would continue this stand in Southeast Asia, many of the problems that we face today, like this refugee problem that is being expressed, talked about today, would not be confronting us. Unfortunately, what we have done in these last 4 and 5 years is we have tried our best to try to romance the SLORC regime. We have done our best, and the gentleman from New Mexico has done heroic deeds in the cause of democracy. Yet, trying to treat this dictatorship with kid gloves, trying to move them along outside of the arena of tyranny has not worked.

Today we are confronted with not only a monstrous repressive regime but refugees whose lives are in our hands today.

I just stand in support of my colleague's efforts and my colleague's amendment.

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

Mr. Chairman, I congratulate the gentleman from New Mexico for bringing to the attention of the House the need for additional refugee assistance along the Thai-Burma border.

The gentleman from New Mexico [Mr. RICHARDSON] as well as the gentleman from California [Mr. ROHRABACHER] have both been long interested in dealing with this matter. I know they have filed an amendment to add funds for refugee assistance in the area. I would appreciate them withholding their amendment, however. In return, I pledge to them that we will work with the State Department to ensure an additional $1 million is provided these refugees.

I know that $1.5 million has already been allocated for this purpose, but we will monitor the situation to ensure that these funds are spent for the purposes identified in the amendment.

I would like to thank both of the gentlemen for their efforts in this regard and for working with me and the committee to resolve the problem.

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

Mr. CALLAHAN. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, let me commend the chairman and his staff for their excellent work on this issue. The chairman is somebody who I know is very concerned about this issue. I just want to make it clear that based on what the chairman just said to me in the colloquy, that in addition to the $1.5 million that are allocated for the Thai-Burmese border, that the chairman, through his very strong efforts as chairman of this subcommittee, will ensure that an additional $1 million will flow to this account to make it a total of $1.5 million. Is that an accurate statement?

Mr. CALLAHAN. Mr. Chairman, I cannot assure that, but I will assure the gentleman that I will do everything I can to ensure that it does take place.

Mr. RICHARDSON. Mr. Chairman, if the gentleman will continue to yield, if that is the case, the gentleman from New Mexico and I know my friend from California are satisfied. I do appreciate

the chairman's word on this. We will, as the gentleman knows, have another amendment coming up on Burma which deals with the narcotics issue which we appreciate the chairman's support.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

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

There was no objection.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BURTON of Indiana: Page 13, strike line 18 and all that follows through page 14, line 11.

Mr. BURTON of Indiana. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 30 minutes, 15 minutes on each side, proponents and opponents of the bill.

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

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

Mr. CALLAHAN. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we had the markup in the Committee on International Relations on AID, I became very concerned because I thought that the cut in the operational budget was not sufficient. The chairman's mark cut the overhead for AID by about 10 percent. I wanted to increase that cut to about 20 to 25 percent.

I wanted to reduce the spending by $65 million. I brought an amendment to the floor of the House when the bill reached the House floor, trying to cut that $65 million, and my position did not prevail because it was agreed by the majority of the House that we should stick with the chairman's mark of $465 million.

I have talked to my colleagues on the Committee on Appropriations and I was under the impression that they agreed with the chairman's mark on the foreign aid authorization bill as far as the operational costs were concerned or the overhead was concerned.

Now I find that the chairman of the subcommittee has agreed to increase above the chairman's mark on the Committee on International Relations the figure by $29.9 million. In my view, this is an excessive amount of money, and it is a waste of taxpayers money.

We here in the Congress of the United States have cut our staffs by 30 percent. I felt like we should be able to cut the AID staffs by 20 to 25 percent, but we did not. We only cut them by 10 percent. Now we find that they are increasing in the foreign aid appropriations bill by $29 million the operational account.

I think that is a mistake. Let me just point out some of the reasons why I think that is a mistake.

I have here before me a message that alludes to what the ambassador in Chad thinks about the AID program over there. And the ambassador in Chad, according to this memo, said that this was expensive, an expensive development program in Chad since the 1979 and 1981 wars, and that it had little impact.

This involves, I understand, $2- to $300 million. And if you read further in this memo, you find that the AID officer over there said, and I quote: With the exception of one other officer who leaves June 15, the remaining personnel will be occupied with the administration of the closeout. And listen to this, this is very important, our parting gift of $4 million for Government officials' salaries in Chad will have been paid out to officials by the end of the May. They were giving them a goodbye gift of $4 million. This is the AID administration.

This is a waste of taxpayers' dollars.

I also have in my possession an amendment or a document that I read several times before. This document was sent out by Sally Shelton, the senior staffer at the AID office. And this went through their inner office memo system throughout the world. She said, Larry Byrne, the assistant administrator for management at AID, announced that AID was two-thirds or 62 percent through this fiscal year, and we have 38 percent of the dollar volume of procurement actions completed. We need to do $1.9 billion, that means spend $1.9 billion, in the next 5 months. Byrne also said there are large pockets of money in the field, so let's get moving.

What he was saying in essence was, we want to spend this money before the end of the fiscal year.

Now, in addition to that, Mr. Chairman, I would like to point out to my colleagues what AID has been spending some of their money on. This is what is called a gender analysis tool kit. A gender analysis tool kit, it costs $175,000. Nobody in this place really knows what that thing is for. AID has no business dealing with gender analysis tool kits. They are supposed to help developing countries with AID programs. And one of the subtitles, one of the booklets in this gender analysis tool kit says, sex and gender; what is the difference? A tool for examining the sociocultural context of sex differences. I would like to say to my colleagues on the Committee on Appropriations, what in the world is AID doing coming up with this kind of a program?

So finally, I would like to say that the chairman's mark, although I did not agree with it in the Committee on International Relations, did make a minor cut of 10 percent in the operational budget of AID. That is not enough. But most certainly, most certainly we should not be increasing by almost $30 million the $465 million that was in the chairman's mark at a time when we are trying to cut expenses.

My colleagues on the Committee on Appropriations are going to come back and say, we are cutting the appropriations by $400 million. That may be the case. But here is 30 more million you can add to it because it is not needed. We certainly do not need to be spending this money.

I submit to my colleagues that we should stick with the chairman's mark. It is a reasonable amount of money. It will deal with the AID expenses adequately. It will take care of their personnel and any people who are going to be cut or laid off because it has figured into it the amount of money it is going to take to close out those people in some of these offices around the world.

So, I submit to my colleagues, support my amendment. Cut AID by $29 million, go back to the Committee on International Relations chairman's mark. It is a reasonable figure. I urge the support of my amendment.

□ 1630

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

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the Burton amendment. The amendment would cut the $29 million supplementary add-on of AID's operating expenses in a new reform and downsizing account. While the purpose of the account is a good one, regrettably, the account was not authorized in the Committee on International Relations bill. I support the amendment of the gentleman from Indiana [Mr. BURTON] to keep control of spending in this bill.

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

Mr. CALLAHAN. Mr. Chairman, I would like to allocate half of the time allocated to me to the gentleman from Texas [Mr. WILSON].

The CHAIRMAN. Without objection the gentleman from Texas [Mr. WILSON] will be recognized to control 7½ minutes.

There was no objection.

Mr. CALLAHAN. Mr. Chairman, I yield myself 3½ minutes to speak in opposition.

Mr. Chairman, the committee recommendation truly does propose reduction of AID personnel and operations. We do not come into this issue ignoring the concerns that the gentleman from Indiana has. In fact, we applaud his enthusiasm toward attacking this agency

for some of their wasteful spending. Heis exactly right in some areas. However, he is wrong here.

What his amendment is doing, is taking away from the ability of AID to downsize. The $29 million he is talking about was money we put into the bill specifically earmarked to AID to downsize. If we take away this authority for them to downsize, I do not know how in the world they can downsize.

Mr. Chairman, an example is Radio Free Europe. They are in the process of reducing staff in Munich from 1,500 to 400 employees, and moving to Prague in the Czech Republic. The cost of downsizing is $130 million, more than half the size of Radio Free Europe's annual budget.

AID has already cut staffing by 18 percent below the level that existed at the beginning of fiscal year 1994. The total of $29,975,000 is being proposed for reform and downsizing activities.

The committee intends for the funds to be used as follows: $4.7 million for severance pay, which we have to pay, for general services employees; $11.2 million for the return home of directors that are overseas, general service, foreign service, and contractor employees, including moving expenses and employee closeout costs; $12 million of the money must be used for mission closure costs, and foreign national severance pay.

We have entered into a contract with these foreign nationals, who have worked in conjunction with AID efforts. Under contract with those countries, we have to pay those employees severance pay. I did not make that arrangement. The United States of America made the arrangements. We are obligated. We cannot just say ''Well, Congressman BURTON said we could not have the $29 million.'' We have to pay that money.

Mr. Chairman, I concur in the sense that we ought to be downsizing AID, but I do not concur in this amendment. We already have downsized AID in our appropriation bill. We have acted responsibly, We have reached a bipartism commitment between the minority side and the majority side. We recognize the concern of the committee that the gentleman from Indiana [Mr. BURTON] so eloquently serves upon and speaks about. At the same time, I think we must be responsible. If we are going to downsize, we have to give them a van to close them out and to move them home. That is what this $29 million does. It is earmarked specifically for reduction in force. Mr. Chairman, I would urge a ''no'' vote against the Burton amendment .

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I talked to the gentleman's staffers in the Committee on Appropriations and asked them where they got the information. They told me they got the information the gentleman just quoted from AID officials.

Mr. CALLAHAN. Reclaiming my time, Mr. Chairman, where would we get the information? Would we go ask someone on the street ''How much would it cost to close down an office in Ethiopia?'' We do not know that answer. We have to depend upon the agency to tell us how much money they need to downsize. They told us that to downsize that is what it would be.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just like to say to my dear friend, the gentleman from Alabama, that when you call a bureaucracy like AID, with which I have worked for 12 years, and ask them if they need more money for closing down, we must expect they are going to say ''We need more money for closing down.''

I have worked with this agency, like I said, for 12 years. I can tell the Members, no matter how much money we say they are going to cut, they say they need more. I am not saying my colleagues are naive because they are very intelligent people, but I do not think we should rely on people from AID.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I ask my colleagues to look at this amendment very closely. This is amendment No. 57, and it is double-barreled.

First, it takes away the downsizing account money, and as the chairman of the subcommittee said, this is going to affect it all over the world. We closed about nine offices, six in Africa alone. Of course, there are commitments there before you can close them about leases and moving and things of that nature.

It also affects our operation in Asia and Latin America, but specifically Africa. We have to give credit where credit is due.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON of Florida. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. This is amendment No. 14, Mr. Chairman, I would tell the gentleman.

Mr. JOHNSTON of Florida. The same premise, Mr. Chairman, to eliminate this. That is $30 million, which I think the committee very graciously put the money in there. I know from experience, Mr. Chairman, and being in Africa, being in Botswana, where the regional office was closed, myself, without going to AID, the fact that is going to be a substantial amount of expense involved.

Mr. Chairman, in others areas of Africa, and particularly in the francophone countries where there are leases involved, I think in that case we are going to have to give credit where credit is due in the fact that AID is doing an excellent job here. I just think that by eliminating this fund, this is very shortsighted. I strongly request my colleagues to defeat this amendment. The fact that we spent $175,000 for gender analysis does not mean that we have to cut them by $29.9 million.

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

Mr. Chairman, there is not much more to say. It has all been said. This is an amendment to cut $29 million from an account that has already been cut by $52 million. The money is necessary for a businesslike, logical downsizing, for it to be done in a way that exercises good business judgments. The people do have to be moved. This reduction would particularly impact AID programs in Eastern Europe and the former Soviet Union. We have already reduced those significantly.

I just think that further reduction in AID would impact children's programs, programs that are labor-intensive, but most of all, it would act as a deterrent to a logical, rational downsizing approach.

Therefore, Mr. Chairman, I would ask my colleagues to vote against this amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Indiana [Mr. BUYER].

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

I would like to make four points, Mr. Chairman. One is a special appreciation to the chairman, the gentleman from Alabama [Mr. CALLAHAN], for the good work he has done, along with the new ranking member, the gentleman from Texas.

The other point I would like to make is an appreciation to the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for making this amendment in order, because in prior congresses it would be suspect whether it would be in order or not.

The second argument I would like to make is an argument of process. We have proceded under the rules of the House. We set up authorizing committees and we set up appropriators. If we want to ignore the rules of the House and need to do that, then let us get rid of the Committee on Appropriations and put it all in one. We have done that. History has shown we have tried that before.

What we have tried to do under this Congress is to stop the sieve of the money. This is one of the experiences I learned in the 103d Congress, was if you did not get a project, if it was not authorized, or you did not get the amount that you wanted from an authorizing committee, run off to the appropriators and they will appropriate money that either was not authorized or is in excess of the authorizing amount. If we have monies here in excess of the authorizing amount, that should not be made in order. However, it was made in order. I understand that. Now we are here on the House floor as a matter of process and procedure.

Mr. Chairman, I appeal to the consciences of my colleagues to support this amendment and to support the authorizing committees, and not to support the appropriators spending money in excess of that which is authorized.

The fourth point I would like to make is that on substance. All of us are beginning to learn there are more and more, tons of studies out there referencing AID. The Agency for International Development has become a bureaucratic beast, a beast for which, the gentleman from Texas [Mr. WILSON] is smiling, he understands what it is about. It is very difficult to rein in the excesses of that. I think the two gentlemen working together are beginning to do that, but I think that AID is a bureaucratic beast which Reagan could not reform, Bush could not reform, and President Clinton is having a very difficult time reforming. I think this House is going to have to take the leadership to reform it. Please support the Burton amendment.

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

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

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

AID is already in the process of downsizing and restructuring. Hiring has been frozen for almost two years, and will continue through fiscal year 1996. Twenty-one AID missions are being closed. The national performance review eliminated 1,200 jobs, and the authorization passed several weeks ago will reduce staff by another 400. These actions already underway represent a 20-percent personnel cut.

Further reduction of AID funding will impede management and oversight of the taxpayer's money and the programs which it funds. It will also increase job losses and complicate AID's efforts to transition to a smaller, more streamlined agency while still maintaining itself as a coherent and accountable institution.

Even without this amendment, the bill is $14 million short of the amount AID says it needs to carry out its mission while downsizing and streamlining its programs and personnel. Further cuts will only complicate and disrupt this process.

Mr. Chairman, I urge Members to oppose the amendment.

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

Mr. Chairman, let us get the facts out here. Let us stop and reflect on where we are. First of all, Mr. Chairman, the authorizing committee authorized a sum of $465,750,000. The appropriations subcommittee and the full committee recommended the exact same amount.

The gentleman from Indiana [Mr. BURTON] has so eloquently found issues such as this throughout the entire 10 years I have known him, and I applaud his efforts of bringing these matters, such as this horrible box of information that AID has printed. I knew nothing about that. I think it is great that he brings these things to our attention.

However, the gentleman from Indiana [Mr. BURTON] also came to me and said ''SONNY, we need to downsize. We need to reduce the AID staff. We need to bring home some of these people from overseas.'' I do not want anybody in this country or in this room or anywhere in this city to think that I am up here trying to increase aid for anybody, much less AID.

Therefore, what we did in response to the request of the gentleman from Indiana, we went to AID and said ''We are going to force you to downsize. We are going to include $29 million in this bill, and we are going to say that you can only use this, and you must use this, to downsize your operation, because the Congress of the United States is demanding it.'' What we did was a responsible thing. We provided them with a moving van to bring these people home, with an opportunity to pay the severance pay when necessary in these foreign countries, not to just walk out of there and have us have to come back next year and ask for even more money.

Therefore, Mr. Chairman, I felt when I got with the minority and when I got with the subcommittee's ranking member, the gentleman from Texas, and we worked this out, I insisted that the wishes of the gentleman from Indiana [Mr. BURTON] be fulfilled; that we send a strong message to AID, and that at the same time, we afford them the opportunity by the $29,000,000 that we put in there, especially earmarked, cannot be used for anything else, that we were doing a service to the gentleman from Indiana, I thought.

Now he comes and says he wants to remove the $29 million. If we do not give them the $29 million, how are we going to downsize?

□ 1645

I think that we have done the responsible thing. I urge Members to vote ''no'' on the Burton amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the other body, the authorizing committee over there was below the chairman's mark in the House by $33 or $34 million, so you have two of the authorizing committees that are well below the figure that the appropriators are coming up with here today.

The thing that bothers me the most is not that my colleagues are not well-intentioned. I have the highest respect for both the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN], but my problem is that they are believing the people over at AID. I have worked with those people for 12 years. Mr. Chairman, I am not accusing them of being liars, but I am saying they stretch the truth an awful lot.

The chairman's mark on the Committee on International Relations was set at $465 million. That is a 10 percent cut.

Let me give a figure that will surprise my friends on the Committee on Appropriations. Since 1985, AID's program costs have gone down by 23 percent. The money they are spending for worthwhile projects has gone down 23 percent. At the same time that their costs for programs have gone down 23 percent, they have increased their overhead by 41 percent.

How can you cut the size of your programs by 23 percent and at the same time increase the number of personnel and the overhead by 41 percent? It is obvious there is inefficiency in that agency, major inefficiency.

That is why the chairman's mark on the Committee on International Relations cut them back to $465 million. I came to your office and wanted to cut it back to $400 million or less, but it could not be done, according to the people on the staff of the Committee on Appropriations.

Now you are coming back and saying you want to increase it by $29 million over the chairman's mark on the authorization committee. I just do not understand that. When you say the reason that you are increasing it by almost $30 million is because, quote, AID says they need the money to close down, what evidence do you have except their word?

Mr. Chairman, if you went to any single bureaucracy within the jurisdiction of the Congress of the United States, any one of them, they would tell you they need more money for closing down or downsizing. The fact of the matter is the only way you are going to cut those bureaucracies is to say, ''Hey, we're cutting you by 10 percent. You figure out how to do it.''

If one were in any business, and I know the gentleman from Alabama was a businessman before he came to Congress, if you have to cut your overhead or go in the red and go bankrupt, you would call your staff in, you would call your board of directors in and you would say, ''Hey, how do we get from here to there? How do we cut the spending?'' And you would say, ''We've got to do it or we go bankrupt,'' and they would figure out a way to do it.

Mr. Chairman, the AID bureaucrats will figure out how to live without this $30 million. We are telling the taxpayers of this country they are going to have to do with less. We are cutting programs, domestic programs, left and right. Now here we have a chance to stick with the chairman's mark on the Committee on International Relations, and you are telling me you want to go $30 million above it? I do not buy it.

I hope my colleagues in this body will see fit to live within the chairman's mark on the Committee on International Relations, save $30 million, live within the budget, do the

right thing and save the taxpayers money. I absolutely guarantee, AID will be able to live with it.

Mr. ROTH. Mr. Chairman, this is a very important amendment, for two reasons.

First, it waves $30 million for the American taxpayer, by cutting out unnecessary funds for AID operating costs.

Second, it sends a message to the bureaucracy that business as usual is over. Let me explain the legislative situation. Many of us in Congress have been pressuring AID to downsize.

It is a bloated bureaucracy, which is spending $546 million for salaries, travel, office space, and operating costs. That is more than half a billion dollars to operate programs that total $6.5 billion. What is AID's response to downsizing? They are demanding another $30 million! Only in the Federal Government does downsizing translate into spending more money, not less.

Everywhere else in America, downsizing means reducing in size, cutting costs and saving money. But not in Washington. This is why the Burton amendment is so important.

This amendment says that downsizing means spending less money, not more. It says to AID: reduce your operating costs, like the rest of America. Vote for the amendment, save $30 million and tell AID to cut its costs.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 182, not voting 14, as follows:

[Roll No. 423]

AYES—238

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeFazio
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kim
King
Kingston
Kleczka
Klink
Klug
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Lincoln
Linder
Lipinski
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Zeliff

NOES—182

Abercrombie
Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Bateman
Becerra
Beilenson
Bentsen
Berman
Bishop
Bliley
Bonilla
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Callahan
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Davis
de la Garza
DeLauro
DeLay
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennelly
Kildee
Knollenberg
Kolbe
LaFalce
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McKinney
McNulty
Meek
Menendez
Miller (CA)
Mineta
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skeen
Slaughter
Spence
Spratt
Stokes
Studds
Tejeda
Thompson
Thornton
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Ward
Waters
Watt (NC)
Waxman
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—14

Camp
Collins (MI)
Ford
Furse
Gunderson
Gutierrez
Jefferson
Lantos
Laughlin
Mfume
Moakley
Reynolds
Torricelli
Zimmer

☐ 1709

Mr. TUCKER changed his vote from ''aye'' to ''no.''

Mr. KLUG, Mr. DICKEY, and Mrs. CUBIN changed their votes from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. HALL of Ohio: Page 7, strike line 18 and insert the following: ''CHILDREN AND DISEASE PROGRAMS FUND''.

Page 7, line 23, strike ''$484,000,000'' and insert ''$592,660,000''.

Page 8, line 6, strike ''and (7)'' and insert ''(7) basic education programs, and (8)''.

Page 8, line 16, strike ''$669,000,000'' and insert ''$655,000,000''.

Page 14, line 22, strike ''$2,326,700,000'' and insert ''$2,300,000,000''.

Page 30, line 17, strike ''$167,960,000'' and insert ''$100,000,000''.

Mr. CALLAHAN. Mr. Chairman, would the gentleman from Ohio [Mr. HALL] yield for a unanimous-consent request?

Mr. HALL of Ohio. I am glad to yield to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, would the gentleman object to placing a 1-hour time debate on this with the time equally divided?

Mr. HALL of Ohio. Mr. Chairman, I would not object.

Ms. SLAUGHTER. Mr. Chairman, reserving the right to object, I object, really, on the grounds that this is a very important amendment and it has just come to my attention.

The CHAIRMAN. The gentlewoman from New York objects.

Mr. CALLAHAN. Mr. Chairman, if the gentlewoman will yield, will the gentlewoman agree to any time limitation?

Ms. SLAUGHTER. Mr. Chairman, I would object to a time limit on the grounds that this is a very important amendment and it has just come to my attention that the money from this amendment is coming from family planning. And we would like to have a thorough discussion of it.

Mr. CALLAHAN. Mr. Chairman, if the gentlewoman will yield further, would the gentlewoman object to any

time limit so that we could give the Members an opportunity to go and eat or do whatever? But if we just had some time limitation, something reasonable, I am willing to accept anything the gentlewoman would like.

Ms. SLAUGHTER. I regret, Mr. Chairman, I did not want to object, but I wanted to make certain that everybody has the opportunity to discuss this.

□ 1715

The CHAIRMAN. The gentleman from Ohio [Mr. HALL] is recognized for 5 minutes.

Mr. HALL of Ohio. Mr. Chairman, this amendment, known as the ''Children's Amendment'', is being introduced by myself and my colleague, the gentleman from New York [Mr. HOUGHTON].

Our amendment transfers $108.66 million from other foreign aid programs to ones that specifically save children. Our amendment is budget neutral. We have found the enabling funds within other foreign aid programs including development assistance ($14 million), the economic support fund ($26.7 million), and the Asian Development Fund ($67.96 million). With all the cuts that foreign aid has received in the last few years, we must prioritize. We will save and improve millions of lives by making this transfer.

Mr. Chairman, 5 years ago, I attended the World Summit for Children in New York. In New York, 159 world leaders, including President George Bush, agreed to aim their nation's foreign aid resources at a few practical and achievable goals. We agreed to reduce child deaths by at least one-third, to reduce maternal deaths and child malnutrition by one half, and to provide all children access to basic education.

Many of you well know I have sought to champion these causes by ensuring that the United States contributes its fair share to the noble vision of the World Summit.

Mr. Chairman, ever since 1984, when I personally witnessed the unnecessary deaths of over a dozen infants in Ethiopia, I cannot seem to rest until I feel comfortable that we are doing all we can to avert such horrible tragedy. These children, whom I held in my arms, visit my conscience each and every day.

As policy makers who work closely with the programs that save these kids, AMO HOUGHTON and I have seen the incredible results products by focussing on child survival and basic education programs. Millions and millions of young girls, for instance, rarely make it past the fifth grade and perpetuate a cycle of poverty their families can never escape.

For each additional year of schooling these children receive, their incomes rise by 10 percent. By learning to read and write and to take care of themselves and their children, they cease being recipients of foreign aid and become instead economic players purchasing America goods.

We are at an extremely critical juncture today. The World is watching the Congress. The World is watching our new leadership in Washington. We have the chance to do the right thing for innocent, destitute, and dying children. What I am asking for will cost no more than the total amount currently in the foreign aid appropriations bill. What I am asking for is for us to prioritize children by transferring $108.66 million from other accounts in this bill. These accounts are simply not as important as saving and improving the lives of millions of starving children who have absolutely no hope of a whole life.

We have made progress toward the goals that President Bush agreed to. It would be a big mistake to end our commitment before we finish the job. I remember some years ago saying that six vaccine-preventable diseases such as measles and tetanus were killing 5 million kids each year, and then 4 million. Now I am here to say that the same preventable diseases are taking 2 million lives a year. This is a legacy that Congress can be proud of. It is a legacy our Congress should continue.

Here is the legacy for Congress I would like to see. It is a legacy where we stood up to the task of stopping 2 million preventable child deaths next year. It is a legacy where we faced the fact that almost one-half of all rural women remain illiterate and more than 100 million children, mostly girls, are not in primary schools.

This amendment does not add one extra dollar to the appropriations bill before us today. Mr. HOUGHTON and I have provided modest cuts in other programs under this bill in order to save these most precious children. I think the areas which we propose to slightly reduce—the Economic Support Fund, the Asian Development Fund, and the General Development Account—can sustain the cuts we have in mind. Simply put, children come first.

Mr. Chairman, I am proud of the new protected Child Survival and Disease Programs Fund that the new leadership has created. Let's put our very limited dollars where they can really make a difference. This is the kind of foreign aid the American people like. It is the kind of foreign aid we can all be proud of, citizens and legislators alike.

The CHAIRMAN. The time of the gentlemen from Ohio [Mr. HALL] has expired.

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. HALL of Ohio was allowed to proceed for 2 additional minutes.)

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

Mr. HALL of Ohio. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. There is nothing I want to do more than agree with the gentleman, but the way I read this is these cuts are coming out of the funds that go to international family planning, too, and I am very troubled by that because as we just finished the Cairo conference, where we talked about empowering women and that women should have the choice to decide whether they are going to be productive or reproductive, we are really going at this by doing that, and I am really very saddened by the gentleman's amendment.

Because I would jump on it in a minute except for the fact that it appears from the way I read it, it comes right off of the area where we have already made cuts but where we would be funding our family planning programs.

Mr. HALL of Ohio. The area that you are talking about is the development assistance account. I do take $14 million out of there. I take $67 million out of the Asian development bank of which I can explain a little bit later. I take approximately $26 million out of ESF.

The $14 million that I take out, in my opinion, is minuscule in what I am trying to do, because what happened in the last couple of years actually, before 2 years ago, we had an account called basic education. In this complete bill here, there is not a mention even in the committee report of basic education. Basic education goes for women and children. It goes for the teaching of breast feeding, the boiling of water, teaching women and children how to read and write.

I felt it necessary to take moneys out of certain funds, put basic education in the amendment and be sure at least that basic education got its fair share.

Mrs. SCHROEDER. I understand what the gentleman is saying. I just am very, very saddened because pitting mothers against children is not the way I would go in this amendment. That is how I read this amendment.

When you are going after a fund that has already been gone after, after the United States decided at the Cairo conference that if you worked really hard to empower women and children, I think we are going the wrong way.

Mr. HOUGHTON. Mr. Chairman, I move to strike the last word to speak on the amendment.

Mr. Chairman, I would like, if the gentlewoman from Colorado would just hold on a minute, I would like to get specifically to this issue that she talks about. Then I would like to talk on the general amendment.

As I understand it, there are three areas the money for this Houghton-Hall amendment would come from. One of them is the economic development assistance program. There are a variety of areas in there. There is economic development. There is environmental development. There is the population issue. And then there is the basic education.

In talking to the people in that specific area, they said they were going to spend on basic education, this is out of a fund of $669 million, $14 million, so all we are doing is taking that $14 million, making sure that it is spent for basic education, not taking it out of anything else, so the remaining amount of money is going to be spent exactly as it was before.

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

Mr. HOUGHTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Now, my understanding is that really because of an amendment we passed, did we not change that $669 million? Did not the gentleman from New York [Mr. GILMAN] lower that figure? I mean, we have already tapped into that fund once.

Mr. HOUGHTON. It was $840 million. Now it is $669 million.

Mrs. SCHROEDER. Now it is down to $669 million? I thought it was lower than that. It has already been cut quite a bit.

Mr. HOUGHTON. It has already been cut. None of us are particularly happy about that, but with the amount of money remaining, the basic education, according to the people who are running the program, would be $14 million. All we are doing is taking that out. That would not have affected the population or environment or economic development funds anyway.

Mrs. SCHROEDER. If the gentleman will yield further, then what I hear the gentleman saying is that my interpretation is incorrect, that you are not going to touch the funds?

Mr. HOUGHTON. We will not touch the population or environment or economic development funds. We will not even touch the basic education. The problem is that with taking any amount of money out of any one of these categories, we are going to be separating those amounts of money, the $14 million, putting it in a different category, but the same amount of money would have been spent, in any event.

Mrs. SCHROEDER. If the gentleman will yield further, the way the gentleman's amendment is written, it does not say that. It takes it out of the top number, so you could take it out of environment and you could take it out of family planning, the way I read it.

Mr. HALL of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. I would just like to add, what we are doing is basic education could be funded out of the development assistance fund to the tune, because there is $669 million; what I am doing is freeing up the fund of basic education and transferring $108 million into the children's account and saying spend the basic education money in that account.

Mr. HOUGHTON. Reclaiming my time, just let me go for the basic numbers. It was $840 million for this entire category with four subsections. It is now $669 million. We want to bring it down to $665 million.

The only change is that the money which already would have been spent in that $669 million, the $14 million, is going to be pushed aside to make sure it is spent on basic education. None of the rest of the moneys, according to their plan, would be affected at all.

Mrs. SCHROEDER. Except, if the gentleman would yield further, you are still lowering it by $14 million, and it has got to either come out of family planning or environment.

Mr. HOUGHTON. It lowers it in a total sense. In terms of a practical allocation, it does not affect those other three categories, because they were going to spend $14 million anyway out of the $669 million.

Mrs. SCHROEDER. So you are saying you lower it by that and transfer it to another category?

Mr. HOUGHTON. Transfer what already we spent to another category, to make sure that small amount of money of the $669 million is going to be spent on basic education.

Mrs. SCHROEDER. If the gentleman would yield further, I understand what the gentleman is saying. That makes me feel better. I do not see where it says that in the amendment, and I am terribly frightened they would take the $14 million out of there.

Mr. HOUGHTON. It probably does not, but this is according to the people who would be allocating and spending the money.

I think I am sort of running out of the 5 minutes, but I thank the gentlewoman very much.

I would like to say in conclusion that I support what the gentleman from Ohio [Mr. HALL] is doing. I respect him. I think it makes a lot of sense.

The agony is when you shift funds at all. Absent that, this would be an absolute no-brainer.

But I think it is the right thing to do, and I can give you chapter and verse out of my own experience, and I hope this will be supported.

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

Mr. Chairman, I want to start off by saying how much respect I have for the gentleman from Ohio [Mr. HALL] and for many of the causes that he has been behind, especially with respect to humanitarian rights and to starving children, and I would like, as soon as he can, for him to give me his attention, because I want to direct part of my talk to him.

I want the gentleman from Ohio [Mr. HALL] to know that the American people gave us a strong message last November. They told us they wanted us to come to Washington, and they wanted us to cut spending, and they told us at the same time they wanted us to reduce everything. They did not say, cut everything but spending on foreign aid. They said cut foreign aid.

During this process, I, like you, have been concerned about the children of the world who are destitute and starving and who need immunization programs, and out of respect for you, I came to you and I said we must do one thing, if we are going to reduce foreign aid, which we are going to do, then we must protect the number one priority, and that is the children., We did not want to look at the television set and see starving children and know that we could have done something about that by sending them food or medicine.

□ 1730

So, out of deference to the gentleman from Ohio [Mr. HALL] and others we created a new account called the child survival account, and in the child survival account we said to the administration, ''You must take this money, and you must spend it on needy children throughout the world.''

I say to the gentleman, I thought I was doing exactly what you wanted me to do.

Mr. Chairman, I am proud of the fact that this Congress and this committee has brought to this floor a measure that still reduces dramatically foreign aid, but at the same time prioritizes the use of what limited amounts of money we will have for child survival needs, and now I see the gentleman comes and says that, ''You want to also increase the child survival account, increase it by taking away $126 million from the Development Assistance Fund, $68 million from the Asian Development Fund, and $17 million from the Economic Support Fund to do something for basic education for adults.''

The child survival program was intended, and is intended, and is in my bill because I was concerned, and I thought the gentleman was just as concerned about children of the world and need immunization, who need basic foods, we need a survival capacity that the United States of America can deliver in the form of food and medicine, and now we are saying that we also want the child survival account to educate adults in some countries.

I think that we do need to help educate some adults in other countries. I think we need to help educate some adults in this country. But I do not think that we ought to violate the child survival account by now including a mishmash of things by saying that we ought to also take money from other accounts, put it in my child survival account, and start educating people through basic adult education.

I say to my colleague, If you wanted to do that, I think that you should have come with an amendment, not put it in the child survival account, not even renamed the child survival account. I don't think you should have done that, but that's the gentleman's prerogative, but I would assure you, by, first of all, taking away from the Asian Development Fund, you are costing thousands of possible exporting job situations here in the United States because the Asian Development Fund is utilized to make things better for people and to give them a monetary possibility to develop the underdeveloped countries of Asia.

So, as my colleague knows, he has got me almost lost because when he came to my office there was nothing, there was no assurance, that the United States would do exactly what he has

been wanting to do ever since the day I first met him, and that is to provide a capability to feed starving children and to provide immunizations, and now he is coming and saying, ''Let's expand the child survival account. Let's also put this itinerary here where we are going to increase the possibility of America spending money to educate adults in foreign countries.''

Mr. Chairman, the American people do not want that. I do not want it in my bill. That is not the intent of the section that I included. My intent was to make absolutely certain that we would prioritize what limited amounts of money we are going to have available in 1996 for child survival, not adult education.

So, I strongly oppose the amendment, and I would ask my colleagues to recognize the purpose of the child survival section in my bill, and that is child survival.

Mr. HALL of Ohio. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection the Chair recognizes the gentleman from Ohio for 5 minutes.

Mr. HALL of Ohio. Mr. Chairman, I appreciate everything the gentleman from Alabama [Mr. CALLAHAN] has said. He is a very distinguished gentleman. I have had a number of talks with him about this. He is very much of a gentleman, and I appreciate the kind of constraints that he is under. But I must tell my colleagues I can remember debating this bill when this bill was around $20 billion, and then $18 billion, and now it is at a little bit under $12 billion for foreign operations. We have cut this bill since 1985 by 40 percent, and it is interesting. I say to my colleagues: As you ask people in the country about the kinds of programs that I'm talking about, child survival activities, they believe in this. But it is also they did a poll in the United States, and they asked people what portion of the Federal budget should go to foreign aid, and most people thought that the portion of the Federal budget that went to foreign aid was around 18 percent. That was the average. Then they asked the American people, ''What percentage do you think it should be?'' The average guess was, the average what they thought was right, was 8 percent.

Well, the fact is that this is 1 percent actually of our total Federal budget. It is less than 1 percent of what we are talking about today.

I applaud what the gentleman has done in putting a parentheses around child survival activities. That is the only part I like about the bill because the other part in development assistance has been cut by 40 percent, aid to Africa has been cut by 34 percent, and there are a lot of programs in there that ought to be in there that are not in there. But the one good thing that I believe that the gentleman did is the parentheses, the special category for children, and what the gentleman said, we are going to put so much money in this for children, for child survival activities, basic nutrients, AIDS, UNICEF, immunization kinds of programs, ORT and et cetera.

The gentleman added seven categories. I added another one. I made 8, and I add basic education because the gentleman forgot to include that, and we have funded basic education for years here to teach mothers about nutrition, to teach mothers reading and writing, to teach mothers about breast feeding, and boiling water and those kinds of things that eventually not only bring down the populations through the studies we have, but increase the gross national product.

Mr. Chairman, we only have so much resources, and I am saying, and some of us are saying, that this is the best money that we spend overseas. It is spent on child survivor activities, women and children. We get more mileage out of this.

As I said in my opening statement, years ago 5 million children were dying. Because of our efforts, then it was 4 million, then it was 3 million. Now is down to 2 million. We made that goal, and we have something to look forward to. We could end it, and we end it by these programs, and that is why I am saying we only have so much money, we must prioritize.

I say, I say, put the money here.

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

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

Mr. GILMAN. Mr. Chairman, I reluctantly rise in opposition to the amendment offered by my good friends, the gentleman from Ohio [Mr. HALL] and the gentleman from New York [Mr. HOUGHTON].

I must agree with the arguments made by the manager of the bill, the chairman of the subcommittee, Mr. CALLAHAN.

The amendment would cut the development assistance account by $14 million and the Economic Support Fund by $27 million as part of its effort to provide additional funds for the Child Survival and Disease Fund. In addition, it would cut the Asian Development Fund by $68 million.

The Economic Support Fund contains, apart from any funds intended for Israel and Egypt, only about $250 million for economic political support for the entire world. With these funds we provide assistance to Jordan, Lebanon, on the West Bank and in Gaza, to developing democracies in Africa, Asia, and in Latin America. When we passed H.R. 1561 less than 3 weeks ago, we made prudent cuts so that this program will be funded below last year's level and below the President's request.

But there must be a limit. We must provide the President with some assistance tool with which to attempt to shore up our friends. We would be going a long way toward tying the President's hands if we cut it by the nearly 10 percent contemplated by this amendment.

I think that the decision made by this House last week on the overall size of the combined development assistance account, which at that time included the Child Survival Fund, should likewise be upheld. Also, as a strong supporter of family planning programs, I urge a ''no'' vote.

Furthermore, the Appropriations Committee has looked at the subdivision of funds between the Child Survival Program, on the one hand, and the development assistance account, on the other, and made a recommendation to this House. They have also taken a hard look at the Asian Development Fund, and recommended support for it.

Mr. Chairman, we need to keep long-term development in mind, as well as the pressing needs of individuals who are in need of immediate assistance. The Appropriations Committee has made a reasonable decision, and I think we should not overturn it.

To further clarify, this amendment would transfer $14 million from the overall development assistance account to Child Survival. Simply put, it would mean that there would be fewer funds for family planning activities, among others, out of the development assistance account.

Accordingly, I urge my colleagues to oppose the Hall amendment.

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

Mr. Chairman, I rise to speak in favor of the Houghton-Hall amendment, and I am glad to speak in favor of a bipartisan effort to make this bill better.

I have listened to the debate, and oftentimes we cannot say that in this body, that we have been in the room and we have listened to the debate, but I have had the opportunity, since coming over to participate in it, to listen from the beginning, and I heard the concerns, Mr. Chairman, expressed about the family planning money, and I, too, am very concerned about that.

I did make the effort and had the opportunity to talk to the sponsors of this amendment, to other Members who are deeply involved in this amendment and to professional staff, and have been assured by them that this will not cause a reduction in family planning spending because we should not cause a reduction in family planning spending, but by the same token we do need at the same time, we do need to increase spending on education through these programs. Only through education can we achieve true freedom around this world. Only through basic education and basic skills training, as the gentleman from Ohio [Mr. HALL] has spoken of, can we achieve true freedom for all citizens of this world because only through education do people have the opportunity to have more control over their lives, whether it is through family planning or through taking advantage of economic opportunities.

So, for those reasons, I speak in strong favor of the Hall-Houghton amendment and praise the sponsor for his work. I, too, have had the opportunity of being in the Third World, of seeing the conditions that bring rise to these needs, of seeing the conditions that can be helped.

As the sponsor of the amendment said, we have seen a decrease in infant mortality around the world. We need to continue that, and for that I applaud him and support the amendment.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Hall/Houghton amendment and would like to particularly thank my good friend, the gentleman from Ohio for the tremendous work and commitment he has put into this and other child survival issues for so many years.

Having had the privilege of serving as the first vice chairman of the former Select Committee on Hunger, I had the honor of working with then-chairman Mickey Leland and his successor, Mr. HALL, to make important reforms in U.S. hunger policy and to make the public better aware of the plight of the hungry.

Although the Select Committee on Hunger which Mr. HALL chaired is gone, our obligation is not. As the wealthiest and most advanced nation in the world, the globe's last remaining superpower, we continue to have a moral responsibility to help alleviate the problems related to hunger.

The Hall-Houghton amendment moves us toward meeting that obligation. In essence, Mr. HALL would reprogram $109 million from the development assistance account to the child survival account to be used for basic education—primary and secondary schooling and adult literacy and skills training. By providing this level of education to children living in developing countries we are taking a critical step toward ensuring sustainable development is successful.

These programs are often carried out by NGO's [Non-Governmental Organizations] to teach children how to read and write and mothers the importance of cleanliness and hygiene.

In recent years, Members of the House have continued to recognize the importance of basic education as a means of advancing sustainable development throughout the world. By investing in basic skills, we are equipping impoverished children to become self-sufficient as they grow older while giving them a better understanding of how to utilize the resources around them so that their communities can prosper. Without a basic education, how can we expect developing communities receiving U.S. assistance to most effectively use the funds that we are providing and rise out of poverty?

The question arises: what do we in the United States get out of this proposal?

Simply put, basic education is an invaluable investment for us because it is a necessary tool for sustaining long-term development. In many respects, it should be viewed as critical seed money by which children, their families, their villages and eventually, whole economies become more independent and self-sufficient. Consequently, they will rely less on us for future aid.

Just as we recognize here in the United States the importance for every child to receive an education, so too must we recognize this need for impoverished developing nations throughout the world. And, because in many of these nations access to basic education is often not readily available, we must work to make it more available.

Throwing good money after bad if we fail to target this money in the most cost-effective way.

The other issue facing this amendment is the funding question. First, the Hall-Houghton amendment would transfer basic education from the development assistance account to the child survival account. This is necessary because basic education is an important component of child survival. If we lump it together with other development assistance such as population, environment, and economic growth programs, there is a real possibility that basic education programs will lose out to these larger and more popular programs and this could significantly impact our attempts to achieve substantial development.

Second, the amendment would transfer an additional $108 million from three other accounts to the child survival account to fund basic education. Let me repeat, the amendment is budget neutral and does not add funding to the bill but rather finds offsetting spending reductions to support this funding—a critical distinction between this and other amendments that might also be offered today.

This represents a proper order of priorities. Without basic education, we will limit efforts to achieve progress in sustainable development, and we will have less ability to make advances in agriculture, health, and other areas critical to economic and social progress. As populations continue to grow throughout the world, we must make sure that these communities at least receive the bare minimum of basic education so that they don't languish in hunger and poverty forever. Such a small contribution on our part will reap innumerable benefits in the future.

Once again, I would like to congratulate my two colleagues for their efforts on this issue and for bringing it to the attention of our other colleagues. I urge support for the Hall-Houghton amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 157, not voting 14, as follows:

[Roll No. 424]

AYES—263

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Bartlett
Becerra
Beilenson
Bentsen
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Canady
Cardin
Chabot
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frisa
Frost
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
LaFalce
Largent
LaTourette
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Nadler
Neal
Nethercutt
Neumann
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Towns
Traficant
Tucker
Upton
Vento
Visclosky
Volkmer
Waldholtz
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn

NOES—157

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fazio
Flanagan
Forbes
Fox
Franks (CT)
Frelinghuysen
Funderburk
Gallegly
Gekas
Gilman
Greenwood
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Herger

Hostettler
Istook
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Knollenberg
LaHood
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Matsui
McCrery
McIntosh
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Mink
Morella
Myers
Myrick
Ney
Norwood
Nussle
Obey
Packard
Parker
Paxon
Pickett
Pombo
Porter
Quillen
Rogers
Rohrabacher
Roth
Royce
Scarborough
Schumer
Shadegg
Shaw
Shuster
Skeen
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Torres
Velazquez
Vucanovich
Walker
Walsh
Wamp
Waters
Waxman
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—14

Camp
Collins (MI)
Fields (TX)
Furse
Gunderson
Lantos
Mfume
Moakley
Reynolds
Roberts
Rose
Torricelli
Yates
Zimmer

□ 1804

Mr. KIM and Mr. DICKEY changed their vote from ''aye'' to ''no.''

Mr. FRANK of Massachusetts, Ms. ESHOO, Ms. ROYBAL-ALLARD, and Messrs. DIXON, CLINGER, HILLEARY, and HOEKSTRA, Mrs. SEASTRAND, and Messrs. DICKS, SMITH of Michigan, and FLAKE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Miller of Florida: Page 16, line 24, strike ''$595,000,000'' and insert ''$565,000,000''.

Mr. MILLER of Florida. Mr. Chairman, I am introducing this amendment along with my colleague, the gentlewoman from Miami, FL [Ms. ROS-LEHTINEN], to reduce funding for Russia and the newly independent states by $30 million. This amendment will reduce funding for Russia and the newly independent states by $30 million.

By passing this amendment, we can send a message to Moscow that Congress will not continue to support a government that disregards human rights at home and abroad. We need to let Russia know that its egregious behavior has not gone unnoticed. In Chechnya the Russian military has displayed a pattern of aggression that should not be ignored.

In Bosnia, Russia supports the Serbians who are engaged in brutal acts of ethnic cleansing. And even closer to home in Cuba, they have assisted Fidel Castro in maintaining his totalitarian reign over that nation.

While I commend the efforts of my colleagues on the Committee on Appropriations for introducing a bill that reduces foreign aid by more than 10 percent, I believe that we need to go further. In this era of fiscal austerity for which every American has sacrificed, we cannot continue to subsidize Russia's aggressive behavior.

This amendment will provide a warning to Russia to alter their policies or face further sanctions. We have got to let them know the United States will not stand for it, Congress will not stand for it, and the American taxpayer will not stand for it.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand and I sympathize with the concern of the gentleman from Florida and the other members of the Florida delegation about the possibility of an unsafe nuclear reactor.

Mr. Chairman, I understand the concern of the Florida delegation and the gentleman from Florida with his amendment of reducing aid to the independent states of the former Soviet Union.

However, his amendment, in my opinion, does not do what he seeks to do, and that is limit the ability of Russia to provide some type of capability to the Castro government in Cuba to help them with a nuclear reactor. No one in this body that I know of supports helping give Castro any ability to participate with Russia or any other country, Iran or any other country, to help them build a nuclear reactor, but the gentleman's amendment does not address that. The gentleman's amendment is just a symbol of what he is trying to do.

The amendment does not address specifically what he wants to address, and that is whether or not Russia will be diminished in the event that they furnish aid, some type of assistance to Cuba. We do not have special account aid, first of all, in this bill for Russia. So there is no money to cut. And even if we did have, it does not do that. It simply says that we are going to take away money from the independent states, from the various independent states of the former Soviet Union. So what you are doing is, you are penalizing the Ukraine and Armenia and other areas of the independent states by your amendment because you simply just reduce the amount of money that we had provided for the former independent states.

So if you are going to address this issue, I think it should be more properly addressed in the Menendez amendment, which has been put in order by the Committee on Rules and will answer that question directly yes or no. But to just go ahead and reduce aid to the independent states to send someone a message, number one, it does not ensure that the balance of the money will not be used by Russia or any of the independent states. They can take what is left, if they want to build a nuclear reactor in Cuba. So I think your amendment misses the point.

And while I respect what you are trying to do and your colleagues in Florida are trying to do, I hope you recognize that your amendment is not doing that. It is simply reducing aid to the independent states. There is nothing in there to say that the reduced aid cannot be spent in Cuba. And while I do not support any of it being spent in Cuba, I think that your amendment really does not truly address the question.

If you want to reduce aid to Russia, we will reduce aid to Russia, but there is no provision in this bill that gives any aid to Russia anyway. So I recognize what the gentleman is saying. I sympathize with the problem. I will do everything I can to absolutely send whatever message to whatever country, whether it be a newly independent state or any other country in the world, that we do not want this to take place on our shores. I just do not think that the amendment actually satisfies what the gentleman is trying to do because there is nothing to preclude them from doing it, if we are going to give them aid anyway.

□ 1815

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take a back seat to no one in the desire to save money on foreign assistance. During the years that I chaired the subcommittee, the foreign aid bill for the United States was reduced from $18 billion to $13 billion. I defy anyone to show me any other appropriation bill which was cut more deeply.

I have in my possession, in fact I prize them, three letters from previous administrations, the Reagan Administration and the Bush Administration, each telling me that they were planning to veto my bill because we did not spend enough money, so I take a back seat to no one in my desire to see the taxpayers' money is spent judiciously in this area.

However, there is a price for participation effective participation in the world. When we do not pay that price, we often pay a far higher price. If Members question that, all they have to do is to take a look at what happened to the world when the West essentially ignored what was happening in the Weimar Republic after World War I in Germany. A fellow by the name of Hitler came to power because he exploited the fact we did nothing to ease the economic collapse in that country, and only 50 million people died, including a good many Americans, so there is a price for participation in the world. I would much rather it be financial than human.

Mr. Chairman, I think it is a mistake to cut aid to the Soviet Union, or the former Soviet Union, below the amount in the administration's request. I in fact think it is a mistake to pass this amendment. Aid to the former Soviet

Union has already been reduced by 27 percent below last year's level. This cuts another $30 million.

Mr. Chairman, I would point out that two-thirds of this cut will not be applied to Russia. It will be applied to other former republics, such as Armenia, Ukraine, countries that we would like very much to see maintain as much independence as possible. This amendment is going to make it more difficult for them to sustain that independence.

I would also suggest this cut is going to hurt the very people we are trying to help in Russia itself, the reformers who want to see a market-based economic system, and who want to see a democratic political system.

I understand that this amendment is being offered by members of the Florida delegation because they are unhappy about the fact that Cuba began in 1983 (before the Communists fell from power in Russia) they began the construction of a nuclear power plant, financed partially by the former Soviet Union.

However, I would point out that all Russian aid stopped in 1992, when Russia demanded hard currency payments from Cuba. I would point out that the only subsidy from Russia since that time was a $30 million credit to mothball the plant, not to build it, but to mothball the plant. We want that plant mothballed!

Mr. Chairman, I would also make the point that the press has reported that the Cubans would seek Western backers for that plant, but in fact the Wall Street Journal contacted the companies allegedly involved and they denied any concrete intention to proceed. So it seems to me shortsighted to deny $30 million aid to former Soviet Republics because they provided $30 million to put the nuclear plant in mothballs. It seems to me that is exactly what we want. No sane person, Russian or American, want to see that plant built.

Therefore, it seems to me if we want to effectively oppose the construction of any nuclear plant in Cuba that is not to our liking, what in fact we ought to be doing is to promote the political causes of the factions within Russia who are most opposed to that, and other idiotic actions that some of the other factions would like to take.

Mr. Chairman, I know it is very easy to come into this well and say ''Let us cut foreign aid.'' As I say, we have cut it billions of dollars over the past few years. However, there are times when a specific cut can be the wrong thing from the standpoint of American interests, and this is such a time.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE TO THE AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MILLER of Florida: on page 16, line 24, delete $595,000,000 and insert $580,000,000.

Mr. WILSON. Mr. Chairman, this substitute merely reduces the amount of the cut from $30 million to $15 million. Mr. Chairman, I would ask the gentlewoman, is this acceptable?

Ms. ROS-LEHTINEN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Chairman, I would ask the gentleman, is this then a $15 million cut from the same budget item on the appropriations bill? It was the 595, and the gentleman cut 15.

Mr. WILSON. Mr. Chairman, I would say to the gentlewoman, yes.

Ms. ROS-LEHTINEN. If the gentleman will continue to yield, Mr. Chairman, I would ask, would the legislative language be clear in our debate? We have tried to make sure that it is understood that our intent is that Russia is the target of this.

I realize that the way that the bill is drafted, and purposely and quite deliberately, it is drafted in a way that it has to be taken out of Russia and all the newly independent states. Would the gentleman agree that the target in this would be Russia, and of course, it is not up to us to determine this, I understand, in this bill?

Mr. WILSON. Mr. Chairman, I do not think I can do this because of the way this is drafted. It has to come from all of the newly independent states.

Ms. ROS-LEHTINEN. If the gentleman will continue to yield, that would be a determination?

Mr. WILSON. We could discuss the language with the managers. I am unable to make that commitment at this point.

Ms. ROS–LEHTINEN. Mr. Chairman, if I could further ask the gentleman to yield, that would be an acceptable cut, $15 million, from my perspective. I am a cosponsor with my colleague, the gentleman from Florida [Mr. MILLER], if we could ask him for his response on this.

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

Mr. WILSON. I yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Chairman, I would find that acceptable, and I would support the gentleman's amendment to my amendment.

AMENDMENT OFFERED BY MR. HEFLEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. HEFLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY as a substitute for the amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MILLER of Florida: strike ''$580,000,000'' and insert ''$296,800,000''.

POINT OF ORDER

Mr. LIVINGSTON. I have a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LIVINGSTON. Mr. Chairman, is an amendment to the amendment to the amendment in order? Is that an amendment in the third degree?

The CHAIRMAN. The amendment to the amendment offered as a substitute is not in the third degree and is in order.

The gentleman from Colorado [Mr. HEFLEY] is recognized for 5 minutes.

Mr. HEFLEY. Mr. Chairman, I rise to offer an amendment to the substitute which cut the appropriations to the former Soviet Union from $595 million to $296.8 million. For those who have been talking about how the $30 million cut is too drastic, it is going to seem very, very drastic.

The way we arrived at these figures is to look at last year's. It is a little difficult to get at, because it is difficult in the bill to know exactly where these dollars are going to go. However, the way we arrived at it was to look at the expenditures last year, and some of the programs that we thought were foolish expenditures, and subtract from that.

Mr. Chairman, I commend the gentleman from Alabama [Mr. CALLAHAN], for his efforts in putting together a bill that is significantly better than the foreign operations bills of the past. The gentleman has worked hard to focus American taxpayer dollars on regions that will most benefit from U.S. assistance, and prioritize them according to our own national security interests.

The former Soviet Union is such a region. I agree with the committee's views that no relationship is more important to the long-term security of the United States than the strategic relationship with the former Soviet Union. If reform fails in the former Soviet Union, the potential of nuclear confrontation will increase greatly.

If I believe this to be true, how could I stand here and promote slashing U.S. aid to the newly independent states? Let me tell the Members why, because much of the aid we have given, and that which we will give again this year, has been a total waste, I think, of taxpayer dollars.

When we think of the aid to the former Soviet Union, most of us think of humanitarian aid, or aid to promote free market, or we think of strengthening democracy there. However, when we think of aid to the former Soviet Union, do we envision Planned Parenthood of Northern New England? That is right, Planned Parenthood of Northern New England has received over $200,000 of these tax dollars to develop a Center for the Formation of Sexual Culture in Russia. I do not know about the Members, but that is not high on my list of aid to the Soviet Union priorities.

Mr. Chairman, we give money intended to implement structural changes in Russia, but instead some of this money went to the Center of Love and Support, a program to teach employees in Russian hospitals a good bedside manner. I wonder how many

Russian children could have been immunized with the $200,000 that was spent on that?

What bothers me most and should bother all of us, I think, is the amount of money we are wasting in the so-called aid to the Soviet Union. Billions of the dollars we expended in the past has not been wisely spent, much of it because between 50 percent and 90 percent of the money in these aid packages has not reached the pockets of a single pro-democracy, pro-market, pro-reform foreign citizen.

Instead, this money found its way into the pockets of consultants and beltway bandits, and the going rate for a Western consultant to the former Soviet Union is about $800 a day, and a lot of them are collecting on that rate.

My constituents are outraged, and I think the gentleman's are, too. I encourage my colleagues to support this amendment to cut aid to the former Soviet Union. This amendment is intended to zero out many programs which are simply so inefficiently administered as to render them useless, or are programs we do not need to be involved in, or are programs we simply do not have good accountability on. We do not know where the money has gone, and we do not know whether it is being spent well or not.

Mr. Chairman, I would encourage support of this amendment.

Mr. WILSON. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this is a massive, massive, massive cut. This would absolutely wreck the entire program that the United States has built up. It would not only cause great hardship in Russia and certainly put the brakes on all the efforts toward privatization there, but it would wreck the programs in the Ukraine, it would wreck the programs in Armenia, it would wreck the programs in Georgia, and in my opinion, it would completely diminish any ability that the United States has to affect any events that take place in the former Soviet Union or in Russia itself.

Mr. Chairman, I am surprised at the amendment offered by the gentleman from Colorado [Mr. HEFLEY] because of the drastic nature of it. It is a train wreck. It will destroy any possibility of any sort of bipartisan cooperation in passing this bill on the floor. I do not have to tell the Members what the State Department or what the administration feels.

Mr. Chairman, often during times when Democrats ran the House and Senate and Republicans ran the White House, which has usually been the situation since I have been in Congress, I used to always have to remind my Democratic colleagues when they had amendments like this that would absolutely wreck administration programs that we ought to be a little careful and a little moderate, because some day we might have the White House.

I would like to remind my friends in the majority that they ought to be a little careful and a little moderate, because some day they might have the White House and we might be back in the majority, and then they will have to talk to us about this.

However, this amendment is drastic, it is extreme, it is an sleuth show-stopper, and Mr. Chairman, I would urge, urge, urge my colleagues to vote ''no''.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last work.

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

□ 1830

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, if this amendment were adopted, frankly, it would knock out a key component of a declining foreign aid budget. It would affect more than Russia. It would affect Armenia, Ukraine, and all of the independent states that we are trying to assist in achieving their independence from Russia. It would, frankly, just destroy our foreign policy with respect to New Independent states of the former Soviet Union. I think that is ill-advised. I just hope that the Members will vote against it.

There is reason to be concerned about Russia, for example, their hard tactics against Chechnya, but a cease fire is in place and there are mediating talks between the Russian government and the Chechnyan separatists going on now.

The Gore-Chernomyrdin Commission is meeting this week to review the proposed sale of Russian nuclear reactors to Iran, to ensure that no militarily useful components are provided to Iran.

With regard to NATO expansion into Eastern Europe, Russia has now joined NATO's Partnership for peace program.

Russia is fully supportive of U.N. talks to end the conflict in Tajikistan. Russia has signed a framework agreement for the withdrawal of its 14th Army in Moldova.

Russia has recently reached important agreements with Ukraine on division of the Black Sea Fleet and basing of the fleet. It is reportedly moving to settle a conflict that Georgia faces with separatists in the region of Abkhazia.

It has agreed that any peacekeeping force in Azerbaijan will fall under OSCE supervision. It is moving towards parliamentary elections this December and presidential elections next June in Russia alone.

It has withdrawn its troops from the Baltic States, and it is ending its targeting of nuclear weapons on the United States. The days of the costly and dangerous cold war confrontation are hopefully over for good.

The best way to turn that around is just to turn our back on Russia and say, ''All your progress over these last few years is all nice, but we're just going to walk away from you. Whatever happens to you, just go ahead, reassert your nationalistic, militaristic point of view on your neighbors, and we're going to save our money.''

I would say it is going to cost us a heck of a lot more money changing this around when all hell breaks loose in that part of the world. This amendment is just not wise.

I want to take this opportunity to say that I know that the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr.WILSON] have worked with the members of this subcommittee long, hard hours, with the staff, to confect this bill. I know that it is the objective of the majority to allow as much of an open rule as possible, and allow all Members to come forward to the well of the House and offer their amendments.

We have over 70 amendments to this bill. If we want to engage in the committee process, if it makes any sense whatsoever to try to develop some expertise and some coherent foreign policy, then I hope that the Members would have some reliance on the committee process and let it do its work.

But if we want to just write all legislation on the floor of the House, fine. We will just forget the committee process. Let's just do all of the business on the floor of the House, but be prepared to work to midnight from now until Christmas, and let's forget about weekends.

This has just gone a little bit too far. This bill is a good bill, it is a balanced bill, and this amendment destroys the balance and neglects the role and the objectives of the United States in maintaining peace in the world. It is ill-advised. It should be rejected.

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

Mr. Chairman, I also rise in opposition to the Hefley amendment. My colleagues, I do not think there has been anyone in this House who was more opposed to the program that the administration brought to this Congress in 1994 where the President had committed some $2.1 billion to the independent states of the former Soviet Union. I rose and spoke against part of that aid to Russia, although I was certainly interested in seeing democracy prevail there, but I never rose in support of cutting off moneys to the Ukraine or Armenia or any of the other independent states.

Mr. Chairman, no one to my knowledge, including me, rose to say they were against aid to Ukraine. No one rose and said we ought not to give money to Armenia or to Georgia, because we want those countries to survive, and we want them to understand democracy, and we want the administration to have the ability to go to the independent states.

We are not talking about Russia as much as we are the Ukraine and the other independent states. There is nothing in my bill that earmarks any money for Russia. As a matter of fact,

there is language in my bill that says before they can spend any money in Russia, they have to come back to the committees to get permission to do it, that we can sign off on.

No one has been stronger in vocal opposition to aid to Russia for silly things like building houses for the retired military officers in Russia than I have. I have been the only one that stood on this floor, to my knowledge, and said anything about it. I did not hear the gentleman from Colorado or anybody else coming up and saying we ought to not give aid to Ukraine or Georgia or Armenia, and I did not say it.

We have come from $2.1 billion. Last year we gave them $842 million. This is not Russia. This is all of the independent states. The President came this year, and he said, ''Gentlemen, I need $788 million,'' and I was the one who said we do not have that kind of money, we are going to have to cut the independent states just like we are cutting everybody else.

The committee reduced it to $595 million, one-quarter of what we gave them just 2 years ago. Now along comes the gentleman from Florida, and he recommends another $30 million, and now the gentleman from Texas has worked out seemingly a compromise to reduce that to only $15 million, which I am going to support.

But if we are going to tell Armenia, if we are going to tell Georgia, if we are going to tell the Ukraine, if we are going to tell anybody that we are not going to support the democratization and the ability of this administration to assist them to establish these democracies, well, then, maybe we ought to cut it all out. Maybe that would be the way to go. If you want to build a wall around America and say we are not going to participate in this type of international activity, build a wall up. Let's do it that way.

But to come in and to say that we are going to cut $296.8 million and take it away from those countries who deserve our help and who we want to support, and we don't want to create another cold war, we don't want to give them encouragement to begin redeveloping a military, we want to assist them where they will not become reunited again, which is what your amendment is going to force, I think, ultimately them to do, is to say, ''Look, we thought the United States would help us, we thought the other G–7 nations would help us, but now they're turning their backs on us.''

Mr. Chairman, I strongly oppose the gentleman's substitute amendment. I urge Members to vote against the Hefley amendment. I urge Members to vote for the Wilson substitute, and if the Wilson substitute passes, I would encourage Members to then vote for the Miller amendment as substituted by the gentleman from Texas [Mr. WILSON].

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

Mr. CALLAHAN. I yield to the gentleman from Colorado.

Mr. HEFLEY. I thank the gentleman from Alabama [Mr. CALLAHAN] for yielding. I have great respect for your judgment in this. You are certainly more knowledgeable than I am.

It is not just the Ukraine that is getting this money. Booz, Allen & Hamilton is getting this money. Paine Webber is getting this money. Ernst & Young is getting this money.

Some of you speak as if I am cutting the whole thing out. We still have $300 million in here. You say we have come down a great deal, and we certainly have since we started doing this, but is this something, do we take them to raise forever?

Is this something that is going to go on and on forever or are we going to see the day when we are not putting any money into the former Soviet Union?

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we need to put in perspective what we are being asked to do here.

We have an awful lot of self-styled foreign policy experts, starting with people like Henry Kissinger himself and going right on down, who are saying that we ought to extend our NATO guarantees virtually to the Russian border.

I ask Members, how many people really believe that the American people would support the idea that the United States ought to make a security commitment to defend all of eastern Europe, possibly even the Ukraine and some of the other countries in that region, much as we want to see those countries remain free?

In a public opinion poll, how many Americans do you think would vote for us to extend that security commitment with all of the dollars that it would cost to maintain that commitment and with all of the cost it might someday reach in human terms? I suspect the answer is not very many.

If you believe that, as I do, then it seems to me that what you need to do is to find a way to make sure, even though we only affect events on the margin in that region, to try to find a way to make sure that we never have to provide that kind of money and we never have to provide the use of American troops to defend those countries.

What is the best way to do that? Well, when the Iron Curtain collapsed, the Bush administration and the Congress on a bipartisan basis decided the best way to do that was to try to promote market reforms in the Soviet Union.

Secretary Baker came down to the committee and he said, ''Look, fellows and gals,'' he said, ''I know we're going to make some mistakes, but I beg you not to tie our hands. We don't know what opportunities are going to be presented to us, we don't know what choices are going to be presented to us. We ask you to just trust us to do our best in a situation we've never experienced before.''

It seemed to this subcommittee at that time to be a good bet, because we had literally spent trillions of dollars to win the cold war, and we did win the cold war. Now we are faced with a Russian economy which is in shambles because of the stupidity associated with the Communist system. So we are trying to work our way through both political reform and economic reform, not just in Russia but in some of the former captive nations.

Now we are told that despite the fact that that rebuilding job has barely begun, that we ought to take this bill and reduce aid to the former Soviet Union by two-thirds from last year. As the gentleman who chairs the subcommittee has indicated, that is an almost three-quarters reduction from just 2 years ago.

Mr. Chairman, I submit that what we are spending today is pennies in comparison to what we will have to spend if events go the wrong way in Russia and the Ukraine and in other countries in that region.

You betcha there have been mistakes. I have great respect for the gentleman from Colorado [Mr. HEFLEY], but I can give him some other examples of mistakes. I recall just a couple of years ago when there was an op-ed piece in the Washington Post attacking me because I withheld funds for the Enterprise Funds in that region because they were insisting on paying salaries of $400,000 a year. And our committee held up that whole operation for 4 months until they blew that arrangement away.

You have been told by the subcommittee chairman that not a dime is going to be able to be spent in Russia until they bring the way they intend to spend it back to the committee so we can make a judgment about it. That is going a far piece, to make certain that to the best of our ability in the legislative as opposed to administrative body, that we can help prevent the executive branch from making further mistakes.

I do not like the fact that a single dime was wasted. But the fact is I think that it was perfectly understandable for the previous administrations to say, ''look, we've got to try everything. Undoubtedly we will make some mistakes, but we're going to experiment. We hope you bear with us.'' I think it was reasonable for them to ask us that. I think it is reasonable for the Clinton administration to ask that we give them reasonable flexibility in dealing with all of the problems in that region. I would respectfully suggest that we would be cutting off our nose to spite our face and damaging our own economic and political and national interest if we make this kind of reduction. I urge Members not to do this.

□ 1845

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

Mr. Speaker, I will not take the full 5 minutes, but I rise in strong support of the amendment offered by the gentleman from Colorado [Mr. HEFLEY]. I think it is a very fair and reasonable amendment. I rise in support of this amendment not as any criticism of the gentleman from Alabama, because I think that he has done everything within his power to make this bill as fair to everyone as possible and to cut it as low as possible, but the last speaker mentioned that he thinks that a public opinion poll would show that very few people would support an extension of NATO. I would say to you that I think a very small percentage, a very few of the American citizens, an overwhelming majority of the American citizens would not support us even spending $300 million in aid to the States of the former Soviet Union, and that is, of course, the amount that would be left to do in the amendment offered by the gentleman from Colorado.

We should have no reason to feel guilty about that figure of $300 million, because we have sent billions over there just the last few years. In fact, 4 years ago Leslie Gelb, the foreign affairs editor of the New York Times, estimated that the combined Western aid to the former States of the Soviet Union had totaled $60 billion, most of it coming from the United States.

Two years ago this Congress voted to send $12 billion to the States of the former Soviet Union through the International Monetary Fund and the World Bank. Then in addition to that the gentleman from Alabama [Mr. CALLAHAN] mentioned a few moments ago that 2 years ago we sent $2.1 billion in direct aid to the States of the former Soviet Union. I think it was $830 million last year. If we reduced it to $300 million this year we would still have done many times more than any other country in this entire world.

As the gentleman from Colorado [Mr. HEFLEY] has mentioned, much of this money, most of this money, is going to overpriced, overpaid consultants. He got this figure of $800 a day for a typical consultant from a story which ran in the Wall Street Journal last year, and that story ran under a headline, quote, ''U.S. Aid is Quite a Windfall for U.S. Consultants,'' and some consultants are receiving as much as 90 percent of certain aid contracts.

And listen to this. The article said that there is, ''dancing in the streets'' by consultants but hardly any of the money is getting through to the average Russian. The story reported criticism because of waste and meager results. That same story quoted one expert as saying that, ''The aid benefits Russians minimally, if at all,'' and that he expects ''a scandal down the road that is going to upset the taxpayers.''

A few years ago, 3 or 4 years ago, Henry Kissinger wrote an article for the Washington Post that said unfortunately most of our aid to Russia is going down a black hole. We need to stop pouring money down that black hole.

Our first obligation is to the U.S. taxpayers. We are still almost $5 trillion in debt. We are still losing almost a billion dollars a day. We are spending money that we do not have; $300 million in aid to the States of the former Soviet union is plenty.

I urge support for this amendment offered by the gentleman from Colorado [Mr. HEFLEY].

Mr. ROEMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise with a great deal of sympathy for the intent of the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

I think that it is appropriate that Congress act on the floor of the House of Representatives with respect to sending a message to Russia. But I think that the gentleman's amendment is probably for method, for money, and for message the wrong place to send this message to the Russian people. Let me explain what I mean.

First of all, I would oppose the gentleman's amendment because of the method. I will offer an amendment under title V which will place a limitation on moneys to Russia. It will not get into the moneys that would go to the newly independent states. We do not want to punish under this amendment, even though we are saying this is intended for Russia, it is the account for the newly independent states as well. So it is not the appropriate method to achieve the message that we want to send to Russia.

Second, the money. Certainly, as we send the hundreds of millions of dollars to the Russian people, some of the programs, very effective, very efficient, are working to achieve what we hope that the Russian people achieve, and that is a transition to a free enterprise system and democracy.

Some of the money that we are sending is under the Nunn-Lugar money, which is trying to achieve peace and stability, and I support that money. Some of the money is sent from our NASA account to buy the Russian participation in the space station. I object to that money.

But certainly we should have a voice when we send hundreds of millions of dollars over there. I think that is what the gentleman from Florida [Mr. MILLER] and the gentleman from Colorado [Mr. HEFLEY] are saying, but we do not want to devastate our relationship with the Russian people at such a delicate and precarious time. I think to send the message that we are going to cut $296 million out of aid to the Russian people is simply too much at this delicate, precarious time.

I think more in terms of a limitation only to Russia, directed at Russia, and specifically limiting it by $30 million; a $30 million cut, as I would propose under title V, would be more appropriate.

Last, I think, Mr. Chairman, it is very appropriate for us to send a message to Mr. Yeltsin and the Russian people that they must stop immediately this war in Chechnya. This is in our direct interest to do. It is in our direct interest because the Russians have just recently acquired a $6.2 billion loan from the IMF. We are the largest guarantor of those loans through the IMF. We have a great deal at stake in the Russian transformation to a free enterprise system and a democracy, and the Russian people, the Russian Government are spending about $2 billion in pursuing this war in Chechnya.

Now, this is morally and ethically a tragic war that is taking away from the efforts to transform their economy and their government. So I think it is appropriate for us to send a message to them. I would hope that the gentleman from Colorado would join on title V where we can directly limit the aid to Russia rather than get at some of the newly independent states' moneys.

I think it is very appropriate for the United States Congress to say to the Russians and to Mr. Yeltsin: ''This war has got to stop. It is hurting you in the West. It is hurting you in the world. It is hurting your people. It is hurting people. It is hurting peace. It is an immoral war, and it must stop.''

That is a good message for the people of the United States to send to the people of Russia and to Mr. Yeltsin.

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

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I will not take the entire 5 minutes, but I do rise in opposition to the amendment offered by the gentleman from Colorado [Mr. HEFLEY], my good friend, and in support of the compromise offered by the gentleman from Texas [Mr. WILSON] and modified by the gentleman from Florida [Mr. MILLER] and the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Mr. Chairman, 2 weeks ago I was on the floor of the House perhaps leading the fight on increasing funds for missile defense and for putting some limitations on Nunn-Lugar money so that we could get some cooperation from the Russians on their chemical and biological weapons.

But, Mr. Chairman, this amendment I think sends a totally wrong signal. It is important for us, I think, to let the Russian military know that we are going to deal with them from a position of strength and that we are going to take what steps we have to take to protect our people.

But it is equally important for us to send a signal to the Russian people, and the citizens of Armenia and Azerbaijan and Turkmenistan and Uzbekistan and Tadzhikistan, and all

those other former Soviet republics, that we are going to work with them to help them move away from a military-industrial economy, move toward a free market system.

That is what this money does, Mr. Chairman. I think that this amendment sends the wrong signal. Let us look at some of the specific programs that have benefited from this funding. I will just give some examples of ones that I have been working with.

Our good friend, the gentleman from Texas [Mr. LAUGHLIN] and I for the last 2½ years have cochaired the Former Soviet Union-American Energy Caucus. We have worked with the 16 largest energy corporations in the world, most of them American corporations, to develop energy initiatives inside the former Soviet republics. The assistance from programs like those funded today made possible the single largest energy deal in the world.

The Sakhalin project deal was just concluded this past year. It will see $10 billion of western investment that will allow Mobil and Marathon Corp. to work with the Russians in developing what we think is one of the world's largest energy resources.

That will directly benefit this country, private sector money, western capital, and help stabilize the Russian economy.

The same thing is happening right now in the Caspian Sea where we are working with a group that wants to develop a project and a pipeline that may help us bring together the Armenians and the Azeris in a way that will allow then to see economic benefits from a project developing energy resources in the Caspian Sea.

Why are these projects so important? The alternative for the Russian people, and those people of the other former Soviet republics, is to sell off their nuclear technology; that is unacceptable to us. To sell off their conventional arms to raise capital; that is unacceptable to us. We have seen them do it with the submarine sales to Iran with the efforts to sell off their technology.

Therefore, we must work in a positive way to develop joint economic opportunities and to help the Russians realize their full economic potential. Just last year a delegation of the Members of this Congress, bipartisan, went over to Murmansk, and we came back and worked with the Trade Development Administration. We have heard criticism about consultants.

The Trade Development Administration awarded a $300,000 grant to the MacKinnon Searle Group of Virginia to begin the study of the conversion of the largest shipyard in St. Petersburg. The Baltic shipyards in St. Petersburg is where the Russians built the Kirov-class warships, where they have potential to build nuclear warships, 8,500 workers.

Money that will be cut in this amendment was used to begin the process of converting that shipyard to an environmental remediation center where instead of building warships, those 8,500 workers can help dismantle old Russian warships and deal with PCB's and lead-based paints and the other problems inherent in naval warships.

In addition, we have seen from the funding that would be cut in this amendment the development of an Biznet program. And I urge my colleagues to do down to the Department of Commerce and see the tremendous strides made in working to encourage American businesses to do joint ventures in Russia and the other republics.

That is creating American jobs and American economic opportunity, but it is having a direct positive impact on the Russian economy and the economy of the other republics.

Mr. Chairman, I am as concerned about what is happening in Chechnya as any of my colleagues in this body. But, Mr. Chairman, I think this amendment sends the wrong signal. I think we have to be aggressive with the Russian Government, as we did on the defense bill. But I think we also have to show that we want to be supportive; we want to nurture the free enterprise developments that are occurring there; we want to encourage the kind of positive economic opportunities that are developing throughout the former Soviet states today.

So I would urge my colleagues, despite my friendship with the gentleman from Colorado [Mr. HEFLEY], to oppose this amendment and to support the efforts of the gentleman from Texas [Mr. WILSON] and also the gentleman from Florida [Mr. MILLER] in this amending process.

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

Mr. Chairman, I rise in opposition to the Hefley amendment and in support of the Wilson substitute, I know that it is fun to come down to the floor and do a lot of cutting. I used to do it a lot on my own. And I hope Members heard the gentleman from Pennsylvania's excellent presentation on being responsible when you do the cutting.

Mr. Chairman, the committee has been responsible. The committee has made deep cuts in aid to the former Soviet Union. But the Hefley amendment goes way too far and seriously undermines our ability to work with Russia and the independent states, as the gentleman from Pennsylvania [Mr. WELDON] has so eloquently outlined.

Two-thirds of the money that is left in this bill, after having cut it to $193 million less than the request, and $248 million less than last year, two-thirds of this money does not go to Russia.

The Hefley amendment cuts aid to Ukraine, Armenia, and other victims of the former Communist state. We need to continue our support for an independent Ukraine. We need this money to keep Armenia alive. It will seriously undercut the remaining free marketeers and reformers in Russia.

□ 1900

It is not responsible, from this Member's point of view, to make the kind of cuts that the gentleman from Colorado [Mr. HEFLEY] envisions cutting. He has made some good arguments, and they are arguments that we need to address, but this is not the way to address it.

The way to address it is look at what the committee has done and seriously sending a message to Russia by cutting from the request and cutting from last year.

But there are real, legitimate concerns that the committee has. We are sending a message with the Wilson substitute, a very real message that if Russia does not clean up their act, there will be consequences from this body. But when you come to the rubber hitting the road, you have to ask yourself, are we cutting for cutting sake or are we cutting to make responsible decisions?

I think the Hefley amendment cuts too deep. I would urge our Members to vote against Hefley amendment and support the Wilson substitute.

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

I will not take the full 5 minutes. I would like to echo what the gentleman from Wisconsin [Mr. OBEY] said about what I consider to be the very dangerous idea of expanding NATO into countries the American people probably have not too much interest in defending and that can make no contribution on their own. I do not think the United States really and truly wants to extend our nuclear umbrella to the borders of Russia.

I would like to remind the members that we are talking about, in the great scheme of things, we are talking about a very minuscule amount of money. The most successful foreign policy initiative that the United States has ever enjoyed was the Marshall Plan. The Marshall Plan saved Europe from communism. We even extended the Marshall Plan to Germany, to our great enemy in World War II. But, again, it saved democracy. It kept Europe from becoming communist. It kept Europe from coming behind the Iron Curtain. It was done in a great bipartisan manner. It was not popular with the American people. It was an enormous amount of money, particularly compared to what we are doing today.

I suggest that this modest investment in the newly independent states is in the same spirit as the Marshall Plan was.

Finally, I would like to underline one more time that two-thirds of this money, two-thirds of this cut, are going to cut the hearts out of the programs that we have in the Ukraine, that we have in Armenia, that we have in Georgia and that we have in other countries which I not only cannot spell but I cannot pronounce.

Finally, finally, finally, I would like to remind the House that we are talking here about a couple hundred million dollars. But I would also remind the House that since the Berlin Wall came down, since the great changes occurred in the Soviet Union and since the disintegration of the Soviet Union, that we have saved probably today, this year, our defense budget is probably $200 billion less than it would be if we were still facing a highly nationalistic Soviet Union. So I think, by any measure, by any measure, that the Hefley amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY] as a substitute for the amendment offered by the gentleman from Texas [Mr. WILSON] as a substitute for the amendment offered by the gentleman from Florida [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to a minimum of 5 minutes the time for a recorded vote, if ordered, on the Wilson substitute and then on the original Miller amendment, if there is no intervening business or debate following the 15-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 320, not voting 10, as follows:

[Roll No. 425]

AYES—104

Allard
Baker (LA)
Barcia
Barton
Bilirakis
Brewster
Bryant (TN)
Bunning
Burton
Canady
Chapman
Chenoweth
Christensen
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cunningham
Danner
DeFazio
Doolittle
Duncan
Ensign
Everett
Fields (LA)
Funderburk
Geren
Goodlatte
Green
Gutknecht
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Inglis
Jacobs
Johnson, Sam
Jones
Kaptur
Kim
Kingston
Klug
Kolbe
Largent
Lewis (KY)
Lincoln
Longley
Manzullo
McInnis
McKeon
McKinney
Metcalf
Mica
Myrick
Neumann
Ney
Norwood
Pastor
Peterson (MN)
Petri
Pombo
Quillen
Ramstad
Rogers
Rohrabacher
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shuster
Skelton
Smith (MI)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Traficant
Wamp
Watts (OK)
Weller
Whitfield
Young (FL)

NOES—320

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Buyer
Callahan
Calvert
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McIntosh
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
White
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Zeliff

NOT VOTING—10

Camp
Collins (MI)
Furse
Gunderson
Mfume
Moakley
Reynolds
Torricelli
Yates
Zimmer

□ 1924

Mr. RUSH and Mr. VOLKMER changed their vote from ''aye'' to ''no.''

Messrs. KIM, LEWIS of Kentucky, METCALF, WHITFIELD, and GOODLATTE, Mrs. CHENOWETH, and Messrs. BURTON of Indiana, DOOLITTLE, EVERETT, BARTON of Texas, and INGLIS of South Carolina changed their vote from ''no'' to ''aye.''

So the amendment offered as a substitute for the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. WILSON] as a substitute for the amendment offered by the gentleman from Florida [Mr. MILLER].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MILLER], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MS. JACKSON-LEE

Ms. JACKSON-LEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE: Page 19, line 16, strike ''$10,000,000'' and insert in lieu thereof ''$11,500,000''.

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order against the amendment.

Ms. JACKSON-LEE. Mr. Chairman, first let me applaud the work that has been done by the mutual chairperson/ranking member.

□ 1930

A parable has been heard by many of us that says if you give a man a fish, he will ask for another fish tomorrow. But if you teach him how to fish, then he will be independent and be able to make a way for himself in years to come.

I rise today to offer an amendment to H.R. 1868, which would increase the funding for the African Development Foundation in the fiscal year 1996 from $10 to $11.5 million. This is a modest increase, Mr. Chairman, but it will help the African Development Foundation to continue its important work in 20 African countries.

Established in 1980, the African Development Foundation is a progressive organization that delivers funds directly to self-help organizations in economically undeveloped countries in Africa. Since no funds are channeled through any foreign government, the ADF avoids any bureaucratic patterns in dispensing funds.

This organization has been instrumental in expanding ties and developing good will among the citizens of the United States and the citizens of many African countries. I understand that every Federal program and every agency is now under extensive review under this concept of responding to the Federal budget deficit. However, I would simply say in keeping in mind about teaching a man or woman to fish, and helping to feed hungry children and improving the development opportunities in developing nations, that this amendment needs and deserves consideration. I would ask my colleagues to consider it, because it adds to the funding to help impact the real lives of people in our developing nations.

I would simply say, Mr. Chairman, that I hope we are able to come to a reasoned response and compromise for the African Development Foundation which will be strengthened by these additional dollars of $1.5 million. It will help strengthen the economies, enhance the number of people that can benefit from the grants awarded to agricultural cooperatives, youth groups and self-help organizations.

These groups have been effective stewards of the grants that range from 20,000 to 250,000. That is the most important part of ADF. It provides small amounts of money that are leveraged into large amounts of activity and success. My amendment is important to the African Development Foundation and to the people of Africa and to millions of Americans who support adequate development assistance.

Again, it reinforces the point, Mr. Chairman, that if you give a man a fish, or a woman, they will ask for another fish tomorrow. But teach them to fish, and they will maintain that opportunity for development for years to come.

I ask my colleagues to support this modest amendment to make a statement for enhancing opportunity for our African countries and their self-help organizations.

The CHAIRMAN. Does the gentleman from Alabama seek recognition on his point of order?

Mr. CALLAHAN. Mr. Chairman, I would like to withdraw my point of order and accept the gentlewoman's amendment.

Mr. WILSON. Mr. Chairman, there is no objection to the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $39,000,000: *Provided,* That up to $100,000 of the funds appropriated under this heading may be made available for grant financed military education and training for any high income country on the condition that that country agrees to fund form its own resources the transportation cost and living allowances of its students: *Provided further,* That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military, and may also include individuals who are not members of a government: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire: *Provided further,* That funds appropriated under this heading for grant financed military education and training for Indonesia and Guatemala may only be available for expanded military education and training.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,211,279,000: *Provided,* That funds appropriated by this paragraph that are made available for Israel and Egypt shall be made available only as grants: *Provided further,* That the funds appropriated by this paragraph that are made available for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not to exceed $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $64,400,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $544,000,000: *Provided further,* That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: *Provided further,* That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed $224,000,000 for Greece and shall not exceed $320,000,000 for Turkey.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further,* That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Peru, Liberia, and Guatemala: *Provided further,* That none of the funds appropriated or otherwise made available for use under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities: *Provided further,* That funds made available under this heading may be used, notwithstanding any other provision of law, for demining activities, and may include activities implemented through nongovernmental and international organizations: *Provided further,* That not more than $100,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the ''Foreign Military Sales Financing Program'' in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $24,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That not more than $355,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1996 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $68,300,000.

The CHAIRMAN. Are there amendments to title III?

AMENDMENT OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LOWEY: Page 23, line 19, insert ''or Indonesia'' after ''Zaire''.

Page 23, line 21, strike ''Indonesia and''.

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Alabama reserves a point of order.

Mrs. LOWEY. Mr. Chairman, I rise today to correct a critical flaw in the bill before us. In 1992, we voted to end all international military education and training assistance for Indonesia because of that country's abysmal human rights record and their continued oppression of the people of East Timor.

Regrettably, this bill reinstates IMET funding for Indonesia, which has shown no significant improvement in its human rights record since the IMET ban was imposed. In fact, the State Department's own human rights report notes that there have been only cosmetic changes in East Timor.

Violent crackdowns on peaceful demonstrations in East Timor continue. First, innocent protestors are massacred and then the military rounds up and jails the witnesses so that the world will never know what happens. Is this the type of oppression we want to be rewarding with U.S. assistance? I don't think so.

The State Department report goes on: ''Extrajudicial arrests and detention, torture of those in custody, and excessively violent techniques for dealing with suspected troublemakers continued'' throughout Indonesia. ''The Armed Forces continued to be responsible for the most serious human rights abuses.''

In November 1991, in the city of Dili, the Indonesian military slaughtered 200 people in full view of news cameras. Sixty-five people are still unaccounted for, and yet the Indonesian Government does not apologize for these killings. On the contrary, the regional commander of East Timor, Gen. Herman Mantiri, said: ''We don't regret anything. What happened was quite proper. They were opposing us.''

Mr. Chairman, Indonesia's policy in East Timor is about the oppression of people who oppose Indonesia's right to torture, kill, and repress the people of East Timor. It is about the 200,000 Timorese who were slaughtered by the Indonesian military when they invaded in 1975. Two-hundred thousand killed out of a total population of 700,000. It is about genocide.

The language in this bill is the first step toward releasing pressure on the Indonesian Government to clean up its act. Without passage of this amendment, we will continue to support a government that laughs in the face of the human rights principles that we hold dear.

We, in Congress, made the right decision in 1992 when we cut off all IMET funding to Indonesia. But we must not go backward now. I urge my colleagues to support this amendment and send a message to Indonesia that we will not tolerate the oppression of the Timorese people.

The CHAIRMAN. Does the gentleman from Alabama [Mr. CALLAHAN] seek recognition on his point of order?

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order

Mr. WOLF. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am really sorry this amendment has to be offered. I would have hoped that the Indonesian Government would have learned, and this is an opportunity I think to send a message to them. The amendment offered by the gentlewoman from New York [Mrs. LOWEY] is a good amendment. The Indonesian military should not be rewarded for their conduct with the American IMET dollars. Congress and the American people value human rights and dignity, and we should not be timid about conveying that message to countries that do not share our basic concerns. We should be prepared to use bills like this to send that message.

Mr. Chairman, the State Department's country reports on Human Rights Practices for 1994 reports, ''The Indonesian Government continued to commit serious human rights abuses and in some areas, notably freedom of expression, it became markedly more oppressive, departing from a long-term trend toward greater openness. The most serious abuses included the continuing inability of the people to change their government and harsh repression in East Timor.''

I would tell the Members of the body, if they could have seen the film and talked to the men and women that were there, what the Indonesian army did to these people was brutal, absolute persecution of the Catholic Church. The Congress should be concerned with these issues, and I strongly urge the Members of the body to support this amendment. Hopefully this will send a message to Indonesia, where by next year things will be good and this will not be a problem.

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York [Mrs. LOWEY]. I think she makes a persuasive and compelling case. The ongoing violation of human rights in Indonesia is unsustainable in a moral way, and certainly not supportable in a budgetary way.

It is my understanding that shortly the Chair will be asked to rule on a point of order with respect to legislating on an appropriations bill. Let me just make this comment: Presumably the Chair will consider whether the proper time to offer the Lowey amendment would have been during the authorization bill. During the authorization bill, we labored under a rule that ate up a considerable amount of time on some very important amendments, that ate up a long, long time of debate. There were dozens and dozens of amendments like this one that could have been offered that were not heard during that debate.

Now, it seems to me that this kind of consideration of process puts the Members of this House in a Catch-22 situation. You cannot legislate on an appropriations bill by attaching conditions to spending like this. That is our rule. And then you are supposed to pursue it in an authorization bill. But when the authorization bills come up, we have unduly restricted rules that cut off debate in an arbitrary time and never permit this kind of thing to come up.

The real shame, Mr. Chairman, the real shame that is being raised by Mrs. LOWEY's amendment, is that such a meritorious and critical debate will never really happen and never really get a vote because of the way the rules of the House are being manipulated. I think that is a shame.

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order.

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

Mr. Chairman, I rise in strong support of this amendment and commend the gentlewoman from New York [Mrs. LOWEY], and the gentleman from Virginia [Mr. WOLF], for their leadership in proposing this amendment. Indeed, I attempted to offer a similar amendment to H.R. 1561, the Foreign Aid Authorization bill, but as my colleague from New Jersey explained, because of this construction of the rule, I was effectively prevented from doing this.

In 1992, my former colleague from Rhode Island, Mr. Machtley, offered successfully an amendment to cut training for funding for the training of Indonesia military in response to flagrant abuses of human rights in East Timor. When Congress cut this money, it send two strong messages: First, to the Government of Indonesia that the U.S. will not tolerate any more human rights abuses by the military in East Timor, and, second, to the East Timorese, who were finally given hope that someone had listened to their call for help and provided them a voice in the face of oppression.

Today we are debating a bill which effectively restores this money. That might be appropriate if the conditions in East Timor had improved, but in fact they have not.

I would like to emphasize that this amendment is not about the efficacy of American military training and the value of exposing foreign military personnel to our professional military instruction. No, this is about sending a strong signal concerning the abuse of human rights in East Timor.

In June and July of last year, Indonesian troops committed acts of sacrilege against the East Timorese

church and clergy. The courts are still sentencing people to long prison terms for speaking to journalists or sending information critical of the government. On January 12 of this year, Indonesian soldiers killed six men outside Dili. These six civilians were shot in retaliation for a guerrilla attack the day before, but sources present indicate that the six were never involved in the attack.

At a joint hearing before the International Relations Subcommittee on Asia and the Pacific and International Operations and Human Rights on March 16, the Director of the Human Rights Watch stated, ''In East Timor, violations of fundamental rights have been especially severe, and have worsened dramatically since the APEC summit meeting in Djakarta last November.''

When we are cutting aid to Africa and are cutting many, many worthy programs, it seems incongruous we would be giving money in the face of these human rights abuses.

I would urge my colleagues to accept the amendment offered by the gentlewoman from New York [Mrs. LOWEY]. I would urge them to send a strong signal to the Government of Indonesia that we will not tolerate further human rights abuses in East Timor.

A headline in the New York Times in November of last year stated, ''Timorese worry world will now forget them.'' Mr. Chairman, I urge my colleagues not to forget them, to stick to the precedent we have now established. We have taken a stand. We can make a difference. Mr. Chairman, I urge my colleagues to support the Lowey-Wolf amendment.

□ 1945

Mr. CALLAHAN. Mr. Chairman, I reserve my point of order on the amendment.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a supporter and a true believer in the International Military Education and Training program. But I am compelled, like my colleagues who have just spoken, by the overwhelming evidence to support this amendment offered by the gentlewoman from New York [Mrs. LOWEY], and the gentleman from Virginia [Mr. WOLF].

This is a good program, but this is the wrong time and the wrong place for IMET. For 3 years, Congress has denied IMET to Indonesia. A careful look at the record shows that this is no time to shift this policy. When Congress, at the urging of my predecessor, Ron Machtley, revoked Indonesian participation in IMET, a clear and unmistakable message was sent. We will no longer tolerate an intolerable situation. The human rights abuses in East Timor must end. Simply put, the abuses have not ended. IMET should not be restored.

This amendment is most appropriate, considering recent assessments of human rights conditions in Indonesia. To quote from the State Department's 1994 human rights report,

> The Indonesian government continued to commit serious human rights abuses and in some areas, notably freedom of expression, it became markedly more repressive. The most serious abuse included the continuing inability of the people to change their government and harsh repression of the East Timorese dissidents. Restoring IMET at this time would run counter to these findings and would undermine the moral force of these findings.

We have in Indonesia a situation where the benefits of IMET would be lost. The corruption is too deep. The violence is too extreme. And the repression is too severe for us to hold any hope that it can be tempered through education and training. IMET is designed to support democracy and military professionalism, and we cannot support what does not already exist.

U.S. aid cannot fill this vacuum. IMET is a powerful and effective tool. It must be used in the right way at the right time. This is not the time. Only through continued pressure will we be able to have the opportunity for an improvement in East Timor. Now is not the time for the United States to send conflicting messages on this issue.

Mr. Chairman, I urge the adoption of the Lowey amendment, and I ask my colleagues to do the same.

Mr. CALLAHAN. Mr. Chairman, I reserve my point of order on the amendment.

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

Mr. Chairman, I rise in support of the Lowey-Kennedy amendment and urge our colleagues to support them. First, before speaking about that amendment, I want to commend our chairman, the gentleman from Alabama [Mr. CALLAHAN], and the chairman of the full committee, the gentleman from Louisiana [Mr. LIVINGSTON], as well as our ranking members, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Texas [Mr. WILSON], for their leadership in bringing this very strong bipartisan bill to the floor.

As a member of the subcommittee, I want to personally thank Mr. CALLAHAN for his exceptional leadership his first time out with this bill. He has consulted individually and personally with members of the subcommittee, listened to our concerns and did the best that he could do under the circumstances of our very limited allocation. That allocation was limited not because our chairman of the full committee, Mr. LIVINGSTON, did not work hard to get us a better allocation but just the realities of the budget resolution.

It is in that spirit of bipartisanship and admiration for our chairman that I hope that we can pass this not perfect but best possible bill we could get on the floor today. I hope when we do pass it today or tomorrow that it will have the Lowey-Kennedy language in it.

To get to the point about Indonesia, because I know time is of the essence, it is a close call on the enhanced and expanded IMET. Many of us have had some very serious concerns about how IMET funds have been used throughout the world. And in some countries, it underwrites the brutality of authoritarian regimes with U.S. taxpayers' dollars. The expanded IMET is supposed to be used to teach human rights training, democratic institutions, the role of a military in a democratic society. And it would be hoped that that is what these purposes would be in Indonesia. And I commend the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Rhode Island [Mr. KENNEDY] for bringing this resolution to the floor because it focuses just on what expanded IMET is and why if we would continue to grant it, if we would grant it to Indonesia, why it should be used specifically for those purposes.

The concern of some of us is that funds sent to a country are fungible and if the regime happens to be authoritarian and a violator of human rights, then we are subsidizing that even with our good intentions.

Others today have talked about what the situation is in Indonesia in terms of human rights. I will say that I will join with some others in quoting the 1995 State Department human rights country report which calls Indonesia ''strongly authoritarian'' and notes that ''it became markedly more repressive'' during 1994 as the ''government continues to commit serious human rights abuses.''

Last December, a United Nations Special Rapporteur noted,

> the conditions that allowed the 1991 Santa Cruz killings to occur are still present. In particular, the members of the security forces responsible for the abuses have not been held accountable and continue to enjoy virtual impunity.

The Rapporteur ''clearly sensed terror among many East Timorese he had the opportunity to meet.'' The situation has gotten worse during the first half of 1995.

That is all to say, Mr. Chairman, that I think that we should have the opportunity to discuss this issue. If the Chair has a point of order that we cannot pass it here today, at least we should be sending a message to the authoritarian regime in Indonesia that if they get this IMET, it is to be for enhanced, that is, training their troops in human rights and training their military in the proper role of the military in a democratic society.

With that, Mr. Chairman, I again commend our chairman, Mr. CALLAHAN, and the ranking member, Mr. WILSON, for their great leadership on this legislation.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words. Before pressing my point of order, I want to rise in opposition to the amendment and speak to it just briefly.

I do rise in opposition to the amendment of the gentlewoman from New York, although I know she is offering it because it is based upon her own strongly held convictions as well as the other speakers who have spoken tonight. I appreciate the strong concerns of the gentleman from Virginia and the gentlewoman from California, the gentleman from Rhode Island. But as the gentlewoman from New York knows, under our bill, Indonesia will not be eligible for IMET training.

Under H.R. 1868, Indonesia will only be able to receive human rights training under the expanded IMET training, as it is called. Expanded IMET is specifically designed to help improve human rights practices of the military. This is exactly the kind of program I think the gentlewoman from New York should be supporting.

Furthermore, I would note that the House Committee on International Relations has already recommended expanding IMET for Indonesia, and included it in the authorization bill passed by the full House on June 8.

Also I note that because of the concern of the gentlewoman from New York, the committee report requires that all candidates for expanded IMET be carefully screened to make certain they have not been involved in past human rights abuses. I would hope under those circumstances that the gentlewoman would reconsider offering her amendment in light of the committee's action on this very important amendment.

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

Mr. CALLAHAN. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, before I do, I want to thank the gentleman again and commend him for his outstanding leadership of this committee.

It has really been a privilege for me to work with the gentleman. He has been open. He has worked in a bipartisan way. He has approached each issue in a very thoughtful manner. I want to thank the gentleman, again, and the ranking member, the gentleman from Texas [Mr. WILSON].

In response to the gentleman's request, I do want to ask unanimous consent to withdraw the amendment. Mr. Chairman, we will be watching expanded IMET for Indonesia over the next year. And if the human rights records does not improve, we will work to cut off all IMET funding next year.

Mrs. LOWEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $23,009,000, to remain available until expended.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $50,000,000, to remain available until September 30, 1997.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $743,900,000.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $575,000,000, for the United States contribution to the tenth replenishment, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $25,950,000.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,523,000,000.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, $13,200,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $647,000,000.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $167,960,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $69,180,000, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $54,600,000 may be expended for the purchase of such stock in fiscal year 1996.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $161,400,000.

NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in portion of the capital stock, $56,250,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the North American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the capital stock of the North American Development Bank in an amount not to exceed $318,750,000.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $155,000,000: *Provided,* That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: *Provided further,* That not more than $25,000,000 of the funds appropriated under this heading may be made available to the UNFPA: *Provided further,* That not more than one-half of this amount may be provided to UNFPA before March 1, 1996, and that no later than February 15, 1996, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1996: *Provided further,* That any amount UNFPA plans to spend in the People's Republic of China in 1996 about $7,000,000, shall be deducted from the amount of funds provided to UNFPA after March 1, 1996 pursuant to the previous provisos: *Provided further,* That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: *Provided further,* That up to $13,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) for administrative expenses and heavy fuel oil costs associated with the Framework Agreement: *Provided further,* That additional funds may be made available to KEDO subject to the regular notification procedures of the Committees on Appropriations.

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT OFFERED BY MR. DE LAY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY: Page 29, line 1, strike ''$50,000,000'' and insert ''0''.

Mr. DELAY. Mr. Chairman, the amendment I am offering today with my colleague, the gentleman from Arizona, eliminates funding for the Global Environment Facility or the GEF.

The GEF was created in 1991 to pay cash to Third World governments to stop local people from escaping poverty through development that could harm the environment at some point in the future—a difficult concept to grasp when you consider that the everyday concerns of these countries are not about climate change but survival, clean drinking water and reduced food spoilage.

In 1992, the GEF was made the funding mechanism to help poor countries finance projects in compliance with the environmental conventions agreed to at the Rio summit dealing with such scientifically questionable—yet trendy—environmental ''calamities'' such as global warming and biodiversity loss.

I say to my colleagues that what this program really is, is a global giveaway for poor countries—it gives developing countries a refund for the economic restrictions imposed on them in the UN ''biodiversity'' and ''climate change'' conventions. This program is flawed because its fundamental design is wrong.

A scathing report on the GEF's activities—called for after loud complaints from environmental groups and donor countries to the GEF—basically found that the GEF's operations are ''dysfunctional'' and its accountability is ill-defined.

The report found that the fundamental purpose of the GEF, that being dedicating funds to climate change, biodiversity, international waters, and ozone depletion is ''rather obscure in nature.''

The GEF has also been severely criticized as a ''green'' slush fund for the World Bank. On this, the independent report concluded that the World Bank controls the lion's share of the GEF's resources and that is fundamentally using GEF as a device to make its own regular projects look ''greener'' and to mitigate criticism alleging World Bank insensitivity to environmental concerns.

Take a look at how the GEF is actually performing its obscure role: you'll find that it has done more to upset the environmental and social balances in developing countries than to clean things up. As of last year, over half of the GEF's projects had provoked clashes over forced resettlement of displaced local people.

The report concluded that the premise of the GEF's mandate—putting emphasis on global environmental problems over local ones—is a ''serious weakness.'' The GEF claimed it was reforming these abuses by including locals in the decision-making process but the independent GEF report called this claim a ''biased exaggeration, if not falsification.''

The independent review led to a restructuring process that was supposedly completed in March of 1994. And my colleagues who support this institution will probably argue that the GEF has made progress since this report. But I submit to my colleagues that such assertions serve little more than the political purposes of those who seek the ''environmental'' cover of the GEF.

According to Probe International, a Canadian environmental group that has monitored the GEF for four years, ''The restructured GEF remains as flawed as its predecessor and, as a closer examination of some of its projects shows, does nothing to protect the global environment.''

Despite such obvious reasons to be extremely concerned with sending taxpayer dollars to this operation, the Administration pledged last March to send a total of $430 million to the GEF over four years—the largest amount of any donor nation.

In FY95, the U.S. gave the GEF another $90 million. This year's request from the Administration is a completely unsupportable $110 million. You would think that the Administration believes the GEF has been an unheralded success.

I commend the chairman of the Foreign Operations subcommittee for recognizing the extremely questionable activities of this project and reducing the funding for the GEF to $50 million in this bill. But, I submit to my colleagues that the GEF is a fundamentally flawed and unaccountable organization and certainly not an area where this Congress should be allocating scarce tax-dollars.

Not only does eliminating funding for the GEF make sense and save the taxpayers hundreds of millions of tax dollars, but it will also have the effect of slowing the implementation of global environmental policies that do more to restrict economic opportunity in poor countries than to promote environmental conservation.

The only responsible move for this Congress is to put a halt to the millions of taxpayer dollars we send to this flawed institution. I urge my colleagues to support this effort.

□ 2000

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, to rise in opposition to the gentleman's amendment is certainly a first for me, because we have voted 99 percent of the time together since we first came to this House 10 years ago.

However, during the process of the responsibility I assumed on this subcommittee as its chairman, I think it became very, very important that we recognize that this subcommittee has a responsibility to this country and to the world. If we are going to be a participant in the world of international affairs, we are going to have to recognize that global environment has to be a part of that. In trying to put together the bill, we did assemble a bill that was very fragile. Each side compromised. I gave a little, the minority gave a little. We let everyone have as much input as we possibly could.

Mr. Chairman, as the gentleman from Texas [Mr. DELAY], will recognize, we cut the facility from $110 million to $50 million. I thought that was a compromise. I cannot, as eloquently as some who may follow me, stand up and defend the GEF. I can defend the fragile agreement that we have, the agreement that I put together that says if we will create child survival funds, if we will place our priorities on child survival, if we will reduce the level of overall spending, then I would compromise and go along with this request, provided they let me cut it from $110 million down to $50 million.

Therefore, I commend the gentleman for the message that he gave, but I reluctantly rise in opposition to his amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. It is with great reluctance and in admiration for the maker that I rise to oppose his amendment to strike the additional funds over and above the funds the committee has already struck from the GEF.

Mr. Chairman, I think it is important for our colleagues to know, and many are very familiar and have worked on the Global Environmental Facility, otherwise known as GEF, that it is a multilateral fund dedicated to the preservation of the global environment. It funds projects that help developing countries deal with environmental problems that affect all countries, including the United States.

Indeed, we have heard over and over again that environmental degradation and air pollution and water pollution know no boundaries. Effects of development, such as loss of the forest and wild species, ozone depletion, and pollution of international waters, are obviously not limited to the country where they occur.

Mr. Chairman, the Bush and Clinton administrations both supported the GEF because meeting these threats is so important. Projects funded by the GEF help prevent the loss of forests and threatened plant and animal species. They help prevent pollution of international waters, threatening fish species on which the world depends.

Mr. Chairman, it is interesting to note what other countries are contributing to the GEF, because this is an international effort, not just one funded by the U.S. Other donors' pledges are related to ours in a burden-sharing arrangement. For example, Japan recently increased GEF funding over a 4-year period to $500 million, substantially more than the United States

even before the recent reduction. Germany will give $240 million over the same period. Further reducing GEF funding risks unraveling the GEF, and with it our efforts to bring developing countries into the global effort to safeguard our environment.

Mr. Chairman, the GEF operates the three implementing agencies. Our colleague has pointed out some concerns that he had about the way the GEF has functioned, but I think he is aware, and if not, I am pleased to inform him that the governance of the GEF has been changed substantially since criticisms were lodged against it. The structure and governance of GEF have been criticized in the past, it is true.

In response to an independent evaluation of the GEF pilot phase, which ended in December 1993, the GEF has been completely overhauled and restructured. Under U.S. leadership, a fully independent GEF Secretariat has been set up in Washington under the leadership of a U.S. citizen. A GEF council consisting of major donors, including the United States and developing countries' constituencies, is meeting four times annually to review project proposals, set policy, check implementing agency performance, and overall GEF effectiveness.

I go into this detail, Mr. Chairman, to point out that the overall governance of the GEF has been overhauled, very specifically. A comprehensive project monitoring system has been created. In addition, the GEF Secretariat consults biannually, and I think this is very important, because it gives transparency and public participation to it, to a wide range of environmental and indigenous groups.

Project development has been streamlined. There is strong U.S. economic interest involved as well. U.S. industries and consumers who have a substantial interest in conservation of biological and genetic diversity, with its myriad commercial application in production of food, fiber, and medicine, support the GEF. One fourth of all pharmaceutical prescriptions in this country contain active ingredients derived from plants, many of which exist only in tropical forest areas whose biodiversity values are facing rapid destruction.

By catalyzing technological advances in developing countries, the GEF helps expand export markets for U.S. firms. The GEF's international waters portfolio has potential to prevent marine pollution and to conserve some of the most economically and ecologically valuable species.

In conclusion, Mr. Chairman, I would like to just sum up and say whether it is for environmental reasons or economic reasons, or population reasons in terms of avoiding the problem of environmental refugees that could result if we do not stop some of the degradation that is happening in our environment, the GEF is a very good investment.

Mr. Chairman, our chairman, the gentleman from Alabama [Mr. CALLAHAN], under his leadership, the GEF was cut substantially, in recognition of the budget and fiscal realities that we had to face. However, the value that he placed on it I think is one that is appropriate in these tough fiscal times, and I would hope that the membership of this body would support the chairman's mark and reject the amendment proposed by the gentleman from Texas [Mr. DELAY].

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

Mr. Chairman, I rise to support the amendment. It is with great respect, Mr. Chairman, that I rise to oppose the chairman of the subcommittee, the gentleman from Alabama [Mr. CALLAHAN], and with great respect for the proponent of this amendment, the gentleman from Texas [Mr. DELAY].

The truth is, as the gentleman from Alabama [Mr. CALLAHAN] said, we do have a responsibility to the global environment. As my colleague from the other side said, indeed, the Global Environment Facility may in fact be dedicated to preservation of the environment, but the simple truth is it is an unabashed failure. It has not done what it proposed to do.

Mr. Chairman, as a member of the Committee on the Budget, I rise to say enough is enough. We must have the strength to say no to continuing to fund bad programs, even if they are dedicated to worthy causes.

Last month the national debt of the United States grew by over $1 billion per day. We simply cannot continue to leave that legacy to our children. We cannot leave it in the name of failed programs like the Global Environment Facility. Let me explain why I call it a failure, and why I call upon my colleagues to support the amendment offered by the gentleman from Texas [Mr. DELAY] and to oppose any amendments which simply reduce its funding.

Mr. Chairman, I hold before me a report prepared by an organization called Probe International, out of Toronto, Canada. Its title is ''The World Bank's Persisting Failure to Reform.'' It was written by John Thibodeau, and it is dated May, 1995. It documents in its first section that the Global Environment Facility remains dysfunctional.

It says, and I quote, ''The review'' of this program ''was as scathing in its evaluation'' as possible, ''revealing an organization that was fundamentally flawed and unaccountable. The review found that the reason for the existence of the Global Environment Facility was obscure, ''that its operations were dysfunctional and its accountability ill-defined; that the concept of incremental costs was a serious weakness.''

It concluded with the following words, and this is an independent review: ''No further funds to new projects or programs should be made until such time as strategies, policies, concentration areas, priorities, criteria'' have been put in place. That is the conclusion of this report.

Let me tell the Members why. Is it in fact protecting the environment? It is not. Its record is fundamentally flawed. The report talks about ''The Tana River Primate Reserve in Kenya, a $6.2 million project to protect two Endangered Species Act of monkeys.''

However, as my colleague pointed out, it is a failed proposal. It is a proposal to resettle 50,000 farmers of the Pokomo tribe. The GEF's desire to resettle this community, however, as is often the case, flies in the face of the evidence, the evidence that the Pokomo people not only co-existed with this endangered species and protected them for centuries, but also introduced them to Kenya, and when the danger to the environment of these monkeys became known, it was the Pokomo tribe that made it clear to the scientists.

Mr. Chairman, why does the GEF propose to move them? The report details the facts. In fact, by claiming that the local people are a threat to the monkeys, what is happening is the GEF is conveniently hiding the fact that there are two other failed World Bank projects that are hurting the real environment for these monkeys. The two projects are the Kiambere Dam and the Bura Irrigation Project, both World Bank projects that are over budget disasters, and have so radically altered the Tana River's flow that the future of the monkeys is in danger.

Mr. Chairman, the truth is the GEF is there to cover up and add a green tint to failed World Bank projects. In an environment such as we have today, where funds are so scarce, we simply cannot go on funding programs like the GEF.

This amendment is supported, because it would save $50 million this year and $400 million over the course of the next 4 years, by Citizens Against Government Waste, Citizens for a Sound Economy, the Small Business Survival Committee, the Competitive Enterprise Institute, Americans for Tax Reform, Coalitions for America, the National Center for Public Policy Research, the Environmental Policy Task Force, the Association of Concerned Taxpayers, Project 21, and Cato Institute.

Mr. Chairman, why do they all support it? Because it is an abject failure. In this age, we cannot continue to support an abject failure, even at the minimal level. While I commend the subcommittee chairman for reducing the funding from a level that was proposed to only the figure of $50 million, it is time to zero this project in the waste and keep the monies where they belong, in the United States.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DELAY

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. DELAY: On page 29 line 1, delete ''$50,000,000'' and insert ''$40,000,000''.

Mr. WILSON. Mr. Chairman, the gentleman from Texas [Mr. DELAY] has deleted $50 million. We zero the entire enterprise. My amendment offered as a substitute would reduce the reduction in the bill by a further $10 million. In other words, instead of reducing the entire $50 million, I would reduce it by $10 million, leaving $40 million in the enterprise.

Mr. Chairman, the GEF as we have heard before, provides an insurance policy to avoid the cost of future environment degradation. The GEF promotes the use of technology, of which the United States is a leader. I could name all of the reputable companies that consult with the GEF, that work on ozone substitutes and that work in the biotechnology area.

□ 2015

The Bush and Clinton administrations have supported the GEF over more expensive alternatives. The GEF was completely reorganized and overhauled in 1994, and I think that many of the problems that have been mentioned here today have already been addressed.

I would again suggest that the subcommittee, the Subcommittee on Foreign Operations, has already cut the GEF by 50 percent. The cut that I am proposing would add another 10 percent, which would mean a 60 percent cut in this multilateral organization that I think still shows great promise for the environment.

Mr. Chairman, I would move the substitute.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strenuously oppose the amendment offered by my friend the gentleman from Texas. I believe a little history will help clarify for Members why providing funds for the GEF makes sense.

The Global Environmental Facility [GEF] was established in 1991 during the Bush administration for a 3-year pilot phase designed to identify innovative approaches to conservation—to determine what works and what does not. During the pilot phase, GEF was part of the World Bank, but was run in cooperation with the U.N. Development Program. In March 1994, at the end of the pilot phase, GEF became a freestanding international institution, designed to be arms length from existing international bureaucracies and able to articulate a clear global environmental agenda.

Much was learned after the pilot phase and appropriate adjustments were made. In 1993 and 1994, two environmental organizations, Conservation International and Natural Resources Defense Council, conducted a major evaluation of the GEF and made recommendations for the operational phase. GEF was overhauled and is now technically first-rate, transparent to the public, and responsive to its donors.

Although some were skeptical early on, with the improvements that have been made every major environmental group now supports the GEF, and I have a letter here signed by 19 of them opposing the DeLay amendment. It may surprise you, though, to know that many major U.S. corporations also support the GEF. I have letters here from the chairman of the board of Intel, Dwayne Andreas of Archer Daniels Midland, and the vice chairman of the Mary Kay Corp. These corporations support GEF because it protects biodiversity, which they use to innovate in their fields, they sell environmental technology to countries for GEF projects, and they realize that protecting the environment is in our best interest as human beings.

In addition, companies like Bechtel, Brooklyn Union Gas, and Texaco from the gentleman from Texas' home State have participated in GEF projects. DuPont, GE, and Raytheon dominate the market for substitutes for ozone depleting chemicals. And Merck and Ciba-Geigy, pharmaceutical companies, depend on the biodiversity protected by GEF for their future.

As the gentleman from Texas knows, GEF mobilizes $5 for environmental protection for every $1 the U.S. contributes. For the United States, GEF is quite simply the most cost effective means of avoiding environmental degradation. No one—not AID, not the U.N. Environment Program—no one can do what GEF does.

There is precious little left in this bill to ensure that our children and grandchildren have the benefits of clean air and water and access to biodiversity for new drugs, chemicals and plant adaptations. The President's request for GEF was $110 million, we appropriated $90 million last year, this bill provides $50 million, and the DeLay amendment would eliminate funding. I urge Members to oppose the DeLay amendment, provide the subsistence level of funding contained in this bill for the GEF and help protect these treasures for the future.

Mrs. LOWEY. Mr. Chairman, I rise in support of the Wilson amendment.

(Mrs. LOWEY asked and was given permission to revise and extend her remarks.)

Mrs. LOWEY. Mr. Chairman, I want to thank the gentleman from Arizona [Mr. SHADEGG] for his comments regarding the inappropriate policies that he referred to. However, I also want to note that in the report to which you referred, you specifically said, ''until such time as new policies have been put in place.'' In other words, the funds should be cut until such time as new policies have been put in place.

I will not go on because you have heard so much from my colleagues this evening. But I think we have received a lot of information which clearly lays out changes that have been put in place, and thereby the Wilson amendment, which says that we should cut it an additional $10 million, I think is appropriate, and I would strongly oppose the amendment of the gentleman from Texas [Mr. DELAY] and the gentleman from Arizona [Mr. SHADEGG] which would cut out all the money.

We have heard this evening that the GEF secretariat consults biannually with a wide range of environmental and indigenous groups. We have heard that this sort of participation is unique to the GEF among multilateral institutions. As a result, environmental groups like the NRDC now endorse the GEF and support continued strong U.S. participation. Project development procedures have been streamlined. There has been extensive consultation with communities affected by GEF projects, and that is now required for every project.

Mr. Chairman, as this report suggests, there have been policies and procedures put in place to ensure that this money is spent wisely.

We have also heard that this has been supported by the Bush administration and the Clinton administration. I would like to add my support to the Wilson amendment and encourage my colleagues to vote with me.

Mr. SHADEGG. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Texas [Mr. WILSON].

Mr. Chairman, I understand the proposal of those who seek to defend this program. I understand they claim that the corrections have been made. The report I read from, I did not have time to note its date. The report is a report by an independent organization called Probe International based not out of the United States but out of Toronto, Canada, and is dated May 1995. The section of the report which I read was from the independent review. That review was concluded some time ago and it did point out the flaws which have been clearly acknowledged here, indeed the numerous flaws which have been clearly acknowledged in the GEF. But this is a current report which goes beyond that, and says that notwithstanding the claims of the environmental community, in point of fact the GEF is not doing the job correctly today. I suggest indeed it is not. I suggest that as President Clinton called upon America and said we can do better, indeed for those who are concerned about protecting the global environment, we can do far better than to add more money to a failed World Bank-dominated program, a program which puts money in the hands of the rulers of third-world countries and does not achieve its goals, a program which papers over World Bank projects which do serious environmental damage. I think it is important that this Congress have the courage to say ''no,'' not the courage to say, ''oh, it failed so let's give it a little less,'' but the courage to say ''no.''

With regard to my colleague from this side who said there is great corporate support for this proposal, let me suggest a fundamental flaw in that notion. When he says that many corporate interests in America support this idea and support funding for it, let me point out their hypocrisy. The truth is when polluters pollute, they should pay to clean it up, not the American taxpayer, and in this instance when he cites a series of American corporations who think it is a wonderful idea for us to take American tax dollars and to deal with third-world pollution, indeed, third-world pollution which they themselves may have contributed to, we set the cart before the horse. If the polluters have created the pollution, they should be made to clean it up, not the taxpayers of America, and not under a government program where you and I and my children and indeed with the debt we are creating, my grandchildren are compelled to pay to clean it up, that creates all the wrong incentives. Then the polluter has no motivation to clean up because the taxpayer is going to come along and bail him out. It simply is, as the report I have read from, which is a second report suggests, a failed program.

Mr. Chairman, let me simply conclude with this point. If the best that the proponents of GEF can do is to acknowledge its failure, is to acknowledge that a year ago the environmental community, including the Environmental Defense Fund, criticized this and acknowledged that it was a failure, if the best they can do is say, ''Yes, it was poor before, but we've tried to improve, so give us, not $50 million but $30 million,'' I suggest we can, as Bill Clinton said, do better, and we can do better by abolishing the funding and creating a new program, a new program that in fact makes polluters pay for the pollution and does not require the American taxpayer to pay for their pollution or the pollution of other third-world governments.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Wilson amendment.

Mr. Chairman, I will try not to take the 5 minutes. I think it is important for those Members that are listening to understand what is going on here. It is obvious to me that the gentleman from Texas, my good friend, is trying to block zeroing out a failed agency because it has failed on a failed concept.

The gentleman from Illinois was right in pointing out that former President Bush went to Rio and worked on the Rio summit and committed us to certain things. Before the President left, many of us, and many of us in leadership urged the President not to go because this summit would lead to bad things.

This is a perfect example of proving us right. This is a feel-good organization that has no substance in its ability to clean up calamities as outlined in the Rio summit.

First of all, I would like to say to those that may not know, being a biologist and biochemist by education, I am here and stand here on the floor to tell Members that global warming and ozone depletion are not proven. They are not proven concepts. They are theories. No one, including the environmentalists, can say with certainty that this is a proven concept. This is a hope-that-it-does-not-happen concept. It has never been proven. This is a concept designed on computer models by environmental activists. Yet we are spending millions if not billions of dollars on a theory. That is why we were very concerned that Bush go to Rio to get involved in this kind of issue.

Yes, he signed a 3-year pilot. Well, the pilot has crashed. This does not work, it is a fundamentally flawed concept. Let me say to the Members that are interested in deficit reduction. We are not interested in ''government-light'' that is an example of the amendment of the gentleman from Texas. We are interested in looking at programs and those programs that can be done better and smarter, we want to do them better and smarter, thereby realizing savings. But for programs like the GEF that are fundamentally flawed and even environmental groups are saying it is flawed, we want to zero them out.

Members have to vote against the Wilson amendment in order to get to the DeLay-Shadegg amendment in order to zero it out.

Mr. Chairman, as far as the corporations, all those Members that have called for the end of corporate welfare, corporations support the GEF because GEF gives them green cover, and makes them look like they are environmentally sound. I am not here serving in this body to protect corporations and give them taxpayers' money to make them look a little greener. That is what GEF does.

Mr. Chairman, I am just saying, this is a flawed program, it has not proven itself at all, it is a flawed program trying to control a flawed theory. I urge a ''no'' vote on the Wilson amendment and a ''yes'' vote on the DeLay amendment.

Mr. WILSON. Mr. Chairman, I have been overwhelmed by the eloquence of my colleague, the gentleman from Texas.

Mr. Chairman, I ask unanimous consent to withdraw my substitute amendment.

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

There was no objection.

□ 2030

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

Mr. Chairman, I rise in opposition to the well-intentioned DeLay amendment. I find it very difficult, Mr. Chairman, to be here and watch the Global Environmental Facility be absolutely terminated. It went on a committee level from $110 million down to $50 million, and now to get rid of it completely I think is absolutely inappropriate and would be devastating.

As one of the founding members of a group called GLOBE, Global Legislators for a Balanced Environment, I must speak up for a multilateral fund that was begun under the Bush administration and has had continued support by the present administration. Operating through three implementing agencies, the World Bank, the U.N. Development Programme, and the U.N. Environment Programme, the GEF plays a crucial role in influencing international environmental actions.

We have here a unique fund dedicated to the preservation of the global environment. Its projects include those in climate change, which affect crop-growing seasons, plant distribution, damage to coastal communities, and many others: ozone depletion, which if it increases will increase our exposure to ultraviolet radiation and the attendant threat of malignant melanoma; pollution of international waters, which are already depleting our fish species, loss of forests, plants, and animal species; and the list goes on.

Mr. Chairman, the United States does not stand alone in supporting the GEF. With the proposed reduction to $50 million, we will be going against the international mainstream. Japan has increased their contribution to $500 million over a 5-year period, and Germany will give $240 million over the same period.

To bow out of this important World Bank program completely is to abrogate our responsibility, and I believe it will be very counterproductive. Why do I feel this way? Because the GEF is protecting the environment and biodiversity where it is most valuable and most threatened, in the developing countries of Africa, Asia, and Latin America.

Frankly, if this attempt to further reduce the funds, to eliminate them, is a criticism of past governance, this has already been addressed. Under U.S. leadership, a fully independent GEF secretariat has been set up in Washington under the leadership of a U.S. citizen. A comprehensive project monitoring system has been created under this secretariat to ensure that projects meet cost and performance goals from start to finish. Many of these management changes are unique to the GEF among multilateral institutions.

To further reduce funding of the Global Environmental Facility would be to jeopardize bringing developing countries to the global effort to safeguard our environment. Really, too much is at stake. I strongly urge my colleagues to support the GEF, it has already been reduced to the extent it is determined in the bill, and to vote against the DeLay amendment.

As Shakespeare said, ''To nature none more bound,'' and we must remember that.

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

Mr. Chairman, I reluctantly rise against the amendment offered by the gentleman from Texas [Mr. DELAY]. But I would like to speak for just a few minutes on the positive impacts of the Global Environmental Fund.

A number of my colleagues have mentioned a number of things here about tropical rain forests, global fisheries, biological diversity, global warming, ozone depletion, and things like that. These are not abstract concepts. These are not things that are proven beyond a shadow of a doubt to have impact on our Nation or the world as a whole.

When we are dealing with scientific realities, there are always certain scientific uncertainties, but I want to start from this list and make a couple of comments.

The nations of the world's forests, the rain forests of the world, are a storehouse of medical potential breakthroughs that will not only benefit us as citizens today, but future generations to come. What are the major pharmaceutical companies of the world, especially in the United States, American companies included, doing in tropical rain forests now? I will give you one example.

Merck & Co. has signed an agreement partially through the link with the Global Environmental Fund to bring these two countries, the United States and Costa Rica, together. Costa Rica has decided to set aside 25 percent of their entire country so a U.S. pharmaceutical firm can go down there and study the biology and the biodiversity of that country's species, flora and fauna, that means the animals and the plants, to try to extract chemical agents to cure diseases around the world that are becoming resistant to antibiotics today.

These are going to be the cures for tomorrow. What does that mean to Merck & Co. as a result of this connection? It means literally billions of dollars.

So if we are looking at the Global Environmental Fund and saying that it is not worth the few dollars that we are going to put into it, talk with the pharmaceutical companies of this country and they will tell you it is worth billions for Merck. It is worth hundreds of billions for the other pharmaceutical companies in this country and for the emerging biotechnology companies of this country.

The global fisheries. If we just looked at the United States, 70 percent of the commercial fish that we harvest are spawned in tidal estuaries. What does GEF, the Global Environmental Fund, do? It helps other countries realize the necessity of protecting their tidal marshes for the main protein source of the entire world. So for the few investment dollars that we put into GEF, the Global Environmental Fund, we reap huge profits.

What about biological diversity in the first place? You cannot name a disease in this country that does not have a potential cure as a result of finding some chemical agent in some species around the planet. That is just as a result of our understanding for renewed molecular technology advancements in this country today.

From an endangered species called the rosy periwinkle, a small little endangered flower, they extracted a chemical agent that now cures or sets aside 80 percent of childhood leukemia. Why is this particular plant important? Because it cures disease. Also, we have not been able to synthesize that chemical agent, so we need that particular plant.

Whether it is heart attacks, high blood pressure, cancer, glaucoma, a whole range of diseases, we are finding agents in particular plants for these particular diseases to be cured.

The Global Environmental Fund is a small investment, folks, for a major discovery. Global warming, has it been proved? No. Has it been disproved? No. But I will tell my colleagues, the major scientists of this country, if we talk to an independent scientist from Harvard or Cornell or Yale or whatever that is not linked with any environmental group, they would say, ''Hedge your bets, it might be happening.''

What about ozone depletion? Is there an increase in the incidence of skin cancer? Are doctors telling you to stay out of the sun? The answer is yes. I reluctantly ask my colleagues to vote no on the amendment.

AMENDMENT OFFERED BY MR. PORTER TO THE AMENDMENT OFFERED BY MR. DELAY

Mr. PORTER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER to the amendment offered by Mr. DELAY:

At the appropriate place, strike ''0'' and insert in lieu thereof ''$30,000,000''.

Mr. PORTER. Mr. Chairman, I will not take 5 minutes because I have already spoken on the DeLay amendment, but while I was off the floor, I understand that the gentleman from Texas [Mr. WILSON] had withdrawn his amendment at $40 million. I simply would like to offer this amendment for the consideration of the Members, where the DeLay amendment would be reduced from zeroing out GEF so that it would leave $30 million in that account.

Mr. SALMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I see some great progress being made here. I understand it started at 110 million then it was at 50, then at 40, now at 30. I think we are almost there.

But I would like to say this: I have heard the evidence on both sides of the equation, and other than the side that wants to preserve funding saying, ''Trust me, I am from the Government, I am here to help you,'' I have not found any compelling reasons to support this boondoggle.

I support the efforts of an impressive list of people and groups that support the amendment put forth by the majority whip and the gentleman from Arizona [Mr. SHADEGG]. These include Grover Norquist's group, Americans for Tax Reform, the Cato Institute, Citizens for a Sound Economy, the Competitive Enterprise Institute, and a host of other responsible groups. The GEF is a global giveaway that cannot be justified, particularly given our Nation's fiscal crisis, and it has even failed its stated goal, improving the environment. The GEF should RIP.

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

Mr. SALMON. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Chairman, I think the environment won an important battle today as there was an extension on the moratorium for drilling off the coast of this country. That was something I supported. It was something other environmentalists supported. And as an environmentalist, though, I cannot rise and support something like this. Resources are so scarce in our battle for cleaning up the environment that we cannot continue to throw money away at a failed PR effort for the World Bank.

You now, Bismarck once said you can do anything with children so long as you play with them. Well, that is exactly what the World Bank is doing. They are playing a PR game here because they want to come off looking good.

If they want to spend their own money, that is fine, but when they spend our money for their own PR games, it is not only the taxpayer that loses, but it is the environment that loses. If we as a body decide that we need to spend money cleaning up the environment of this country, then let us make sure that we invest our dollars wisely. We cannot continue in this hoax, in this PR game.

Mr. Chairman, we should support the DeLay-Shadegg amendment and clean up this country for our children.

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

Mr. SALMON. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding.

I just asked for this time to explain to the Members where we are. Even if we wanted to do the great things that the gentleman from Maryland claims that the GEF does, which I dispute, this is a waste of money, $30 million. It will go to bureaucrats. It will go the World Bank. It will not do anything.

So I urge the Members to understand the vote. The vote that I am urging is a no vote on the Porter amendment to the DeLay amendment. Defeat that and then vote for the DeLay amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER] to the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to a minimum of 5 minutes the timer for a recorded vote, if ordered, on the original DeLay amendment if there is no intervening business or debate following the 15-minute vote on the Porter amendment. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 180, not voting 12, as follows:

[Roll No. 426]

AYES—242

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Molinari
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Porter
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn

NOES—180

Allard
Archer
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Ewing
Fields (TX)
Flanagan
Foley
Frisa
Funderburk
Gallegly
Ganske
Geren
Gillmor
Goodlatte
Graham
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Portman
Quillen
Radanovich
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Armey
Bryant (TX)
Camp
Furse
Gephardt
Gunderson
Moakley
Reynolds
Torricelli
Williams
Yates
Zimmer

□ 2104

Messrs. RADANOVICH, ALLARD, ROYCE, DUNCAN, LEWIS of California, CHABOT, MCINNIS, PACKARD, and PORTMAN changed their vote from ''aye'' to ''no.''

Messrs. JEFFERSON, JOHNSON of South Dakota, BALDACCI, STUPAK, TUCKER, and FORBES changed their vote from ''no'' to ''aye.''

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 273, noes 146, not voting 15, as follows:

[Roll No. 427]

AYES—273

Allard
Archer
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder

Spence	Thornberry	Wamp
Stearns	Thornton	Ward
Stenholm	Thurman	Watts (OK)
Stockman	Tiahrt	Weldon (FL)
Stump	Torkildsen	Weller
Talent	Traficant	White
Tanner	Upton	Whitfield
Tate	Visclosky	Wicker
Tauzin	Volkmer	Wise
Taylor (MS)	Vucanovich	Wolf
Taylor (NC)	Waldholtz	Young (AK)
Tejeda	Walker	Young (FL)
Thomas	Walsh	Zeliff

NOES—146

Abercrombie	Frost	Obey
Ackerman	Gejdenson	Olver
Andrews	Gilchrest	Ortiz
Baldacci	Gilman	Owens
Becerra	Gonzalez	Pallone
Beilenson	Green	Pastor
Bentsen	Gutierrez	Payne (NJ)
Berman	Hall (OH)	Payne (VA)
Bishop	Harman	Pelosi
Boehlert	Hastings (FL)	Porter
Bonior	Hilliard	Quillen
Borski	Hinchey	Rangel
Brown (CA)	Horn	Reed
Cardin	Hoyer	Richardson
Castle	Jackson-Lee	Rivers
Clay	Jefferson	Roybal-Allard
Clayton	Johnson (CT)	Rush
Clyburn	Johnson, E. B.	Sabo
Coleman	Johnston	Sanders
Collins (IL)	Kennedy (MA)	Sawyer
Collins (MI)	Kennedy (RI)	Saxton
Conyers	Kennelly	Schiff
Costello	Kildee	Schroeder
Coyne	LaFalce	Schumer
Davis	Lantos	Scott
de la Garza	Lazio	Serrano
DeFazio	Leach	Skaggs
DeLauro	Levin	Slaughter
Dellums	Lewis (GA)	Smith (NJ)
Deutsch	Lofgren	Spratt
Dicks	Lowey	Stark
Dingell	Maloney	Stokes
Dixon	Manton	Studds
Doggett	Markey	Stupak
Dooley	Matsui	Thompson
Durbin	McCarthy	Torres
Ehlers	McDermott	Towns
Engel	McHale	Tucker
Eshoo	McKinney	Velazquez
Evans	McNulty	Vento
Farr	Meek	Waters
Fattah	Mfume	Watt (NC)
Fazio	Miller (CA)	Waxman
Fields (LA)	Mineta	Weldon (PA)
Filner	Mink	Wilson
Flake	Moran	Woolsey
Foglietta	Morella	Wyden
Frank (MA)	Nadler	Wynn
Frelinghuysen	Oberstar	

NOT VOTING—15

Armey	Ford	Reynolds
Bachus	Furse	Torricelli
Bryant (TX)	Gephardt	Williams
Camp	Gunderson	Yates
Forbes	Moakley	Zimmer

□ 2112

Mrs. MEYERS of Kansas, Mr. PETERSON of Minnesota, and Mr. BARCIA changed their vote from ''no'' to ''aye.''

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled ''International Disaster Assistance'', and ''United States Emergency Refugee and Migration Assistance Fund'', not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading ''Foreign Military Financing Program'', not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading ''International Military Education and Training'', not to exceed $50,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading ''Trade and Development Agency'', not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for ''International Organizations and Programs'') pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents: *Provided further,* That, notwithstanding any other provision of law, Azerbaijan shall be eligible to receive funds provided under title II of this Act to be used solely for humanitarian assistance and for democracy-building purposes.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations, except for transfers specifically referred to in this Act.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1996, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapters 1, 8 and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading ''Assistance for Eastern Europe and the Baltic States'', shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further,* That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for ''Child Survival and Disease Programs Fund'', ''Development Assistance Fund'', ''Development Fund for Africa'', ''International organizations and programs'', ''Trade and Development Agency'', ''International narcotics control'', ''Assistance for Eastern Europe and the Baltic States'', ''Assistance for the New Independent States of the Former Soviet Union'', ''Economic Support Fund'', ''Peacekeeping operations'', ''Operating expenses of the Agency for International Development'', ''Operating expenses of the Agency for International Development Office of Inspector General'', ''Nonproliferation and Disarmament Fund'', ''Anti-terrorism assistance'', ''Foreign Military Financing Program'', ''International military education and training'', ''Inter-American Foundation'', ''African Development Foundation'', ''Peace Corps'', ''Migration and refugee assistance'', or ''United States Emergency Refugee and Migration Assistance Fund'', shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Notwithstanding any other provision of law or of this Act, none of the funds provided for ''International Organizations and Programs'' shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1997.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

REPORTING REQUIREMENT

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Dominican Republic, Guatemala, Haiti, Indonesia, Liberia, Nicaragua, Peru,

Russia, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations: *Provided,* That this section shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 that are made available for Indonesia and Nicaragua.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, ''program, project, and activity'' shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, ''program, project, and activity'' shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development ''program, project, and activity'' shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further,* That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out ''1995'' and inserting in lieu thereof ''1996''.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended subject to section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 527. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution designated in subsection (b), and the Administrator of the Agency for International Development shall instruct the United States Executive Director of the International Fund for Agriculture Development, to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term ''international financial institution'' includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 528. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 529. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

DEBT-FOR-DEVELOPMENT

SEC. 530. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization.

LOCATION OF STOCKPILES

SEC. 531. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out ''a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995.'' and inserting in lieu thereof ''$40,000,000 for stockpiles in the Republic of Korea and $10,000,000 for stockpiles in Thailand for fiscal year 1996''.

SEPARATE ACCOUNTS

SEC. 532. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading ''Sub-Saharan Africa, Development Assistance'' as included in the Foreign Operations, Export Financing, and Related

Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 533. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, ''international financial institutions'' are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 534. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq, Serbia or Montenegro unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, Serbia, or Montenegro, as the case may be and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq, Serbia, or Montenegro into its customs territory, and

(2) the export of its products to Iraq, Serbia, or Montenegro, as the case may be.

POW/MIA MILITARY DRAWDOWN

SEC. 535. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1996, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Vietnam, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 536. During fiscal year 1996, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

CASH FLOW FINANCING

SEC. 537. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 538. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 539. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided,* That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 540. (a) Congress finds as follows:

(1) The United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia.

(2) The federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces.

(3) Because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo, or to a unilateral lifting of the arms embargo by the President of the United States, against Bosnia-Hercegovina, the President is authorized to transfer, subject to prior notification of the Committees on Appropriations, to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1996: *Provided,* That the President certifies in a

timely fashion to the Congress that the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

SPECIAL AUTHORITIES

SEC. 541. (a) Funds appropriated in title II of this Act that are made available for Haiti, Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia-Hercegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided*, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further*, That the President shall terminate assistance to any country or organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases, and for the purpose of supporting biodiversity conservation activities: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1996, the President may use up to $40,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 542. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 543. (a) Of the funds appropriated or otherwise made available by this Act for ''Economic Support Fund'', assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 544. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided*, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1996, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

CEILINGS

SEC. 545. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

EXCESS DEFENSE ARTICLES

SEC. 546. (a) The authority of section 519 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide nonlethal excess defense articles to countries for which United States foreign assistance has been requested and for which receipt of such articles was separately justified for the fiscal year, without regard to the restrictions in subsection (a) of section 519.

(b) The authority of section 516 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide defense articles to Jordan, except that the provision of such defense articles shall be subject to section 534 of this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 547. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: *Provided*, That none of the funds appropriated by this Act may be made available to carry out the provisions of section 316 of Public Law 96–533.

USE OF AMERICAN RESOURCES

SEC. 548. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 549. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 550. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 551. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 552. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that

furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 553. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 554. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 583(a) of the Middle East Peace Facilitation Act of 1994 (part E of title V of Public Law 103–236) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided,* That if the President fails to make the certification under section 583(b)(2) of the Middle East Peace Facilitation Act or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 555. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1996 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

WAR CRIMES TRIBUNALS

SEC. 556. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided,* That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further,* That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.

NONLETHAL EXCESS DEFENSE ARTICLES

SEC. 557. Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1996, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to countries eligible to participate in the Partnership for Peace and to receive assistance under Public Law 101–179.

LANDMINES

SEC. 558. Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

REPORT ON THE SALARIES AND BENEFITS OF THE IMF AND THE WORLD BANK

SEC. 559. The Comptroller General shall submit a report to the Committees on Appropriations not later than November 1, 1995, on the following—

(1) a review of the existing salaries and benefits of employees of the International Monetary Fund and the International Bank for Reconstruction and Development; and

(2) a review of all benefits paid to dependents of Fund and Bank employees.

Such report shall include a comparison of the salaries and benefits paid to employees and dependents of the Fund and the Bank with salaries and benefits paid to employees holding comparable positions in the public and private sectors in member countries and in the international sector.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 560. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided,* That this subsection shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further,* That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 561. None of the funds appropriated or otherwise made available by this Act under the heading ''INTERNATIONAL MILITARY EDUCATION AND TRAINING'' or ''FOREIGN MILITARY FINANCING PROGRAM'' for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OR DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE

SEC. 562. (a) IN GENERAL.—None of the funds made available in this Act may be used for assistance in support of any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Subsection (a) shall not apply to assistance in support of any country when it is made known to the President that the assistance is in the national security interest of the United States.

REFERENCES TO AUTHORIZATION ACTS

SEC. 563. The funds appropriated under the heading, ''Child Survival and Disease Programs Fund'' are provided pursuant to the Foreign Assistance Act, as amended: under sections 103 through 106 (Development Assistance Fund), in the amount of $214,000,000; under part I, chapter 10 (Development Fund for Africa), in the amount of $131,000,000; under the provisions of section 498(6) (Assistance for the New Independent States of the Former Soviet Union), in the amount of $15,000,000; under the provisions of part I, chapter 1, section 104(c) of the Foreign Assistance Act and the Support for East European Democracy (SEED) Act of 1989, in the amount of $1,000,000; under provisions of chapter 4, part II (Economic Support Fund), in the amount of $23,000,000; under the provisions of section 301, in the amount of $100,000,000 as a contribution on a grant basis to the United Nation's Children's Fund (UNICEF): *Provided,* That funds derived from funds authorized under chapter 4, part II, shall be made available for projects meeting criteria set forth in part I section 104(c): *Provided further,* That funds appropriated under the heading ''Child Survival and Disease Programs Fund'' shall be in addition to amounts otherwise available for such purposes.

Mr. PORTER. Mr. Chairman, as I have said many times on this floor, the United States has a unique opportunity—in fact in my view a responsibility—to remain engaged overseas in the post-cold-war world. The reasons for promoting our interest overseas, including the development of overseas markets for United States goods, protection of the planet's environment, and United States strategic interests did not disappear with the break-up of the Soviet Union. If anything, the United States should focus its energies and resources on these issues now, when we can have the greatest opportunity for success any time in the last 50 years.

The gentleman from New York is a good friend of mine and a person whom I greatly respect for his longtime dedication to enhancing the United States's role in the world through

development aid. I commend him for his leadership in passing the American Overseas Interests Act earlier this year. Unfortunately, he has been put in a very peculiar and difficult position by the foreign operations bill, which reflects his priorities, I believe, but exceeds his committee's authorization level by $24 million.

While I understand the gentleman's dedication to protecting the prerogatives of his committee, I cannot support his amendment. The development assistance account is, in my view, the backbone of this bill. The bill already effectively cuts this account by 40 percent, devastating programs in the areas of population, education, agriculture, microenterprise, and others that promote our interests overseas. Further cuts like the ones proposed in this amendment are counterproductive and should not be enacted.

I have a great deal of respect for the gentleman from New York, but I must reluctantly encourage Members to oppose his amendment today.

Mr. GOODLING. Mr. Chairman, I rise today to comment on an issue of vital strategic importance to the United States—the future of Ukraine.

The Ukraine, situated in the middle of Sir Halford John Mackinder's celebrated ''heartland'' of the world, is of vital strategic significance to every nation in the region. Standing at the crossroads of Europe and Asia, the future of the Ukraine and its 52 million people will have a profound impact on the geopolitical complexion of Europe, Central Asia, and the Transcaucasus.

Recently, the Ukraine has responded extremely well in its efforts to implement democratic principles, begin the conversion to a free market economy, and fulfill international treaty commitments. In particular, the period since the 1994 democratic election of President Kuchma has been a time of significant progress in several respects.

However, the United States commitment to the Ukraine has not been commensurate with the pace of Ukrainian reform. I understand the reluctance of the House Committee on Appropriations Subcommittee on Foreign Operations to provide specific country earmarks in this bill. However, this administration has been negligent in providing proportionate funding for the Ukraine under the authority of the Freedom Support Act. Ukraine's size, geostrategic significance, and commitment to important treaty obligations have not been reflected in the administration's distribution of Freedom Support Act funds.

Ukraine has fulfilled nuclear disarmament obligations, adopted democratic reform, made progress in economic reform, and boasts an excellent human rights record. In many ways, the Ukrainian record stands in stark contrast to that of the Russian Government.

Russia is the overwhelming recipient of the Freedom Support Act account. In response to several regrettable actions undertaken by the Russian Government, Congress has justifiably reduced our commitment to that account. It is the expectation of Congress that these reductions will be borne by Russia and not the Ukraine.

While I support the reductions in spending for the Freedom Support Act, these cuts should not come from the Ukrainian allotment. Congress will be watching the administration closely on this matter.

Mr. CALLAHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DIAZ-BALART) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 79, PROPOSING CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–164) on the resolution (H. Res. 173) providing for consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 38) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

□ 2115

The SPEAKER pro tempore (Mr. DIAZ-BALART). Is there objection to the request of the gentleman from Maryland?

Mr. WISE. Mr. Speaker, reserving the right to object, I will not object, of course, but I yield to the gentleman from Maryland [Mr. GILCHREST] for an explanation of his request.

Mr. GILCHREST. Mr. Speaker, this resolution authorizes the Greater Washington Soap Box Derby races to be run on the Capitol Grounds on July 15, 1995, or on such other date as the Speaker of the House and President pro tempore of the Senate so designate. This free event is sponsored by the All American Soap Box Derby and its local affiliate, the Greater Washington Soap Box Derby Association. Its participants are young girls and boys from 9 to 16 years old who reside in the Greater Washington metropolitan area.

Pursuant to this resolution the association would assume full responsibility for any expenses involved with the event and for any liability related to it. The association also agrees to make any necessary arrangements for the races with the approval of the Architect of the Capitol and the Capitol Police Board.

For 50 years the Soap Box Derby races have taken place in Washington, D.C., and this will be the fifth time that the Capitol Grounds will be used for the races down Constitution Avenue.

Every year this event helps teach participating youngsters the basics of mechanics and aerodynamics as they design and build their race cars. It is truly an exciting event for the entire family.

I urge my colleagues to support this resolution so that this activity may take place.

Mr. WISE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from West Virginia for yielding to me.

Mr. Speaker, I want to thank Chairman SHUSTER, the ranking Member, the gentleman from California, Mr. MINETA, my friend and colleague, the gentleman from Maryland, WAYNE GILCHREST, and the gentleman from West Virginia, BOB WISE, for their strong support and continued assistance in expediting consideration of this bill today.

This resolution authorizes the use of Constitution Avenue between Delaware Avenue and Third Street for the 54th running of the Greater Washington Soap Box Derby on July 15, 1995. This competition is part of the All-American Soap Box Derby held later this summer in Akron, OH.

The resolution also authorizes the Architect of the Capitol and the Capitol Police to negotiate a licensing agreement with the Greater Washington Soap Box Derby Association to assure that there will be complete compliance with rules and regulations governing use of the Capitol Grounds.

For the past 4 years, I have proudly sponsored this bill along with regional Members and sports fans. It provides young boys and girls, ages 9 to 16, with an invaluable opportunity to develop and practice both sportsmanship and engineering skills.

This year, over 50 participants from Washington, DC and the surrounding communities of northern Virginia and Maryland are expected to participate in this year's event. I am pleased that boys and girls representing all five counties in my district will be competing in this year's derby.

The Soap Box Derby promotes a positive activity involving our young people. All too often, we hear many disturbing stories about negative activities youth are involved in.

I am reminded of a statement Ken Tomasello, the director of Greater Washington Soap Box Derby Association, made to me 4 years ago when I introduced the first resolution for use of

the Capitol Grounds. He said, in short, ''while the derby doesn't keep kids off the street, it does give them a drug free activity on the street.''

The young people involved spend many months preparing for this race. The day they actually compete provides them with a sense of achievement and comraderie, not only for themselves but also for their families and friends.

This worthwhile event provides the participants, tourists, and local residents with a safe and enjoyable day of activities. I would like to take this opportunity to congratulate them for their achievements and wish them all well in this year's race.

Again, I want to thank the Transportation Committee for its continued support of the Greater Washington Soap Box Derby and I encourage all of my colleagues to attend this year's race.

Mr. WISE. Mr. Speaker, further reserving the right to object, I join my colleague Mr. GILCHREST in supporting House Concurrent Resolution 38, a resolution to authorize the use of the Capitol Grounds for the Greater Washington Soap Box Derby. The event is scheduled for July 15, 1995, and part of the Capitol Grounds as well as Constitution Ave. NE., will be used for the race.

Boys and girls, ages 9 through 16, design, build and race their own soap box cars. In the process they become familiar with the principles of aerodynamics and mechanics. In addition, the entire family can participate in, and enjoy the fun and activities of the day.

The winner of the Washington race will then compete in the national competition in Akron, OH.

This is a very worthwhile, well attended activity. I wish to commend Mr. HOYER for his support for this annual event, and urge support for House Concurrent Resolution 38.

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.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 38

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (hereinafter in this resolution referred to as the ''association'') shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 15, 1995, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW, JUNE 28, 1995, DURING 5-MINUTE RULE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on the Judiciary; the Committee on National Security; the Committee on Small Business; and the Permanent Select Committee on Intelligence.

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

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

Mr. WISE. Mr. Speaker, reserving the right to object, the gentlewoman is absolutely correct. The Democrat minority leadership has been consulted. We have no objection.

Mr. Speaker, I withdraw my reservations of objection.

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

There was no objection.

CUT WASTE, FRAUD, AND ABUSE IN MEDICARE

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

Mr. GENE GREEN of Texas. Mr. Speaker, yesterday I met with 100 senior citizens from my district to talk with them about the cuts they will be facing under this new Republican budget plan that came out of the conference committee. They do not understand why leaders in Washington would cut their senior health care plan in order to finance a tax cut. Frankly, Mr. Speaker, I do not either.

I also had a chance to visit with some doctors who asked me not to cut Medicare. These doctors were declared Republicans. They said, for the first time in 30 years, they have been able to adequately provide health care for seniors through the Medicare program. We should cut fraud in Medicare by funding Operation Restore Trust, to eliminate fraud in health care, but we should not arbitrarily cut Medicare to finance our egregious tax cut plan.

The Republican budget agreement cuts Medicare, education, job training, and then cuts taxes. They want to cut taxes and also cut Medicare at the same time. Then they say that are not cutting Medicare to finance their tax break. Something is fishy.

Mr. Speaker, Congress should work hard to cut the waste, fraud, and abuse in Medicare. I hope we can agree that seniors should not be used to balance the budget for sound bites in Washington. Let us be fair to the students and seniors and not punish them for a balanced budget. It's not good government.

Mr. Speaker, I submit for the RECORD an article from the Houston Chronicle.

CONGRESSMEN WARN SENIORS OF GOP BUDGET CUTS

(By Stefanie Asin)

Democratic U.S. Reps. Dick Gephardt and Gene Green told about 100 senior citizens Monday the Republicans want to balance the budget at their expense.

The GOP wants a $270 billion cut in Medicare and Medicaid spending, and if the GOP's budget agreement passes this week in the House, seniors could expect $1,000 more a year in medical costs, said Gephardt, House minority leader from Missouri.

''It is wrong to do this,'' he said. ''A lot of you live on your Social Security. You're already having trouble paying for rent, housing, groceries and prescription drugs.''

Gephardt, who heard support from the seniors as he spoke, encouraged them to speak out and fight the proposed cuts. Congress should cut defense spending instead, he said.

''I strongly object to the priorities that have been set,'' said Green of Houston. ''You can't balance the budget on the backs of the senior citizens.''

Green said 286,000 Harris County senior citizens receive more than $1.5 billion in Medicare payments annually and cannot afford to lose their health care.

GOP leaders say Medicare spending must be slowed before the system goes bankrupt. If Medicare payments continue at their current rate—$4,700 to the average person per year—the fund will be bankrupt by 2002, said Tom Hoopes, spokesman for Rep. Bill Archer, R-Houston, chairman of the House Ways and Means Committee.

''If we don't slow the increase, these people will get absolutely nothing,'' Hoopes said.

''We think it's foolhardy for political gain to spend too much now and end up with nothing after the next couple of elections. We would tell the senior citizens we are truly concerned about Medicare and its future.''

Susie Davis, 85, and several others asked the congressmen many questions about how the Democratic and Republican proposals would affect them. Davis, who lives alone

with no family left, said she needs subsidized health care.

''I don't have anything else,'' she said. ''It's bad to do us that way.''

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATURALIZATON REMARKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, [Mr. FARR] is recognized for 5 minutes.

Mr. FARR. Mr. Speaker, as we approach the 4th of July celebrating our citizenship and the good fortune to live in a country where people can elect a government that derives its strength from the faith of the government, Let us take this moment during the 4th of July recess to reflect on a lot of people who will be citizens of the United States.

Mr. Speaker, I am talking about the many of us who recognize that there are decent, productive, legal immigrants trying to become good and productive American citizens. Sometimes there is one thing in the way, a backlogged naturalization process.

As a Member of this Congress, I have worked with the administration towards eliminating the long backlogs and improving the naturalization process for many hard-working immigrants who wait as long as a year and a half to get naturalized after they have qualified to be naturalized.

Recently I supported the INS request to pout more funds into improving our naturalization system. This successful effort allows the INS to spend $76.6 million to make progress, processing ''adjustment of status applications'' and ''naturalization applications'' much easier.

These critical funds will allow the INS to hire more than 1,000 much-needed additional staff and utilize newly improved technology to more efficiently process the surging backlogs.

It will help also in the INS efforts to improve customer service. It is very important to point out that the money for naturalization is not taxpayer money. It is from the immigrants themselves and from the application fees that they pay into the system.

Mr. Speaker, I am pleased to see that this unprecedented commitment by the INS to improve the naturalization process and eliminate many of the backlogs will allow many people to become citizens this next year. I ask my colleagues to join me in making the 4th of July a day in which our communities do their own swearing-in ceremonies, to welcome our newest citizens on board.

I will be performing such ceremonies in Watsonville, CA, on July 7. I hope a year from now that the President will offer the lawn of the White House for the national 4th of July swearing-in ceremony and that every Member of this Congress will sponsor residents in their district of participate in such a swearing-in ceremony.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes

[Mr. BURTON of Indiana 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 gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

[Ms. JACKSON-LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

[Mr. FOLEY 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 Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

[Mr. DEFAZIO 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 Florida [Mr. GOSS] is recognized for 5 minutes.

[Mr. GOSS 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 gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her 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. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS 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 Ohio [Mr. HOKE] is recognized for 5 minutes.

[Mr. HOKE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FARM PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I just wanted to speak briefly about one of the amendments we had today in the full Committee on Appropriations that had to do with some of the farm programs that are coming up.

This particular amendment had to do with the peanut program. The peanut program, like all of the agriculture programs, frankly are somewhat hard to describe and explain and they are very complicated. But one of the things that I think people need to keep in mind when we discuss agriculture is that, number one, the agriculture programs that we have were designed to give the American consumers an abundant supply of food and a steady supply, steady variety at reasonable prices. That has been achieved. American consumers spend 11 percent of their income on food compared to 20 percent in other countries and 33 percent in countries like the Soviet Union.

So when we talk about farm subsidies and farm programs and so forth, we need to keep in mind that the people who are being subsidized are not necessarily the farmers. They are the American consumers. Eleven percent of our income, again, Mr. Speaker, goes to groceries. Compared to other countries, America is favorably ahead.

□ 2130

Number two, farm programs have been reduced from a $26 billion level in 1987 to $10.6 billion today, in 1995. If all the Federal Government programs had been reduced as much as agriculture programs, we would not have the deficit. We would be paying down the debt. No other agencies, with the exception of Defense, can claim that kind of cut in the last 8-year period of time.

Yet, Mr. Speaker, every time I pick up the newspapers, the big problem with the Federal budget seems to be agriculture. People do not keep that in mind.

Finally, let me say this. The farm bill is coming up. Every year we have a farm bill, and all these programs are up for negotiation right now. There are many, many Members who are moving these programs to a more traditional capitalist system. We are changing the status quo. We are moving towards no net cost programs.

I have noticed that the gentleman from central Georgia, SAXBY CHAMBLISS, has come down here. He is on the Committee on Agriculture. He is involved. I am happy to yield to the gentleman from Georgia. I know he has been involved in changing the peanut program to a no net cost program, and I know he is doing the same with many other programs.

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, he is exactly right. We in the Committee on Agriculture have been involved in trying to rewrite every single title of the agriculture programs in preparation for the 1995 farm bill, which is, without a doubt, going to be the most crucial farm bill that we have ever written in Congress. The reason it is going to be so crucial is that it is going to dictate how our agriculture community operates from now into the 21st century.

Irrespective of what any segment of our country thinks, the agriculture community is still the backbone of the economy of this country. The reason they are is that we feed more people in this country than anybody else in the world does. We not only feed folks in this country, we feed folks all over the world. We grow the finest quality agricultural products of anybody in the world.

Mr. KINGSTON. Mr. Speaker, I think the average American farmer feeds something like 187 people, and 126 people outside of America, so the production is unbelievable. I did not want to break down the gentleman's train of thought there.

Mr. CHAMBLISS. The gentleman is exactly right. Let me tell the Members what we have been thinking about in the Committee on Agriculture, as far as the 1995 farm bill is concerned. We have in place now two agreements, the GATT agreement as well as the NAFTA agreements. Those two agreements are going to dictate certain requirements on the agriculture community from a subsidy standpoint.

We know that when NAFTA and GATT are fully implemented, that we are going to have to transition into a true free world market, and we in the Committee on Agriculture are preparing to do that. We are working very diligently towards modifying and changing programs to ensure that our folks involved in agriculture are able to compete in the world market when those treaties are fully implemented.

Mr. KINGSTON. I would ask the gentleman, Mr. Speaker, is it not true that France subsidizes their farmers? Most European countries subsidize their farmers. Is it not true that American farmers cannot even sell rice in Japan because of the tariff agreement?

So even as we look at GATT, and look at NAFTA, it is not a perfect world. We are not going out there on a free world basis, because of still existing trade barriers and still existing subsidies by foreign governments to their farmers who are competing with our American farmers. Is that not the case?

Mr. CHAMBLISS. If the gentleman will yield, he is absolutely right. Not only France but countries like Spain highly subsidize their farmers. They compete against us in the world market. We simply cannot do that and be able to make a profit in our agriculture community.

A NEW FARM POLICY

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentleman from Georgia [Mr. CHAMBLISS] is recognized for 5 minutes.

Mr. CHAMBLISS. Mr. Speaker, we will continue the same dialog with the gentleman from the First District of Georgia [Mr. KINGSTON].

Mr. Speaker, one way that we look at the farm programs is not from the standpoint of is it a subsidy, because it really is not. The United States government makes an investment into our agriculture community, and a good example of it is with the peanut program.

The peanut program is a highly criticized program, but the reason it is criticized is because most folks just do not understand it. What we do in the United States is we have invested over the last 10 years an average of $15 million a year into the peanut program. That program in Georgia alone last year was a $2.5 billion industry. I do not know how many jobs it created, just in the State of Georgia alone. Peanuts are grown from Texas all the way to Georgia, up the seaboard, all the way into Virginia.

Mr. Speaker, really what our farm programs are are investments by the U.S. Government into our agriculture community, into our States, that create jobs, they provide an income for people, and we get a significant return off of those programs from the standpoint of income to our farmers, as well as providing crops.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, one of the things we are telling farmers from the gentleman's district and my district and all over the country is despite the fact that we have gone from $26 billion in a government investment to $10 billion over a net year period of time, they are still going to have to change if we are going to have a program. We are moving these programs into no net cost programs. We are transforming them. If people want status quo, they lose out in 1995. That is not what the taxpayers want. They want a balanced budget, which means we are going to have to all do more.

What we try to do, Mr. Speaker, is measure agriculture with the same yardstick that we measure social programs. When we are looking at social programs, if we are going to vote to cut them, then we need to be able to say we are going to do the same thing to agriculture.

What the farmers are saying to us is "We realize that, as long as you are fair and across the board, and do not balance the budget on the back of farmers." In fact, we could not, because even if we eliminate all farm spending, it constitutes three-fifths of 1 percent of the entire budget. It will not balance the budget if we eliminate it completely.

What we are trying to get across to folks, Mr. Speaker, even still, we have to change the program in order to be in this game. I am glad to say that most of the farmers I have talked to, and I think Mr. CHAMBLISS as well, are saying "Do what you can to balance the budget. Make that the number one priority, but remember, you have to feed people and you have to have farmers to do that, so do not eliminate all your agricultural investments."

Mr. CHAMBLISS. One interesting thing about agriculture, Mr. Speaker, is that our farmers are generally conservative individuals. They fully believe the main thing we need to do in this country is balance the budget. I have not met a single farmer in my district who does not give that a high priority.

At the same time, as the gentleman says, we simply cannot single out the agricultural community to balance the budget. One thing that our chairman of the Committee on Agriculture is committed to do is to ensure that all cuts that are made are taken in a proportionate, on an equal basis with other programs, and agriculture is not singled out.

Let me just address one other point that is very crucial, Mr. Speaker, and it is something that folks who are opposed to the farm programs continually point out. That is that there is a myth out there if agriculture programs are cut out, that the housewife will see a difference in the price at the retail store. That simply is not true.

We have had testimony after testimony in the Committee on Agriculture from individuals who are involved in manufacturing who will tell us that even if we take a price cut, or even if there is a price cut in the support price, there will not be a reflection of that cut in the retail price. They will use that money either to add to their bottom line, to show their stockholders that they have made more money, or they will take that money and put it in promotion to advertise their products. Therefore, there is not going to be a change in the price at the retail store if there are cuts in price supports. That myth simply does not exist.

Mr. KINGSTON. Mr. Speaker, I think the gentleman has summed it up.

A MESSAGE FROM CARDINAL O'CONNOR TO CONGRESS, REMEMBERING APRIL 16, 1995, AND CLARIFYING THE MEANING OF THE WORD "COVENANT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I hope an average C–SPAN audience is here for an exciting special order I guess to follow, but also because I have a message from a very important prelate of the Holy Roman Catholic Church.

Mr. Speaker, when the Los Angeles Times wrote about my presidential announcement week in New Hampshire and New York, their traveling reporter left out the high point of our whole

trip. It happened on Easter, and it was absolutely the most moving moment for me, for my wife, and our five grown children, and for our nine grandchildren.

At St. Patrick's Cathedral in New York, the best-known clergyman in all of North and probably South America, John Cardinal O'Connor, from the pulpit, during the homily at Easter High Mass, his Mass, gave a U.S. Congressman the following assignment.

He said:

I noted during communion time the presence of Congressman Bob Dornan. Bob, you can tell the Congress, and through your radio and television programs, the people of the United States, that St. Patrick's Cathedral is not a tomb of dead dreams but a vibrant temple of hope; that the hearts of our Catholic people are by no means empty with dead faith, but are filled with living faith, a faith that will not be ignored, a faith that, however ridiculed, however derided by cynics, will continue to blaze forth through this land to radiate goodness and to bring hope to millions.

Those are stirring words, Mr. Speaker. I will do what Cardinal O'Connor asked of me, I have just done it, because his Christian conviction is my family's conviction, all 20 of us. I truly believe the Cardinal expresses the sentiments of all loyal and practicing Christians.

Easter Sunday, this last April 16, was my Sally's birthday and our 40th wedding anniversary, so, after Mass, to the left of the main altar, the altar where my parents were married June 27, 1929, Sally and I stood in front of the very baptismal font where I was christened in May 1933, and Sally and I renewed our sacred vows of matrimony. I wanted to share the special memories of this day with the L.A. Times, but they saw fit to ignore that any of that happened. I am still surprised.

April 16, Mr. Speaker, 1995, is a day the Dornan clan will remember with great fondness forever and ever. Amen.

Mr. Speaker, a word about that fascinating day following the State of the Union message, when in 1 minute, I made four points. One of those points was stricken from the record, and I was removed from my speaking privileges for the rest of the day. I refused to apologize because I believe everything I said was historical, and I will revisit this well at some point in the future to discuss point 3 that I was suppressed for, but I will at this point discuss point 1.

I said that Mr. Clinton had overstepped the bounds of decency to refer to his presidency as the New Covenant. At the moment of consecration at every Catholic Mass, when the wine is consecrated, the words are ''the new and everlasting covenant.'' However, a week ago Sunday, the scriptural reading from the Gospel hit it right on the head. It is St. Paul's letter to the Corinthians, 11:23 to 26. Here is what I took exception to. ''In the same way after supper, he,'' meaning Jesus, ''Took the cup saying 'This is the cup of the New Covenant in my blood. Do this whenever you drink it in remembrance of me.' ''

Anybody who has seen an Indiana Jones movie knows that the Old Covenant, the Ark of the Covenant, was between Abraham and God. The New Covenant is Jesus Christ, our Savior, who redeemed us with His death on the cross, redeemed us with His precious blood. The New Covenant is not Bill or Hillary Clinton, and I am sure Mother Teresa the other day, when she spent the better part of the day with the First Lady, would have made that very clear to Miss Hillary if she had asked ''Mother Teresa, are we perchance the New Covenant?'' I think that settles point 1. More about point 2, 4, and that infamous point 3, later.

SAFETY IN THE WORKPLACE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized for 60 minutes as the designee of the minority leader.

Mr. DURBIN. Mr. Speaker, I rise to defend the right of every American to be safe and healthy at work. Americans who do the right thing and go to work every day should not have to pay for it with their health or their lives.

I have two photos with me this evening, and I hope the camera can catch them. The first shows a job which I am personally familiar with, working in a slaughterhouse, which I did when I was working my way through college. It is tough work, it is dangerous work. I have seen people literally mutilated and hurt on the job in this employment, and yet those of us who take for granted the meat in the grocery department do not realize how many men and women each day literally risk their own health and lives in their jobs.

Below this is another photo in which we cannot see the gentleman who is carrying it, but he appears to be a worker in some sort of a grocery outlet carrying a bag of bakery flour, which of course can be a challenge at times, depending on the size of it.

□ 2145

These are just two, I guess, regular employment opportunities in America that we do not think much of. But the reason that I rise this evening and invite my colleagues to join me is to talk about the men and women who go to work each day in America and how safe it is in their workplace.

Unfortunately, for too many Americans in all kinds of jobs, they pay each day with their health and their lives. The numbers are absolutely staggering in America. Six thousand Americans are killed at work every single year, almost twice as many as are killed by fires in the home. Fifty thousand Americans die of occupational diseases every year, almost as many died in the entire Vietnam War. Sixty thousand Americans are permanently disabled every year because of their jobs, more than all the newly reported AIDS cases reported in 1992. And more than 6 million workers suffer serious injuries and illnesses every year because of their work. That is more than twice the number of people who live in the city of Chicago. And it happens every single day.

On an average day, 16,000 Americans are injured at work. On an average day, 154 Americans are killed by job-related injuries and occupational diseases. We know how many people are killed and injured in auto crashes and we are horrified by it and we demand that the Government take action to make our highways safer. We know how many people are killed and injured in airplane accidents and we rightly demand safer airports and airplanes. The Director of the Occupational Safety and Health Administration has said that ''if a plane crashed every day in this country, the hue and cry for action would be deafening.'' But when a plane full of Americans die at work each day, silence is all we hear. These are not just numbers. They are real people. Their only fault is they get up and go to work every day to provide for themselves and their family, and that is certainly no fault. They are our coworkers, our friends, our relatives, our family, our neighbors.

Darrell Drummer of Loves Park, IL. He was killed in a gravel pit when a cable came loose and struck him in the head. He was 41 years old. Janice Banks of Pulaski, TN, killed when the lumber stacker she was working on fell up against her. Lloyd Mills, who lost his hearing because of this job, and he said, ''Had I had the right to wear hearing protection, I would have worn it because the longer I live, the longer I'm going to have to listen to that humming in my ears.'' Or the 25 workers who died in a poultry processing plant in Hamlet, NC, trapped in a raging fire because the emergency exits had been locked by their employers.

Unsafe workplaces are not limited to giant factories, meatpacking plants, and high elevation construction sites. Job hazards affect Americans who work in all kinds of jobs. They affect the employees of nursing homes who work in what has become one of the most dangerous jobs in America. They affect workers in grocery stores who work with band saws that can cut workers as quickly as they slice meat. They include locked exit doors that trap workers in fires, electrical hazards, toxic chemicals and noise that causes permanent hearing loss.

This special order tonight by my colleagues on the Democratic side of the aisle is a reminder to those who think it is time to turn back the clock on job safety and health in the workplace, a reminder that the job is not yet done and the victory is not yet won. With me are Members of Congress from across the country, and I might add from both sides of the aisle now, and I

welcome the gentlewoman from Maryland. They know the importance of safety and health in the workplace, because they have worked for safety and health laws for years. They know the importance of safety and health because they have constituents who have been killed and maimed at work. They will tell you about the hazards American workers face in food processing plants, coal mines, grocery stores, and construction sites and they will tell you what the new majority in Congress, some of them, are proposing to do in response, from cutting safety and health funding to gutting safety and health laws.

Mr. Speaker, it is not enough to say that you care about the safety and health of Americans at work. The American people will judge us by our actions. I hope this special order will remind people of the importance, the life-and-death importance, of a healthy and safe workplace. I hope it will encourage Congress to work for real improvements and real solutions.

I see among my colleagues this evening the gentleman from New York [Mr. OWENS], the gentleman from Rhode Island [Mr. KENNEDY], the gentleman from California [Mr. MILLER], the gentleman from West Virginia [Mr. WISE], and the gentlewoman from Maryland [Mrs. MORELLA]. I welcome them all.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I thank the gentleman and congratulate him on this special order. I would also like to thank the leadership for taking this opportunity to highlight a very important piece of legislation. I serve as the ranking Democrat on the Subcommittee on Workforce Protections of the Committee on Economic and Educational Opportunities.

Mr. Speaker, I have in front of me a package of printouts listing a portion of the 10,000 Americans who died in the workplace last year. About 56,000 die of accidents that take place in the workplace and of diseases contracted in the workplace. But 10,000 die in the workplace, at the workplace. I think that it is important that we note that there are names and addresses of human beings here. They are very real.

The notion that government agencies like OSHA exist only to make work for bureaucrats or to make life unpleasant for businesses is untrue in most cases, but certainly in the case of an agency like OSHA, we can clearly prove it to be untrue. One of the great things about the Vietnam War Memorial is the fact that it does give individual names. No more Tomb of the Unknown Soldier. You know exactly who it was who died and what day they died, and I think that to humanize what happens in this great so-called bureaucracy of the Federal Government, it is important of us to take a look at the actual list of names and addresses of the human beings who have died in the workplace.

Over the years, OSHA has decreased the number who die in the workplace, or who die as a result of diseases contracted in the workplace, but OSHA has not done the job 100 percent. OSHA must continue to exist.

Congress must be concerned about the health and safety of all American workers. The blind and furious ideological war being waged by the Republican Party against the Nation's labor unions has propelled the Republicans into a search and destroy mission against OSHA. This relentless attack places all American workers in harms way. There will be a large number of casualties. Already, more than 56,000 American workers die each year as a result of accidents on the job or from disease and injuries suffered at their places of work. Passage of legislation designed to disable OSHA will greatly escalate this unfortunate body count.

Speaker GINGRICH has recently proclaimed that politics is ''war without blood.'' The reality is that the Republican war on OSHA will provide pain and suffering; and in many instances their proposed ''scorched earth'' assault on OSHA will also produce blood. Among the 56,000 casualties last year, there were 10,000 who bled and died at the work site as a result of horrible accidents.

It is not exaggerating at all to say that the proposed Republican OSHA reforms, H.R. 1834, could be accurately described as the Death and Injury Act of 1995. Provisions designed to protect the health and safety of workers are being eradicated. The requirements of serious compliance by employers is being demolished. Reasonable protections are being blown away leaving workers dangerously exposed and defenseless. As a result of this Republican invasion of every worthwhile Government program there will be a criminal escalation of the body count.

Before the Republican aggression against programs they target as enemies, there is always a barrage of propaganda attempting to pulverize the facts and the truth. Always there are bombardments of disinformation about Government bureaucracies. Like most Government agencies initiated by Democrat Franklin Roosevelt's New Deal and Democrat Lyndon Johnson's Great Society, OSHA is not the blundering irrelevant entity described by the Republican propaganda machine. OSHA is very much in accordance with the mission of the U.S. Constitution ''to promote the general welfare.''

Promoting the general welfare of workers involves providing basic protections of their health and safety. The workplace should not be a place which diminishes the opportunity and damages the capacity of any American to engage fully in their right to the ''pursuit of happiness.'' Although organized labor led the fight to create OSHA and unions play a major role in enforcing the regulations, OSHA is not a gift of the Democratic Party to union members. OSHA represents a logical fulfillment of the promise of our Constitution. OSHA is for all Americans.

The Republican juggernaut has launched a counterattack against the basic mission of our Constitution. The following examination of the Republican proposals will expose the destructive nature of their ''Death and Injury Act'':

SUMMARY OF THE REPUBLICAN DEATH AND INJURY ACT

After the September 3, 1991, fire at the Imperial Food's Hamlet Plant—where 25 workers were killed and 56 injured—Mr. CASS BALLENGER, now chairman of the Subcommittee on Workplace Protections, told the Charlotte Observer, ''it's embarrassing that it takes a fire like this * * * before the news media makes a big enough deal that people will say 'OK, we'll pay more tax money' (for worker safety). It's the squeaking wheel that needs the grease and this wheel apparently hasn't been squeaking loud enough. * * * I think everybody agrees that it's underfunded and bogged down with bureaucracy.'' Given this insight, can you imagine how utterly incomprehensible it is that the Death and Injury Act is being proposed by Congressman BALLENGER.

Let's closely examine the Republican Death and Injury Act.

The Ballenger bill viciously targets all working Americans—without prejudice or discrimination. However, the suffering it will inflict on workers and their families is not equally distributed—only the workers lose.

THE BILL

This legislation is an assault on worker safety and health protections. The Ballenger bill undermines the safety net for workers by: virtually eliminating the general duty of employers to maintain a safe and healthy workplace; making it almost impossible for OSHA to inspect workplaces and issue citations; taking away the right of workers to raise safety and health concerns without fear of employer reprisals; making it harder, if not impossible for OSHA to set standards; and eliminating important job safety agencies.

ENFORCEMENT

Ballenger guts the enforcement provisions by shifting 50 percent of the resources for this activity to consultation. To focus this agency's energies on nonenforcement compliance activities further erodes OSHA's ability to prevent hazards likely to cause death and serious physical injuries. OSHA's enforcement program is woefully inadequate. At current levels of inspections, Federal OSHA can inspect workplaces only once every 87 years. Under Ballenger there will be no inspections—no enforcement.

Ballenger permits the employer to self-evaluate by conducting its own ''safety audits''. Workers will not have access to these audits. If this isn't the fox guarding the chicken coop, I don't know what is. Fifty-six thousand American workers die each year from accidents on the job or disease and injuries suffered at their places of work.

Ballenger guarantees an escalation in work-related deaths.

Ballenger prohibits OSHA from issuing citations to first time violators. Although, under current law, a citation is issued within 6 months of the inspection, and employers can request an informal conference to resolve the citation (even before a hearing takes place); it is not enough for Ballenger. This bill sends employers the message that they will not be punished until they are caught, not once but twice, by OSHA. Therefore, many employers will not comply.

Ballenger slashes fines and employers who violate laws for which there is no specific standard, such as ergonomics or indoor air quality, will never be fined. The General Accounting Office [GAO] has observed that civil penalties accessed under the OSHA Act are inadequate to deter violations of the act. In 1993, the average penalty collected for a serious OSHA Act violation was $550. As a matter of fact, a report in the Daytona Daily News highlighted a Georgia company that paid a $2 fine for an OSHA Act violation which resulted in the deaths of two employees. Ballenger insures violators will not have to pay.

PROTECTION OF EMPLOYEES FROM DISCRIMINATION

Ballenger requires workers to inform employers of complaints before contacting OSHA. The right to confidentiality is eliminated and as a result, retaliation against workers who file complaints will escalate. Employees will not report safety and health hazards, or illness and injuries, fearing that they will lose their jobs. Ballenger compromises the protection of workers from discrimination: Ensuring the victimization of the American worker into the 21st century.

Ballenger gives employers the right to blame workers for not following safety rules in order to overturn citations and fines. Ballenger generously provides employers with opportunities to avoid sanctions for hazardous workplace violations.

Ballenger makes it easier for employers to randomly drug test workers. Ballenger makes a mockery of a persons right to privacy.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS

Ballenger prevents OSHA from setting standards unless they can prove that the costs will not exceed the benefits. Ballenger effectively restricts the cost for worker health and safety to zero.

Ballenger lets companies overturn safety and health standards in court and tie up the standard process in redtape. Ballenger forestalls the development of standards for ergonomics, indoor air quality and other emerging hazards, indefinitely.

MINE SAFETY AND HEALTH AGENCY [MSHA] AND NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH [NIOSH]

Ballenger collapses MSHA into OSHA, effectively eliminating the agency which has been very successful in reducing fatalities and injuries in the mine industry. Ballenger places the lives of workers in 14,500 mines in this Nation at risk.

Ballenger eliminates NIOSH—the only agency in this country that conducts research on worker safety and health. Ballenger eradicates any possible major research effort in health and safety; placing all American workers at risk.

The disruption caused by the Death and Injury Act by needlessly combining MSHA and OSHA and eliminating NIOSH, will cost the Federal Government time, money, and experienced staff. Most importantly, however, it will cost thousands of innocent lives—the lives of men, women and young people who go to work to help support their families, pay for their education or simply to earn a living.

This Death and Injury Act is a menace to all Americans. A fully functioning OSHA offers an umbrella to all Americans. The children, families, and relatives of workers benefit when workers are protected. Against the Republican attack on OSHA the majority of Americans must mobilize to defend themselves. Speaker GINGRICH has stated that his brand of politics is war without blood. It must be remembered that even before the Republican declaration of war against OSHA there were 56,000 casualties each year. There is already too much blood. A war against OSHA will be costly. A war against OSHA is madness that must be halted immediately.

The 56,000 casualties represent real people with names and faces. These are real people who left loved ones behind. These are real Americans who were lost despite the reasonable efforts of their Government to protect them in the work place. We cannot consciously accept policy changes which will guarantee that more Americans will die.

Our society places a high value on statistics. Each year for each holiday we broadcast the holiday highway death count. We deplore the statistics which tell us that homicides by gunshot are out of control. Last year there were 16,000 gunshot homicide victims. And, or course the periodic Vietnam War body count led thousands of Americans to protest in the streets. It should be noted that of the Vietnam War Memorial there are 57,000 names of those who died during the entire war. In contrast, there are 56,000 American work-place casualties each year.

We Americans place a high value on human life. Large numbers even insist on protecting unborn life in the wombs of mothers. To defeat the Republican Death and Injury Act we must raise the level of our voices and in every way possible inform the voters. This is not abstract politics. These are living, breathing, working citizens who are being protected. Perhaps the Republican warmongers will get the message if we follow the example of the Vietnam War Memorial. This great monument ends the practice of celebrating unknown soldiers. Carved on that great wall are the names of all the individuals who died.

Mr. Speaker, each day I propose to enter into the CONGRESSIONAL RECORD a portion of the 56,000 names of the casualties of last year's work place hazards. We propose to begin with North Carolina where, a few years ago, 25 workers in a chicken parts packaging plant perished. During a hearing before the Subcommittee on Workplace Protections there was also a mother from North Carolina who pleaded with the committee not to destroy OSHA. She had already lost one son and a second son was gravely ill as a result of accidents at the plant where they worked.

Speaker GINGRICH defines politics as war without blood; however, the kind of politics being pushed by the Republican Death and Injury Act is very much a life and death matter. Children will lose fathers and mothers; wives will lose husbands; parents will lose sons and daughters; Americans will die as a result of these reckless changes being proposed to dismantle OSHA. This brand of politics is too extreme. This kind of political war is too deadly.

□ 2200

Mr. DURBIN. I thank the gentleman for his contribution this evening. His position as ranking member of the subcommittee which has jurisdiction over this issue certainly gives him a good view of the issues, and I appreciate the analysis which he has given us.

At this point I would like to make it clear and I hope I made it clear in my opening statement that that statement about worker safety, this special order, is a bipartisan effort, and I am happy to recognize one of my friends and one of my colleagues, the gentlewoman from Maryland [Mrs. MORELLA], a Republican Member, who is going to address the question of worker safety as it relates to Federal workers.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman very much for yielding. As a matter of fact, I thank him very much for arranging for this special order tonight.

Mr. Speaker, I appreciate this opportunity to express my concern about the health and safety conditions in the Federal workplace. The U.S. Government should be setting the example for all employers in providing a safe and healthy work environment.

We tend to forget that that scientist at the National Institutes of Health who is isolating the colon cancer gene and the breast cancer gene is a Federal employee, that the meat and health inspectors are Federal employees, that they are taking care of us and the least we can do is to provide the adequate workplace environment to protect their health and safety. Federal workers, however, are still faced with workplace health and safety hazards that are causing a high rate of injuries and illness. Frankly I do not really see this, as the gentleman from Illinois [Mr. DURBIN] mentioned, as a partisan issue. Federal employees are Republicans, Democrats, and, independents, Americans are Republicans and Democrats and independents, and Americans care about the safety of the Federal workers in the workplace.

For decades Federal safety councils were formed to address the high injury

rates among Federal employees. Finally, in 1970, Congress passed the Occupational Safety and Health Act [OSHA]. This legislation required every Federal agency to establish an effective safety and health program. OSHA's Office of Federal Agency Programs was responsible for implementing the program, which relied on voluntary compliance.

Without an enforcement mechanism, workplace programs to protect the health and safety of the Federal employee are dismal and uneven. They simply do not work. OSHA reports that for 1991, there were more than 170,000 work-related injuries and illnesses in the Federal Government, at a cost of more than $1.5 billion.

While workplace hazards continue to grow, the staffing levels at the Office of Federal Agency Programs [OFAP] have decreased. This is another matter of great concern to me. OFAP has only 8 full time professionals compared to 25 during the Ford administration. Budget constraints have limited OFAP's evaluations of Federal agency programs to two per year. The number of Federal agency safety and health inspections has also decreased by 40 percent since 1988.

OSHA is required to conduct annual safety and health program evaluations at 15 agencies which employ 2 million Federal workers. However, OSHA has conducted only 16 out of 150 evaluations of the targeted 15 agencies mandated by law since 1982. A report by the General Accounting Office [GAO] concluded that even when OSHA does inspect a Federal workplace, it does not use that information to assess the agency's safety and health program.

The lack of resources at OSHA, coupled with a lack of commitment by most agencies to evaluate their managers' performance in the area of health and safety, put Federal employees at risk on a daily basis.

In the private sector, OSHA conducts an independent, objective review of health and safety allegations. In the Federal sector, however, the agencies investigate themselves. In the private sector, there is an enforcement mechanism. Private firms can and have been shut down for health and safety violations through systematic fines and their publication.

The health and safety concerns in the public sector mirror the private sector. Asbestos fiber release in buildings, Legionnaire's disease, accidental death due to poor training and supervision, and failure to properly ventilate machine shops are among the commonplace concerns in both the public and private work environments.

Just as in the private sector, the greatest number of workplace injuries are occurring in repetitive motion occupations, primarily where computer and video display terminals (VDT's) are used. In the Federal sector, the workers most likely to sustain these injuries are women. We need to take reasonable steps to protect our Federal workers.

The American Federation of Government Employees (AFGE) conducted a study in 1992 relating to repetitive motion injuries at the Social Security Administration. Let me share the alarming results:

78.4 percent of the employees surveyed experienced pain in their shoulders, arms, elbows, and/or necks.

53.9 percent have had pain, aching, stiffness, burning, numbness, or tingling in their hands more than three times and lasting more than 1 week.

56.5 percent wake in the night or in the morning with pain, tingling, or numbness in their hands, fingers, arms, or shoulders—carpal tunnel syndrome.

These injuries are preventable. It is cheaper to take steps to prevent the pain and suffering, rather than paying for lost work time and expensive surgery.

Mr. Speaker, to protect our Federal employees, I recommend the following:

Enforcement mechanisms to compel agencies to meet safety and health standards;

Top management commitment to address safety and health problems;

Protection for workers who report unsafe conditions;

The right of workers to refuse work that is dangerous;

Safety and health labor/management committees.

Mr. Speaker, we must work together—in a bipartisan fashion—to protect the health and safety of Federal employees in their work environment. They work for us; we must not ignore their safety.

Again, I thank the gentleman from Illinois for arranging this special order, and I was honored to be part of it.

Mr. DURBIN. Of course we are honored to have the gentlewoman's participation in this bipartisan special order.

I would like to at this point yield to my colleague from the State of California, Mr. GEORGE MILLER. He has served on what was then called the Committee on Education and Labor, and he is very familiar with the issue of worker safety.

Mr. MILLER of California. I thank the gentleman very much for yielding and for calling this special order to address what is a very, very serious threat to American workers, and that is the demise of OSHA that is being presented to our Committee on Education and Labor in the guise of reform, but in fact it guts the basic tenets of OSHA and the basic enforcement mechanisms of OSHA.

As the gentleman rightly pointed out when he took the well this evening, millions of Americans go to work every day, and they play by the rules, they work hard, and what they do not need is to engage in an accident at work or have an unsafe workplace take its toll on them or members of their family.

When we send our spouses or our parents off to work or our brothers and sisters, we expect to see them come home in the evening in as good a shape as they left, but as has already been pointed out here this evening, for tens of thousands of workers a year that does not happen, and unfortunately for tens of thousands of workers it costs them their lives.

What we know since the advent of OSHA obviously is that these accidents are preventable, and the workplaces of America can be made safe, they can be made safer if not completely safe, and the accident rate can be impacted in a very, very positive manner. In fact since OSHA came into being the accident rate has dropped by over 50 percent. In some of the toughest industries we see that the protective standards that have been set forth by OSHA have had an impact. In the construction industry, where there are protective standards now for trenches that are being dug, where before hundreds of people lost their lives and thousands of people were injured in the cave-ins in trenches, we now see that those accidents and fatalities have declined by 35 percent. In industries where lead and high concentration of lead is used, thousands of smelting and battery plant workers suffer from anemia, nerve disorders, seizures, brain damage, and even death as a result of prolonged exposure to lead before OSHA issued its standard in 1978. Now we see that those same workers with high concentrations of lead in their blood has dropped by 66 percent.

Grain handling, where we had a rash of explosions, hundreds of workers and thousands injured in grain dust explosions prior to the standards in 1988. We now see that these fatalities have dropped since those standards by 58 percent, and the injury rate has dropped by 41 percent. We see cotton dust, where hundreds of thousands of America's textile workers contracted brown lung, the dust from the cotton processing, and we now see the dramatic drop in the cases affecting brown lung, and we also see there that it may have very well been responsible for making that industry competitive in worldwide competition as they were forced to modernize because of those standards.

So what we really see is in the 3 years following an OSHA inspection and fine, injuries at the inspected workplace decline by as much as 22 percent, and we have seen that the injury and illness rates have fallen where OSHA has concentrated its enforcement, mainly in construction, manufacturing, oil and gas extraction. These are all testimonies to the fact that these protective standards have worked to protect the American families. They have worked to protect the American worker. They have saved both the employer money, the employee money, the health care system money, the workers' compensation system money, and that is the result that we said we wanted in 1970, and that is the result we are getting.

Have some of these standards caused industries to strain to meet those standards? Yes, they have. But what we have also seen is that we have gotten back the benefits of those standards. We now see that where, as the gentlewoman from Maryland just talked about, cumulative repetitive motion distress, carpal tunnel syndromes, we now see a 770-percent increase in those injuries. We have got to figure out how to address that, to take sure that those people can continue to earn a living without being disabled and their employers can save the money from having a safer workplace.

OSHA is trying new programs. They are trying to make sure that OSHA works better for the employers, for the employees. No longer are there quotas. No longer are people rated by the number of inspections they do or the penalties that are assessed. We have seen the simplification of the standards. We have seen compliance assistance, helping small businesses to meet these standards. I think some 24,000 small businesses have been helped with this and hazardous free inspections, no citations, no fine, helping the small businesses make their place for the worker.

□ 2215

In a program in Maine they took the 200 most unsafe workplaces and they said, You can voluntarily inspect your own workplace or we will give you a wall-to-wall inspection. The workers for the most part, the employers decided they would inspect their own workplace for hazard. They found 100,000 hazards. 100,000 hazards; 14 times higher than OSHA's own rate of inspection in identifying hazards. And almost half of these have now been abated since that program was recently started.

So what we see is that OSHA can work very well with employers. In my district, heavy concentration of the oil and chemical industry, we have hundreds of millions of dollars of refinery work going on now. The major oil refineries, Exxon, Union, Texaco, Chevron, and Shell. And we have hundreds of thousands of worker hours, because of safety committees, because of OSHA compliance, because of learning how to set it out and get a work plan together and where the workers in some of the most dangerous industries in this country are working hundreds of thousands of hours without job loss.

Let me say before I came to Congress I worked in a lot of these industries. I have driven trucks. I have worked on tugboats. I was a firefighter. I worked in the oil refineries. I worked on the farms and ranches bailing hay. I have been a tree faller, in the construction industry, commercial fishing, in the merchant marines and oil tankers.

I have seen the workers who have fallen from great heights and the workers who suffered damage from toxic chemicals. And I have shaken more hands in my district with three fingers on those hands than can be imagined, and they lost them in industrial accidents.

I have seen workers hit by cables and snapped by ropes because safety procedures were not in place when I was working in those industries. I have seen workers go in the tank farms in the oil refinery, I have gone in, with no protective gear, no breathing gear or skin protection. And I have seen the workers suffer the consequences and pass out on the job from the fumes, unable to go back into those tanks and come into contact with those chemicals.

I have seen people lose their hands in hay bailers. Why? Because safety procedures were not in place. Those are the same industries that are in my district today. All of those industries now have a safety record that was unheard of, unheard of prior to OSHA.

And I would just hope that people would understand that this is not a fight between the AFL–CIO and the American Manufacturers Association. This is about the safety of America's families. People who go off to work every day to earn a living.

And many of these people, millions of Americans earn those livings in dangerous workplaces. Simply because of the occupation, they are dangerous. But they can be and they have been made safer by the OSHA regulations.

And we cannot succumb as a Congress, we cannot talk about the importance of our families, we cannot talk about the importance of a worker being able to sustain the economics of their family and household income and then resort to the kind of legislation that is being proposed to us in the Education and Labor Committee and being sent to the floor of this House basically on a party line vote by the Republicans that would take away the rights of employees to go to OSHA to demand a safe workplace, would take away the reporting of how many times did the employees tell the employer their workplace was not safe.

The employer, under the new law, would not be required to keep records. They could disregard that. And when an accident takes place, an injury takes place, no penalty to be paid. You get a citation and are told to clean it up. And if you do not clean it up, you are still not held liable under the law.

This is not the way to protect America's families. This is not the way to protect family's children from having to lose a mother or father in a workplace accident. And this is not the way to protect workers from those employers who will violate the law, as we saw in the tragic chicken factory fire in North Carolina where the employer thought they could get more productivity out of their workers if they chained the doors closed so that the workers couldn't get out in the fresh air. And then, when the fire started, the workers were burned up and people lost their spouses and mothers and fathers and lost their sons and daughters in that accident; an accident that did not have to happen in the first place.

But the tragic loss of life and the injuries were completely avoidable had the law been followed and had we had people who respected the dignity and the rights of those workers.

So I want to thank the gentleman for taking this time in this special order. I think we need to talk more about this. I think we have got to educate that it is OSHA that has provided the safe workplaces in this country for America's families and we should not have to go back, we should not have to go back where the workplace is based upon the whims of the employer as opposed to the right of a worker and their families to have a safe workplace.

That is what OSHA provides today. But that is not, that is not what the OSHA legislation that the Republicans want to pass would provide for workers in the future. And I thank the gentleman.

OSHA WORKS

I. OSHA'S MISSION

Congress created OSHA in 1970 ''to assure so far as possible every working man and woman in the Nation safe and healthful conditions.'' OSHA's fundamental mission is as important to America's working families today as it was a quarter-century ago.

The 1970 OSH Act authorized the agency to issue and enforce protective standards, and to provide compliance assistance through consultation, education, and training. The 1970 OSH Act gave states the option of establishing their own state OSH agency; to date, 23 states have done so.

II. WHY OSHA WORKS

By developing protective standards, and making employers more safety conscious, OSHA has made a real difference—often the difference between life and death—to millions of working Americans. Overall, the workplace fatality rate has dropped by over 50% since OSHA was created in 1970, according to the National Safety Council.

a. OSHA's Protective Standards Save Lives. Here are just a few examples of how OSHA has saved lives and improved worker health and safety through the promulgation of hazard-specific protections:

Trenches. Thousands of construction workers were buried alive in trench cave-ins before OSHA strengthened trenching protections in 1990. Since then, trenching fatalities have declined by 35%, and hundreds of trenching accidents have been prevented.

Lead. Thousands of smelting and battery plant workers suffered anemia, nerve disorders, seizures, brain damage and even death as a result of prolonged exposure to lead before OSHA issued protections in 1978. The number of workers with high-lead concentrations in their blood dropped by 66% in the ensuing five years, markedly improving the health of workers in these industries.

Grain Handling. Hundreds of workers were killed and thousands injured in grain dust explosions before OSHA issued protections in 1988. Since then, according to the grain industry's own data, the fatality rate has dropped by 58%, and the injury rate has dropped by 41%.

Cotton Dust. Several hundred thousand textile industry workers developed ''brown

lung''—a crippling and sometimes fatal respiratory disease-from exposure to cotton dust before OSHA issued protections in 1978. That year, there were an estimated 40,000 cases, amounting to 20 percent of the industry's workforce. By 1985, the rate had dropped to 1 percent.

b. OSHA's Enforcement Program Saves Lives. Millions of working Americans have also benefitted directly from OSHA's enforcement program. Most employers have reported that their workplaces became safer after OSHA inspected them; a recent study confirmed that in the 3 years following an OSHA inspection and fine, injuries at the inspected worksite decline by as much as 22 percent. In fact, since 1975 injury and illness rates have fallen in industries in which OSHA has concentrated its enforcement activities—construction, manufacturing, and oil and gas extraction—while they have risen in other industries.

In fiscal year 1994 alone, OSHA inspections helped make over 40,000 workplaces safer for nearly 2 million working Americans. There is no shortage of examples of successful enforcement efforts:

Following a 1991 inspection, a West Virginia vending machine manufacturer instituted a safety program and lowered its lost workday injury rate by 73 percent.

OSHA inspected a Cleveland construction site in 1994, insisting that workers wear safety belts while working on a scaffold 70 feet above the ground. Four days later the scaffold collapsed, but the workers were saved by their new safety belts.

OSHA's 1989 inspection and $700,000 fine was the catalyst for Boise Cascade to improve worker protections. The company implemented a comprehensive safety and health program, cutting injury rates by 78 percent and worker's compensation costs by 75 percent. ''OSHA played a key role in these accomplishments,'' according to the company's counsel.

Following a 1989 OSHA inspection and fine, an automobile carpeting manufacturer established an ergonomics program at two Pennsylvania plants. Cumulative trauma injuries declined by 94 percent and 77 percent respectively at the two plants over the ensuing 3 years.

c. Safe Workplaces Save Dollars. Every workplace accident cuts into the employer's profit margin. In 1992, for example, workers' compensation claims amounted to $44 billion. Compliance with OSHA's protective standards helps save lives, reduce injuries and cut these unnecessary losses. For example, 2 years after OSHA issued a cotton dust standard to protect workers from respiratory disease, The Economist magazine reported that the required protections were helping to make the industry more efficient.

III. DO WE STILL NEED OSHA?

OSHA has had notable successes, but its job is far from done:

Every year, work-related accidents and illnesses cost an estimated 56,000 American lives—more than the total American lives lost in battle during the entire 9-year Vietnam War.

On an average day, 17 working Americans are killed in safety accidents, an estimated 137 more die from occupational disease, and another 16,000 are injured. Meatpacking workers, for example, suffer an incredible annual injury and illness rate of 39 per 100 workers. These incidents have a devastating impact on thousands of America's working families each year.

There are staggering economic costs as well: safety accidents alone cost our economy over $100 billion a year, and occupational illnesses cost many times more. We all bear these costs—as employers, as workers, and as taxpayers.

New workplace hazards are emerging as our economy changes to meet the demands of the new global marketplace. For example, cumulative trauma disorders have increased roughly 770% in the past decade.

Other federal programs may provide job training, civil rights protections, a minimum wage, or collective bargaining rights. But what good are they to a worker who is killed or disabled on the job?

IV. MAKING OSHA WORK BETTER

In the past, OSHA has been criticized for focusing too much on nitpicky technical violations, and too little on eliminating serious safety and health hazards. OSHA must improve its targeting of the most dangerous hazards and workplaces, particularly given the ever-widening gap between OSHA's resources (1,000 inspectors) and responsibilities (3.7 million workplaces). Under the leadership of Assistant Secretary of Labor Joseph A. Dear, OSHA has begun to refocus its mission to maximize its impact on worker safety:

No Inspection Quotas. The number of inspections is no longer an agency performance measure. Neither is the amount of penalties assessed. Instead, performance measures will be based on real improvements in worker safety and health.

Standards Simplification. In October 1994, OSHA asked the public and its field staff to identify outdated, vague, conflicting or duplicative regulations for simplification or elimination. That effort is in progress.

Compliance Assistance. In FY 94, OSHA's consultants helped nearly 24,000 small businesses identify and abate hazards free of citations and fines, under OSHA's consultation programs.

Targeting the Most Dangerous Workplaces. Under the Maine 200 program, the 200 most unsafe employers were offered a choice: implement a comprehensive safety and health program, or be put on a priority list for a wall-to-wall inspection. The vast majority of employers chose the first option, with stunning results. During the first 18 months of the program, participants identified nearly 100,000 hazards, at a rate over 14 times higher than OSHA's own rate of identifying hazards through inspections. More than half of these newly-identified hazards have already been abated.

Targeting Real Hazards. OSHA is refocusing its enforcement program on the most dangerous hazards: Under a new focused inspection program, construction employers with safety and health programs will only be inspected for the four leading causes of on-the-job deaths (e.g., falls, electrocutions). Citations for the most common paperwork violations have declined by 35% over the past 4 years.

Recognizing Excellence. OSHA's Voluntary Protection Program recognizes employers who have excellent safety and health records, exempting them from general inspections. OSHA expanded the VPP Program by 70% in FY94.

Additional Initiatives. OSHA has taken many additional steps to refocus the agency on results including: increasing the involvement of stakeholders in setting the agency's regulatory agenda; redesigning the agency's field offices to streamline the complaint process, reduce paperwork, and focus more on results; establishing customer service standards (in a recent survey, over 75% of employers found OSHA inspectors to be professional and knowledgeable); establishing the Maine Team Concept Pilot Program to empower front-line inspectors to use their own judgment in deciding how to make the best use of their resources (In FY94, at the participating field offices, the number of inspection hours increased by 86%, delays between inspection and citation dropped by 30%, and the employer contest rate declined by more than 50% as inspectors adopted a less adversarial enforcement approach); establishing pilot programs to improve response time from complaint to abatement (reduced for nonformal complaints from 61 days to 9 in Cleveland and from 35 days to 5 in Peoria); simplifying recordkeeping requirements; and expediting FOIA request processing.

Mr. DURBIN. Mr. Speaker, I thank my colleague from California for that excellent statement. And I would like to at this point yield to my colleague, the gentleman from West Virginia, Mr. BOB WISE, who is familiar with another aspect of employment in America that at one time was the most dangerous. And were it not for efforts that have been made at Federal and State levels, might still be the most dangerous and still is very hazardous. And I would like to yield at this point to Mr. WISE.

Mr. WISE. Mr. Speaker, I thank the gentleman and he is correct. As he has spoken before on this floor for the need, not only for OSHA but for MSHA, the Mine Safety Health Administration. The MSHA was created in 1969 as the direct result of the Farmington mine disaster. Finally, this country had had enough. It had taken all the bloodshed in the mines that it could tolerate and MSHA grew out of that.

MSHA celebrated its 25th anniversary this year. But there may not be a 26th anniversary should this legislation pass. What this legislation would do, in addition to what has already been talked about concerning OSHA, this legislation would merge MSHA and OSHA together, of course cutting the funding together and merging them together.

Let me talk for a second about what the proposed legislation would do to MSHA. It would end mandatory inspections of surface mines. It would reduce mandatory Federal inspections of underground mines from 4 per year to 1 per year.

It would eliminate the current surprise factor in mine inspections by canceling mine inspectors' rights to inspect mine workplaces without a warrant. That is right. You have to call and get the permission to come on. If you do not get the permission to come on, you cannot come on without a warrant. And by that time, the surprise factor is gone.

It would provide several ways for operators to avoid inspection altogether

such as employing a consultant to certify that the mine has an effective safety and health program, thereby exempting the mine for virtually all inspections for the year. I bet we can find a real industry developing in certification consultants.

It would prevent Federal mine inspectors from closing unsafe mines for uncorrected hazards, extreme operator negligence, or a pattern of violation.

One area of concern for me, it would ban workers from contacting the agency unless they first raise the problem with their employer, even when the worker faces imminent danger on the job and the likelihood of retribution.

It would eliminate penalties for mine operators violating the law, prohibit Federal mine inspectors from removing untrained miners from the workplace. The gentleman knows it took us a long time at the State and Federal levels to get training requirements for miners in the workplace.

It would limit the rights of miners, including the right to take their own cases to court if they have suffered reprisals for maintaining their safety rights.

This is not simply a deficit reduction issue or a budget reduction issue. It cannot be put on the paper in black and white. And, yes, there are some that say Why do we need MSHA as a separate agency? Cut the funding and put it in OSHA, because the fatality rate is down.

And happily, Mr. Speaker, it is down. It is down from 400 every year being killed in the mines. As the gentleman from Illinois [Mr. DURBIN] noted, the most hazardous industry in the country, it went from 420 6 years ago to 84 this year. That is testimony that OSHA is working; that MSHA is working.

It is still one of the most hazardous occupations. In West Virginia last year we lost 11 miners. That is a far cry from the 20-some we were losing just a few years ago. A far cry from the 50 and 60 that we were losing a few years before that.

I would like to point out to those who want to make it a black and white issue, think for a second about what work in a mine is all about. Particularly a deep mine. The gentleman from Illinois [Mr. DURBIN] I know, knows the mines in Illinois. He has been associated with them for a long, long time.

First of all, turn out all the lights in this Chamber and put on a blindfold, because there is no light at the bottom of a mine. The second thing to do, if you want a real impression, now crawl under this desk that I am standing in front of. It stands about 3 feet high and that is what a low coal seam is.

You have no lights now and you are lying underneath this desk expected to work under there. Now, imagine thousands of tons of rock about you. Not just a wooden platform, thousands of tons of rock above you. It is creaking, it is belching and it is moving.

It is wet down there and on top of the creaking, you have the potential, if you hit it just right, you can dig right into a gas deposit and you can be snuffed before anyone knows what happened to you. Methane is a very common problem in mines. And, of course, explosion is often a tragedy as well in mines.

That is what working in a coal mine is all about. It is not something that is easily reduced to black and white. It is not something that is reduced to number on a page. It is a very, very dangerous occupation. And anybody that threatens that, even well-meaning, threatens that, I think has to be called to account.

I hope that this legislation does not pass. I thank the gentleman for taking this position. This is another wrinkle to the OSHA debate. And in the hearings that the committee will continue to hold, I hope this message comes through loud and clear. This is not a place to be reducing the deficit.

Mr. DURBIN. I thank my colleague for joining us this evening. And like him, I have had the opportunity to be in a deep-shaft coal mine. It is a humbling experience to be in that closed atmosphere and you have described it so well, to fear for your own safety every step of the way.

That we should in any way diminish this kind of inspection from the Federal and State sources is, to me, just to invite disaster and tragedy. And I certainly hope that the legislative proposals that we have heard will be more sensitive to what men, and now women, are subjected to each day in these coal mines.

Mr. WISE. As the gentleman well knows, whether it is the Centralia mine disaster in Illinois or the Farmington mine disaster in West Virginia, that is what has brought this to the attention of the country. And, unfortunately, State legislation, State mining enforcement was not adequate. It is better now and MSH has been driving for that and continues to do so.

Mr. DURBAN. I thank my colleague.

My colleague, the gentleman from Rhode Island [Mr. KENNEDY], is here. And I thank him for joining us and being patient to speak this evening. I yield to Congressman KENNEDY.

Mr. KENNEDY of Rhode Island. Thank you. I would like to thank my colleague from Illinois [Mr. DURBIN] for allowing me to be here for this special order. And as I rise to discuss with him OSHA in terms of the problems that have been solved, the lives that have been saved, and the injuries that have been prevented by making the workplace a safe place. And that has been because of OSHA.

The record of success is now at risk because some want to crush OSHA's ability as an agency to function, leaving today's workers vulnerable and exposed, 40 stories above the ground on today's job site.

I want us to ask ourselves a few questions. Do we not as a Nation need to protect workers from the safety and health hazards that they are exposed to on the workplace?

Do we not want the Federal Government to take action against employees who would jeopardize the well-being of their workers?

Do we not believe that this is important to determine what is killing and injuring people in America's work force?

The answer is, of course, yes. The answer should be yes. But what I am hearing from my colleagues from the committee, the Republicans have said, no.

Every day workers are asked to gamble their lives and take unnecessary risks because someone wants to cut corners. Today, while it is usually the contractor, today it seems like it is the Congress that wants to cut corners. They want to cut corners when it comes to worker's safety. Many want to argue that today's rules in OSHA are too restrictive and excessively infringe on a company's right to do business.

What is so excessive about ensuring a safe workplace? What is so excessive about ensuring that thousands of workers are no longer buried alive in trench cave-ins, as was the case before OSHA strengthened its protections of these workers in 1990?

Since then, trenching fatalities have declined by 35 percent, and hundreds of trenching accidents have been prevented.

In one instance, OSHA inspected a Cleveland construction site in 1994 and insisted that the workers wear protection gear while working on a scaffold 70 feet above the ground. Four days later the scaffold collapsed, but not one worker was killed because each one was wearing the new protective equipment. How does this protective gear infringe on a company's right to do business? Because it costs money. That is why. It costs money. OSHA made the difference. We are here today to tell our colleagues that we are drawing the line. We will not stand for budget cuts that destroy an agency that is charged with protecting American workers.

□ 1030

Remember, we are protecting American workers. This is America, not a third-rate nation, and we will be acting like a third-rate nation if we treat our workers as if they were workers in a third-rate nation. That is why I commend the gentleman from Illinois [Mr. DURBIN] for working on this issue, and my colleagues that are standing up for workers in this House, to make sure that we have a safe workplace, that has the dignity that we would want and the safety that we would demand for our workers in this country. I do not think we should accept anything less than a safe workplace. I commend the gentleman from Illinois for his work, and thank him for allowing me to be here this evening.

Mr. DURBIN. I thank my colleague from Rhode Island [Mr. KENNEDY] for joining us with a very forceful and articulate statement on this issue, particularly as it relates to construction

workers. We will continue this debate, not only on the floor, but also in the committees and subcommittees. I thank you for joining in this special order.

The last speaker joining us this evening comes from the State of Minnesota. Congressman JIM OBERSTAR is one of the most articulate spokesmen on behalf of working men and women. The time I have served in Congress, he has risen many times to their defense and is recognized as somebody in this body who has a very intimate and personal knowledge of not only the men and women he represents who work for a living, but those across the country.

I yield to my colleague from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank my colleague for yielding and I join my colleagues in complimenting the gentleman for calling this special order to focus on the industrial workplace and safety.

I have seen the face of tragedy in mining. I have lived with it. I am here because, for me, it is real, it is personal, it is family.

My father worked 40 years in the iron ore mines of northern Minnesota, 26 of those years in the underground Godrey Mine between my hometown Chisholm and nearby town of Hibbing. I never worked in the underground. He never let me go down there. I worked in the open pits.

But I will never forget the day my father came home from a cave-in, where he heard the timbers cracking, and in a drift, he pushed his two coworkers out the mouth of the drift, and the ore caved in right around him and stopped right at his throat. The timbers cracked because the mining company was not willing to put in new timbers. They were not willing to put in bigger and stronger oak in the mines, and he almost lost his life.

I will never forget him as chairman of the mining safety committee in the underground saying the most horrible memory was the awful screams of the men when the cables broke on the cage, and they went plunging to their death 100, 200, 300 feet, with nothing to save them. No safety catches. Nothing to break the fall of the cage.

We heard our colleague BOB WISE talk about how dark it is in a mine. My father told me about the time when the storm above ground cut the power, and there they were, 600 feet underground, he and a partner who had a heart condition, and all the light went out and the water was trickling in. They switched on their head lamp, but there was no power, because the mining company would not replace the batteries, though the men appealed and asked for them to be replaced. They knew they were weak, knew they were down, but the company said no, it costs too much. And you could not move. You could not see your hand in front of your face. And they waited for three hours while the water crept up, waist high and armpit high. And, finally, someone got the power going. I will not tell the rest of the story about getting the pumps going to start draining the mine.

The year that I was born was the year of the Milford Mine disaster in the Cuyuna Mountain Range south and west of where I lived. The miners were told to keep digging for that rich load of ore, until they were well under a lake. And they could see the water seeping in, and they knew it was dangerous. But the mining company said, ''Go on, go on, dig further and deeper, and keep going.'' then, one day, the lake caved in, and an entire shift was wiped out. Thirty-four men, only three survived, as the lake swept into the underground and drowned them all.

There was no mine inspector. There was no Federal law. There was a weak little State act that had been drafted by the mining companies and run through the legislature. It did nothing to protect lives.

Then later I had my own experience in the Alworth Pit, watching helplessly from afar while a 15-ton ore truck backed over and crushed an elderly man. Natali never had a chance. No one had ever taught him how to back a truck up. He had no training. And yet later when we got Mine Safety and Health Act passed, companies protested about the requirement for training and safety, how to back a truck up, how to operate equipment safely. ''Oh, that is second nature. People know how to do that.'' He did not know how to back up a 15-ton ore truck, and it ran right over him. It snuffed his life out.

That isn't just ancient history. Last year, 1994, February, Duluth News Tribune. ''Tragedy reminder of mining's risks.''

It reads:

> Twisted backs. Crushed feet. Ruptured tendons.
>
> Disabling injuries are common among workers at Iron Range taconite mines.
>
> That's because operating and repairing the heavy-duty machinery used daily in iron ore mining has inherent risks. Over the past century, Iron Range miners have learned to live with those risks.
>
> But sometimes the odds finally catch up.
>
> When Louis DeNucci died as a result of tons of compacted ore dust falling on him Thursday at Eveleth Mines' Fairlane taconite pellet plant, the impact was felt by thousands of miners across the Range.

It is never very far away. In the 1930's we had an average of 230 deaths a year from metal and nonmetallic mining. In the past 10 years, that has dropped to 53 fatalities a year. But the danger is still there, and the significance of the Mine and Safety Administration was brought up by testimony given by Peter Minsoni, district director of Steel Workers 33.

I introduced him at a hearing of the Committee on Education and Labor on mine safety and health as the committee was preparing the legislation we know today as MSHA. I was a cosponsor of that original bill and helped draft it. Because when I came to the Congress, there was one thing I wanted to do, and that was to erect a memorial to the men and women who died in mining, who had given their arms and legs and limbs and eyes to make it a safer place to work.

Pete Minsoni said, talking about the action of the then Ford administration to abolish the Federal Advisory Committee on Mine Safety Standards, it had been enacted in 1966, 5 years later they were proposing to abolish it. It finally happened in 1975. He said, ''Abolishing the Mine Safety Review Board caused me concern, to think that because the review board had no work, some Members of Congress and the public will be misled into thinking that the Government deserves a pat on the back for finally abolishing a Federal agency.'' He went on to say, ''The reason the Mine Safety Board did not have any work is there was no law to enforce.'' There was nothing to review. There were no teeth in mine safety legislation.

He went on to talk about a good example. The White Pine Copper Mine in upper Michigan where the steel workers unions represents some 2,600 workers employed in one of the largest mines in our country. A fatality occurred when a foreman picked up a hot cable. The Mine Enforcement Safety Administration inspectors found improper grounding and a lack of control boxes for electrical cable throughout the mine, a mandatory standard set by the Mine Safety Act not enforced, paid no attention to.

Mr. DURBIN. I think we only have just 2 or 3 minutes left.

Mr. OBERSTAR. What he went on to say was the miners learned they do not have a legal right to join mine safety inspectors. Standards are only advisory and not mandatory. And only when they had tough inspection standards, mandatory fines, mandatory inspections, did we get safety in the mines.

I just want to say that in all of America's history, more men and women have died in the industrial workplace in our country than died in all the wars combined. Let it not be the epitaph of our generation that we let another decade come to pass when mine safety took a back seat to economics.

Mr. DURBIN. I thank my colleague. I am sorry I had to cut him short, as we have run out of time this evening in this important special order. Perhaps we can resume it later on at a different time.

If you listened to the debate in Washington over the last 6 months, you would be convinced that all we are talking about tonight are faceless Federal bureaucrats meddling into the affairs of business people, making their life miserable with fines and inspections and all sorts of minutiae that in fact weighs heavily on their profit statements.

What I hope we have conveyed tonight in this special order is we are talking about something much larger.

We are talking about dignity of workers. We are talking about safety in the workplace. We are talking about a history in America of danger in the workplace that we do not want to see repeated again.

The fact is since OSHA was created in 1970, we have seen deaths on the job in America cut in half. In factories deaths on the job have been cut by more than half. In construction, deaths have been cut by 60 percent. Can OSHA be improved? Yes, it can. But for those who address this issue in terms of terminating the Federal responsibility and the Federal authority to help protect workers and their families in the workplace, I would say they are really going in the wrong direction.

I hope that the special order this evening, the stories that you have heard and I guess the information that we have shared with you, will help people to understand that the debate which goes on on the floor of this House of Representatives each day is a relevant and important debate to every working family in America. We hope that those on the Republican side of the aisle who take an extreme position of doing away with this Federal responsibility will stop and think twice about the legacy of pain and the legacy of death which we have seen in America's workplace, certainly something we never want to see repeated again.

BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes as the designee of the majority leader.

Mr. SHAYS. I thank the Speaker for giving me the opportunity to speak at this special order and to thank him for his willingness to stay. I know the hour is certainly a little late in the east part of the country.

My purpose for speaking tonight is to talk about really a monumental event that is taking place this week when the House of Representatives and hopefully the Senate will also be voting for the first time in 24 years to get our financial house in order and balance our Federal budget deficits.

There is a revolution taking place in this country, and I do not think people fully grasp it. With the Contract With America, I remember during the course of the campaign I would have editorial boards ask me how could I have signed this Contract With America. And I responded by asking a question. I said what do you think of the majority party's Contract With America, the 8 things they are going to do on the opening day of the session, the 10 things they are going to do in the first 100 days? And there was silence, because the majority party did not have a plan in the opening day or it did not know what it wanted to do in the first 100 days.

□ 2245

And I said to the editorial boards, is it not remarkable that you have a minority party, the Republican Party, that has come forward with a plan that does not criticize President Clinton, that does not criticize Democrats. It simply outlines what we intend to do if we are fortunate enough to get elected.

This past week, the House and the Senate have agreed to a plan that gets us to a balanced budget. And the differences between the House and the Senate were not all that different. And yet hearing in the press, you would have though that they were very different. What we did is we made a determination that in 7 years, we wanted to slow the growth in spending so that it would ultimately intersect our revenues by the seventh year. And so that by the time we were going to have revenues at $1.8 trillion, we would have our spending at $1.8 trillion.

The red line that you see on this chart illustrates almost a parallel line between spending and revenue. They never meet because we always spend at deficits. So this was our objective, to get our financial house in order and to do it in 7 years.

The challenge in dealing with this effort was that I, as a Member of Congress, along with my colleagues, vote on about one-third of the budget. We vote on the pink part of the diagram, of this pie chart. We vote on what we call domestic discretionary spending. We vote on foreign aid. And we vote on defense spending through the Committee on Appropriations. Social Security, Medicare, Medicaid, and what we call entitlements, other entitlements, they just happen automatically. They are on automatic pilot. They do not get voted on every year. They are just part of the law.

So I do not vote on half of this budget. I vote on one-third, what is in the pink. And what is the yellow part is interest on the national debt. This year we are paying about $235 billion interest on the national debt. That is money that could go for education or infrastructure, investment. It is going for interest because past Congresses have simply been willing to deficit spend.

And the whole effort was to not only just look at the red part of this budget, what comes out of the Appropriations Committee, but it was to look at our entitlements, excluding Social Security, because in our Contract With America, we said the one thing that we would not change was Social Security, the contract of retirement payments to our elderly. But we would look at Medicare and Medicaid to save these programs and preserve them and also to slow their growth. We would look to slow the growth of other entitlements. We would look to actually have absolute cuts in domestic spending and foreign aid and to not go higher on defense spending than we are going today. Then we hoped by doing that we would shrink what is the yellow and shrink our annual interest payments.

So this was our challenge, to try to deal with the entire budget.

Now, when people look at this and they say, what did we do? Domestic spending, we actually are cutting spending. We are going to spend less money next year in domestic spending. That is what runs the judicial branch, the legislative branch, the executive branch, all the departments in the executive branch that are not defense. And we are looking to actually have real cuts, absolute cuts there. Foreign aid, we are going to reduce the budget significantly. Defense spending, we are looking to hold the line. And the challenge there is that we are oversubscribed by $150 billion in the next 7 years, because what Congress has done, regretfully, is it has pushed out the expenses of some of our procurement for our weapons systems and not had it show up in our 5-year budget because they pushed it to the sixth year. So we are oversubscribed in our defense spending.

So what do we have to do? We have to slow the growth of entitlements. We have to make real and absolute cuts in our domestic spending, and we want to bring interest down.

Now, people said, when you do that, you are cutting certain programs that we are not cutting. One of them was Medicaid. Medicaid is health care for the poor, and it is nursing care for the elderly, long-term care for the elderly.

This chart shows that we are actually going to be spending more money. In fact, subsequent to the agreement with the Senate, we are going to be spending more than you see here. But it goes from $89 billion, in 1995, to $121 billion. It increases over 30 percent in the next 7 years. We are going to be spending more. That is not a cut; that is an increase.

Now, the reason why some people call it a cut is they say they want to spend more and we are not spending to that level. We are going to be spending to $121 billion. How does that become a cut in some people's language? Because, and this is only in Washington that this happens, at least I do not know of it happening in people's own family environment or in their work place, but in Washington, if it costs $100 million to run a program and people say, it will cost $105 million to run the program the next year and Congress appropriates $103 million, in Washington that would be called a $2 million cut, even though we are spending $3 million more. In your home and in your workplace, you would be saying, if you spent $100 million and you are spending $103 million, that is a $3 million increase in the next year. So we are going to be spending more on Medicaid.

In fact, under Medicaid, we are going to spend over $324 billion more in the next 7 years than we did in the last 7. This line shows the increase in spending that takes place under Medicaid.

Only in Washington, when you spend $324 billion more in the next 7 years

than you did in the past 7 years would some people call it a cut. It is not a cut. It is an increase. It is an increase that is quite substantive, quite significant.

Now, when it got to Medicare, we had heard the same argument that this Congress was going to be cutting Medicare. The first thing that needs to be pointed out very strongly is that Medicare is going to go bankrupt in 7 years, Medicare part A. That is the part that goes to pay hospital costs. You have Medicare part A, it is funded by taxpayers. They put a certain amount of all their income into the Medicare part A trust fund. Employers and employees put money in. If you are self-employed you have to put both sides in. And you put into this trust fund.

This trust fund, as noted in the blue line, starts to go down, it starts to go down next year. We have $136 billion in the trust fund now. In 1966, next year, it will be $135 billion. Then it goes to $129, $117, $98, $72, $37, minus $7 in the year 2002. It literally goes bankrupt. There will be no money in the trust fund. The only money that will come to the trust fund is the annual amount that will be put in by the taxpayer. It goes bankrupt, and we need to rescue this fund. We need to save it. Spending is that red line. And what we need to do is slow the growth of Medicare.

Now, Medicare is health care for the elderly and the disabled. And it is growing at 10 percent. And we need to preserve it. We need to protect it, and we need to save Medicare. The way we are going to save Medicare is not by taxing more. That is just not going to happen. We can affect the beneficiaries, those who receive the benefits; we can affect the providers, those who are giving services to the beneficiaries. Or we can change the system. And just like with Medicaid, Medicare, we are going to change the system.

We are going to allow people to have the same kind of program they have today with a slight increase for some, not all. If you are wealthy, I for one am going to be advocating that, if you make $90,000 as a married couple, you should pay a little more on your premium and your copayment. I will be arguing that, if you were single and making $70,000, you should be paying more than someone who is below that income level.

But there are other ways that we are going to change this program. We are going to strive to move people and encourage them to go from a fee-for-service into a whole host of different private plans that will provide a whole host of different choices. For instance, if you are a senior and you only want catastrophic care, you will be able to join a plan and you will get an actual rebate. You will get a refund.

We are going to allow people to have a savings account that will be tax-free. You can use it for health care needs tax-free. And if you do not have health care needs, you will be able to save it for your retirement.

We are going to allow individuals to join HMO's. The bottom line is that, at least from my perspective, we want seniors to be allowed to have the same health care that their children and their children's children have. And we want those who are poor or individuals on AFDC who get Medicaid, we want them to basically have the same health care that other Americans have.

We want in some cases to have managed care for those who want it. And in other cases, we want people to be able to have their own relationship with their doctor, if they are a Medicare patient and they choose to without breaking the law. We want Medicare and Medicaid patients to examine their bills and when they find mistakes, and there are mistakes, to get 10 percent of whatever they found in mistakes.

I happen to be the chairman of the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Reform and Oversight, and we oversee HHS. We are aware of billings that were for $16.50 that actually were $16,500. Or it is not unusual and it has happened that it has actually been in the hundreds of thousands when it was only a bill for $10 or $20.

Colossal mistakes. The State of Connecticut has determined that their hospitals have mistakes in 30 percent of their billings.

We want people to catch those mistakes. They are going to save the Government a lot of money. They are going to save the health care system a lot of money, and we would like them to benefit. But Medicare part A is going to go bankrupt if we do not slow the growth.

So what do we propose? We propose to allow Medicare to go up from $178 billion to $259 billion. That is a 45-percent increase. Now, only in Washington, when you spend 45 percent more in the seventh year than you spend today would some people call that a cut. That is a gigantic increase. It just does not happen to be as large as some people want.

In terms of the total dollars, what we spent in the last 7 years to what we spend today in the last 7 years, we spent $925 billion. We are going to spend $1.5 trillion. In fact now with the agreement with the Senate, it is going to go up even more than that. We are going to spend $659 billion more over the next 7 years compared to the last 7 years. Only in Washington, when you spend $659 billion more in the next 7 years over the last 7 years do some call it a cut. It is not a cut. It is an increase in spending and a quite significant one.

Some have said, you are going to spend more on Medicare, but what is going to happen to the per beneficiary? They are not going to get any more because there are more beneficiaries in the system. There are more people who need the care.

What this chart illustrates is that in 1995 we spent $48,000 per beneficiary in Medicare, and in the year 2002, under the House, it was $61,361. And I will illustrate in a new chart that that number is going up now that we have our agreement with the Senate.

These next two charts illustrate the annual growth in spending that will take place if we do nothing. If we do nothing, Social Security will go up at 5.4 percent a year. If we do nothing, Medicare will go up at 10.1 percent a year and become bankrupt and run out of funds in the seventh year. If we do nothing, Medicaid is going to go up at 10.8 percent and other entitlements at 8.4 percent. Interest will go up nearly 6 percent. Defense spending will go up a percent a year. Foreign aid will go up over 2 percent a year. Domestic discretionary will go up 2.3 percent a year.

□ 2300

There is if we do nothing. What we are looking to do, Mr. Speaker, is to change the growth of these programs. What happens, and Members can compare the chart at the bottom now to the one at the top, we are going to allow Social Security to go up at 5.1 percent a year, Medicare is going to go up at 5.5 percent a year, not 10.1 percent, Medicaid is going to go up 4.5 percent a year, not 10.7 percent.

Other entitlements, which we have made significant changes on, that is welfare, it is food stamps, it is agricultural subsidies, we are controlling the growth of these programs so they will go up at 3.9 percent a year. All of the entitlements are going to go up. They are simply not going to go up as much as they would if we allowed or took no action.

Interest becomes quite significant. Instead of it going up at nearly 6 percent a year, because of the budget changes we are making, the total payment on interest will go up less than 1 percent.

In this chart, defense spending is going up a half a percent a year, but with the new agreement with the Senate, it will not go up basically at all during the next seven years. It will not decline, but it will not go up. Foreign aid will go down 5.4 percent each year, and domestic discretionary will go down 1.6 percent a year.

It is fair to say that Republicans are going to cut domestic spending. We are going to have not just real cuts, we are going to have absolute cuts in those programs. Foreign aid will go down. Defense spending will stay basically the same. Interest payments will go up slightly, and then we have true growth in Medicare and Medicaid and other entitlements.

What I would like to do now, Mr. Speaker, is just go through a number of charts, since the President has come in with his proposal on what we should do to balance the budget. Before I talk about what the President is actually doing, what Members see in this chart, the green line is the Congressional Budget Office. They are the ones that look at everything we do in Congress and make sure our numbers add up.

The White House has its Office of Management and Budget. They do the same thing.

Historically, the Congressional Budget Office and the Office of Management and Budget in the executive branch do not always agree on their economic forecasts, but they have consistently, the White House has consistently said to us that we need, that we need to make sure that we use one group to analyze our numbers. The organization that the White House has said we should use is the Congressional Budget Office. They are the ones who have said ''Use the Congressional Budget Office when you use your numbers.'' That is what we are doing.

All our projections are based on what the Congressional Budget Office says in terms of their analysis of everything that we do in Congress. Regretfully, the Congressional Budget Office and the Office of Management and Budget are going in two different directions.

The Office of Management and Budget has basically said, OMB, that revenues will come in stronger than we think they will in the Congressional Budget Office, and expenses will not be as strong. They said if we take no action in the 7th year, the Office of Management and Budget, our deficit would be $266 billion. The Congressional Budget Office said that if we take no action, our deficit will be $454 billion.

The next chart illustrates what happens to the President's own projections when the Congressional Budget Office looks at it. Members may remember that the President chose not to come in with a budget to reduce our deficits. He basically said ''Congress, you do it.'' We are doing it. We are happy to do it. We have waited a long time to have this opportunity to lead this country, so we said that we wanted to balance the budget in 7 years. The President was critical of that effort, and basically said that we did not need to be focused so much on reducing our annual deficits.

I need to make this point, because it is central. Not only are we trying to get our financial house in order, we are trying to change this government. We are trying to change this social corporate welfare mentality into an opportunity society. We are trying to change this caretaking government into a caring government.

We are trying to change an experience that we are seeing throughout this country of 12-year-olds having babies, of 14-year-olds selling drugs, of 15-year-olds killing each other, of 18-year-olds who cannot read their own diplomas, of 24-year-olds who have never, ever had a job, not necessarily because there are not any jobs, and 30-year-old grandparents. A society that exists with that type of thing happening cannot long endure.

Therefore, we are not just trying to get our financial house in order, we are trying to change our government in the process. We are trying to make it smaller, we are trying to make it more efficient, we are trying to reduce the layers of bureaucracy within departments, where 11 people might have to make a decision on what action government should take, when in the private sector they try to get it down to two, three, or four layers.

What did the Congressional Budget Office say about the President's 10-year plan to balance the budget? Because Members may remember, a week or so ago the President said that we needed to balance our budget, not in 7 years, but in 10 years. In the process of doing that, there were some Republicans who were critical of his effort, more Democrats who were critical, but a number of Republicans welcomed the President stepping in and saying balancing the budget was important. I happen to think we should be balancing the budget in 5 years, not 7, so I certainly do not think 10 is good enough.

However, what was important is that the President recognized the need to balance the budget. He validated in that process the fact that we can do it with no tax increase. He validated the fact that we are not cutting Medicare and Medicaid, we are slowing the growth. Those are his words, and those are our words. That is exactly what we are doing. He even validated the fact that we can balanced the budget and have a tax cut at the same time, because we are paying for the tax cut.

What did they say happens, the Congressional Budget Office? There are four lines in this chart. The current law is, if we do nothing, the national debt, the annual deficit will be $454 billion under current law. In the seventh year, really the year 2002, and we are using the 7-year budget, and we are going to balance the budget in 7 years, if we do nothing, our annual deficit that year will be $340 billion. Mr. Speaker, a deficit is not the debt. The deficit is the difference between revenues, revenues and expenses, and when you have expenses above revenues, you have this deficit.

They are saying that this deficit will be here, expenses will be here, revenues will be here, and we have $340 billion of deficit. At the end of the year it is taken and added on top of the national debt, and the national debt just keeps getting bigger and bigger and bigger. Our national debt keeps going up every year, even if our deficits get smaller, because our deficits keep adding to the national debt.

They said under current law, the deficit will be $340 billion. They then said under the President's own plan in February that the deficits keep going up. He did not give us a 7-year budget, he gave us a 5-year budget, but in the fifth year the deficit goes, in the fourth year, 256, the fifth year 276. It just keeps going up. This is the reason why we 2 years ago opposed the President's plan. We knew his annual deficits would keep going up and that he had not resolved that.

Mr. Speaker, what we did is we came in with a 7-year plan. Our 7-year plan is the green line that touches zero in the seventh year. That is scored by CBO, and they point out, in fact, that we will have a $1 billion surplus, not a lot of money compared to all those deficits, but what a change. Then what they did is they analyzed the President's new budget, and when they analyzed the President's new budget, it is the red line. Members will notice it is parallel. It stays around $200 billion in deficits each year.

The President's new budget goes from $175 billion to $196 billion to 212. These are deficits. Then it goes to 199, to 213, to 220, to 211, 210, 207. It is just above that $100 billion amount. It never becomes balanced. When the President said in the 10th year, scored by the Office of Management and Budget, yes, they say it becomes balanced, but when we use the Congressional Budget Office, the organization the President told us all of us should use, it never becomes balanced.

Mr. Speaker, let me just show a few more charts. I noticed my colleague, the gentleman from Michigan [PETE HOEKSTRA], has come to the Chamber. I would love to engage him in this dialogue, because he is really one of the key experts on this issue.

If I could just continue to go through these charts, I do not know if on the TV screen Members can see the difference between the two red lines and the two green lines. The red lines are the President's budget and the green lines are the House budget scored by OMB and scored by CBO, CBO being the congressional budget.

When we compare the President's budget to the House budget, it is interesting to note that the President said ''I am going to balance it in 7 years.'' That is the one with the red lines and the dots. In the 10th year he says it is balanced. That is when his budget is scored by the Office of Management and Budget. It is balanced in 10 years.

□ 2310

When the Congressional Budget Office scores his budget, they say it never becomes balanced. It is basically that parallel line to the zero deficits.

When the Congressional Budget Office scores our budget, they say we are balanced in 7 years. But this is really, I think, an interesting point.

When the Office of Management and Budget takes a look at our budget, when they are forced to use their projection of revenues and expenses, they basically say, we will balance the budget now in 6 years and not 7.

What the President has done is he has compared his OMB scoring of 10 years to our CBO scoring of 7. He has either got to compare his OMB to our OMB or his CBO to our CBO. The bottom line is we are going to balance it in 7 years under CBO and scored by his office, we balance it in 6 years.

I have 4 more charts. I will run through them fairly quickly.

Medicaid Spending. The President said he is only going to slow the

growth of Medicaid by $54 billion. That is the red line. He said, ''But the House Republicans are going to cut the growth by $187 billion.''

The problem is he is comparing OMB scoring of his budget to CBO. If we compare OMB to OMB, if he has $54 billion of cuts in the growth, then we are only $119 scored by OMB. But, more importantly, if we are slowing the growth by $187 billion, we have to score his number $122 billion. He is not $54 billion scored by CBO. He is $122 billion. In other words, we need to compare the same scoring. When you do that, you realize that the President is cutting a lot more from the growth in spending than he wishes to claim.

The same analogy on Medicare. He says he is going to slow the growth of Medicare by $127 billion, scored by OMB. But when the Congressional Budget Office scores what he does, they say he slows the growth by $192 billion. When you compare the $192 billion to our number of $288 billion, they are a lot closer.

In fact, when you consider the per-beneficiary, and this is before we had our agreement with the Senate, the per-beneficiary goes from, the President, from $4,700 to over $7,000, and the House, $4,800 to $6,300.

This chart, the last chart, illustrates the per-beneficiary cost of Medicare. Now with the House and Senate agreement, you will realize that the President is slightly higher in per-beneficiaries but not all that much. The problem with the President is, in terms of his plan, he attempts to slow the growth of Medicare. He goes from $4,700 to $7,128 in the seventh year. We in our House and Senate agreement go from $4,800 to $6,667. We are less than $400 apart.

The difference is we want to change the system. We want to save Medicare, we want to preserve it, but we want to change it. We want people to have the opportunity to have a whole host of different plans, whereas the President has not said how he will slow the growth of Medicare.

There are extraordinary things taking place down here. I do not think people fully grasp it. There is a revolution going on. I will conclude, and I would like to invite my colleague to add some comments. I will conclude by making this comment:

When we had our Contract With America, which my colleague, the gentleman from Michigan [Mr. HOEKSTRA], helped lead and helped create, created the idea, created the Capitol steps event and had a lot to do with what went in our contract, as my colleague knows, before the election, people said, well, this would cost Republican votes. We did not lose one Republican who ran who was an incumbent and we picked up a whole new number that gave us a majority.

Then people said, well, this was a contract but you used it to get elected but you wouldn't implement it. We implemented it in the first day and then the first 100 days.

Then people said, well, moderate Republicans would not get along with conservative Republicans. This is what the press was saying. We got along just fine, thank you, because we have waited 40 years for the opportunity to help lead this country and candidly to help save it.

Then they said, ''Well, you're getting along all right in the House but you're not going to get along with the Senate.'' I happen to like the Senators. I think a lot of my colleagues like the Senators. We meet together and we talk about this shared problem of how we save this country.

Then they said, ''Well, you voted for the balanced budget amendment but you're not going to vote to balance the budget.'' We are voting to balance the budget. In fact, I remember some saying, ''You know, you boxed yourself in. Now you're going to have to do it.'' You know, in a way we did. In a way we did what Cortez did when he sailed to the new world. He sailed to the new world with this opportunity, as he saw it, to claim this land for Spain and for the old world, but what he did, he saw his sailors looking back to the east and longing to be back in the old world. So he burned the ships. In a sense that is what we have done as Republicans. There is no going back for us. We are not looking back at the old world. We are looking at this new world. We have burned our ships. If we don't get our financial house in order, my feeling is we don't deserve to come back. If we don't change this government, my sense is we don't deserve to come back.

I mean, that is what we are about. The old world is behind us, the new world is in front of us. I appreciate the patience of my colleague. I would love at this time to invite him to make some comments, because I know you have been at the very center of what I have been talking about.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Speaker, I could not help but watch this special order when the gentleman started about 30 minutes ago, and remembering my commitment that I would come down and join if he started before 11:00.

Mr. SHAYS. But I kept you waiting a long time, did I not?

Mr. HOEKSTRA. That is fine.

I think the words that you started your special order with were talking about the discussions that we really had 14, 15 months ago, talking about what kind of an agenda and what kind of platform are we going to run on as Republicans, in walking away from the easy answer which is saying, let's run a negative campaign, and talking about now, let's not worry about what the other side is doing, what the other side is saying, let's identify our agenda, what we want to do, the positive message that we believe we can carry to the American people because of the great faith that we have in our country, in the American people, in our ability to bring all of these people together to re-create and to renew this country. We ran on a positive agenda.

We then came in and, as my colleague recounted, we did what we said we were going to do. We are continuing to do it.

I went back and got this document, this is the CONGRESSIONAL RECORD for yesterday. It is pretty much a pro forma day. But the first document that was put in there was Permission to Have until Midnight Tonight to file the Conference Report on House Concurrent Resolution 67, the Concurrent Resolution on the Budget for Fiscal Year 1996. This is it. This is the document that a year ago, 6 months ago, 6 weeks ago, 6 days ago all the critics were saying we could not do, that first we could not as House Members on the Committee on the Budget get to a budget resolution that would balance the budget within 7 years. Then they said, ''Well, yeah, you're right, the House could do it but you'll never get a similar-type document out of the Senate.'' The Senate came through in great form and they delivered a budget document that got the balance.

As happens, their document was different than ours, and the people came back and said, ''Now there's no way you'll ever reconcile the differences between the two.'' We now have, and I believe on Thursday we will have the opportunity, hopefully in both the House and the Senate, to pass a budget resolution, the same budget resolution which gets us to a balanced budget by the year 2002.

□ 2320

So we have moved from a process of talking about change, having a positive message, to taking one more step to actually delivering positive change, and as we have had so many people come into the Budget Committee and testify, Alan Greenspan coming in and talking about what the importance is of having a balanced budget, not only to business and industry, but to families, people buying a mortgage. I believe a number Mr. Greenspan has quoted is we may see up to a 2-percent benefit on home mortgage and long-term interest rates and short-term interest rates.

Mr. SHAYS. I would love the gentleman to yield to me, because I remember when we were there, when Mr. Greenspan was before the Budget Committee and one of our colleagues said, ''Are you not concerned that Congress will cut too much?'' He responded in the way that only he does. He said, ''You know, Mr. Congressman, I do not go to sleep at night fearful that when I wake up Congress will have cut too much.''

Mr. HOEKSTRA. I do not think that has been a problem. The nice thing about going through this process is we have recognized, despite all of the rhetoric, and Mr. Greenspan knew this, to get a balanced budget we did not have to radically go through and cut spending; we had to slow the growth of the

Federal Government. And coming from the private sector, I would have taken these kinds of budgets and these kinds of cuts almost any time because the private sector is going through much more difficult and aggressive cost-cutting procedures than what we are doing. We are slowing the growth. We are still spending at a roughly 3-percent to 4-percent increase.

Mr. SHAYS. About a 3-percent increase. In fact when we looked at what we are spending now we spend about $1.5 trillion. In the seventh year it will be $1.8 trillion. That is an increase in spending by anybody's definition.

Mr. HOEKSTRA. That is right; and as we have taken a look we are increasing spending, we are going to have to reassess some priorities, because we are going to be moving money into high-priority programs, programs like Medicare, Medicaid, those types of programs, as we reform them we are still going to be increasing this per beneficiary from I do not know of the latest numbers, but I know in the House budget resolution we are looking at going from roughly $4,700 or $4,800 per beneficiary to over $6,000 per beneficiary.

Mr. SHAYS. Actually with the Senate agreement, it is going to be about $6,600.

Mr. HOEKSTRA. So we are significantly going to grow. We are expecting that we are going to have reform, so we are going to be able to deliver the same if not better health care to our seniors than what we are getting today.

So we have an opportunity to go through programs, yes, we are going to have to downsize and eliminate some programs. We are going to have an opportunity to go after waste, fraud and abuse more aggressively, but as we take those savings some of those will go toward deficit reduction, others of those dollars will go towards programs we have identified as having a high priority, and we are still going to be getting increased revenue. So we are going to be spending more money in 7 years than what we are today, and all we have to do is now manage ourselves and discipline ourselves over the next 7 years and we will get to a place where we wanted to be for a long period of time.

Mr. SHAYS. I was elected to the State House in Connecticut in 1974, and started by first year in 1975, and I continually watched Congress deficit spend, and in the State House I was not allowed to do that, thank goodness; we always had to have a balanced budget. And when I was elected 7 or 8 years ago, and as the gentleman was elected shortly after that, I mean we weighed in and said the most important thing obviously before we do all of the other things is to get our financial house in order. So I cannot emphasize how thrilling this week is for me. It is one reason why I wanted this special order. I basically waited 20 years for this opportunity, and now you and I are able to be part of an effort to get our financial house in order. As the gentleman pointed out, we are still going to allow spending to go up, we are just going to slow the growth.

I do not know if the gentleman has thought much about the challenge we had when we had the debate on the school lunch program and the incredible feeling I had when I went home one weekend and I saw the President in a school saying we were eliminating the school lunch program, apropos of your whole issue of whether we are spending more. I thought, what idiots.

Why would this Congress be doing this. I remember coming back and saying how could you of all things cut the school lunch program. And speaking to the appropriators, they said wait a second, we are taking it off as an entitlement. We are going to spend 4.5 percent more each year for the next 5 years, 4.5 percent more each year instead of 5.2 percent. Then they said, but we are going to also allow State and local governments to be more flexible with how they use it so they can target the funds better. I can remember the President saying we are going to eliminate school lunch for poor kids. Then I thought of my daughter, if I can just make this last point, I thought of my daughter who comes from a family who obviously makes a decent amount of income, and I realized that my daughter's lunch is subsidized, 17 cents in cash and 13 cents in commodity. Why would my daughter's school lunch be subsidized? Because we have a Federal program that subsidizes everyone.

Mr. HOEKSTRA. I am well aware of what went on with school lunch. It came out of the Committee on Economic and Educational Opportunities.

Mr. SHAYS. The gentleman's committee.

Mr. HOEKSTRA. My committee. I can only say I think our committee let our colleagues on the Republican side of the aisle down, because when we went through this, we had discussions about where are we taking the school lunch program. We said, No. 1, we are going to reform it, we are going to take the program from Washington and we are going to move the program to the States and the local school districts, so we are going to get Washington out of the way and out of this program. Why are people in Washington monitoring what kids are eating in Holland, MI, or Zeeland, MI, or anywhere in the country. It is a bureaucracy that does not need to be there.

So let us get rid of the bureaucracy, which will do a couple of things. It will free up more money for buying food and actually getting food to kids, and very different from all of the other block grants, this is one where we then went through and we said OK, we are going to increase spending. Other block grants, Governors have come back to us and said if you get rid of all of the rules and regulations, all of the red tape, we can deliver the same level of service at 90 percent of the dollars, 95 percent of the dollars, and we said well in school lunch, it is too risky, we want to make sure that these kids are fed. We are going to give them a 4½ percent increase for each of the next 5 years. So we thought fine, we have gotten rid of the red tape, the rules and regulations, the bureaucracy. They are getting more money. This cannot be controversial.

Mr. SHAYS. It is a win-win, right?

Mr. HOEKSTRA. It is win-win. All of a sudden we come to the floor and we see people on TV, and it is the sky is falling, and you know, this is my second term, so this is my third year here, and you are kind of looking around and saying, ''Whoa, what's happening to us here, we are giving them more money, we have gotten rid of this, and there are people that are going out and saying we are eliminating the program.'' Then you take a look at it and you say, ''There are even people printing this as fact.'' It has taken a while, but there are other ways to get information out, and the truth eventually comes out, and the truth has come out on that program.

Mr. SHAYS. Basically it was an excellent opportunity for all of us to learn a lesson, and we talk about not being school-lunched again on other issues. It is the same way with Medicaid and Medicare. We are going to be spending more money and we are going to make sure that we are not being school-lunched on these two programs, that people truly understand what is happening.

Mr. HOEKSTRA. I know that as I went back for a whole series of town meetings in April when the school lunch debate was at its peak, you kind of go back and say, ''Wow, I am really going to be prepared to address the issue, because I am going to get a lot of questions on it.'' It was very surprising, because even as I think much of the media had not covered the debate very accurately, it came up, and people understood the issue, and they understood it a lot better than what I thought they might. They had gone through the clutter and taken a look at what was really going on. The gentleman brought up his daughter. I had people actually coming to me and saying, ''Can you explain to me exactly why the Federal Government is even doing a school lunch program?'' We have moved a significant distance away from, ''Whoa, you are cutting these programs out.''

But the gentleman is absolutely right. We are going to spend a lot of time over the next 6 months because the process now is the authorization bills, the appropriations bills, that put a real life into this budget document.

□ 2330

Because those are the bills that now actually carry out the budget document. Those are the ones that change our policies. They change our priorities. They focus dollars where we want them focused. They change the way that we actually start doing business.

And I think as you said earlier, they start changing the way that America works so that we can use these dollars in a much more constructive way.

We have recognized the problems that ineffective Washington spending has reaped on this country. The symptoms are here in Washington. They are around in our urban centers around the country. They are in our smaller communities, our rural communities.

We are going to go after those problems and we are going to move accountability and responsibility to where change can be affected most efficiently and most quickly, which is at the local level.

Mr. SHAYS. You know, during the course of your last comments, you pointed out that our budget resolution, which is really a plan and an agreement between the House and the Senate on how we are going to reach a new deficit by the seventh year, has to be implemented by the Appropriations Committee that will make decisions on defense spending and domestic spending; will have to be implemented by the Ways and Means Committee that makes decisions on taxes; Ways and Means and Energy Committee making decisions on entitlements.

So all of this, we are going to be doing a lot of wrestling in the next three or four months. And the key point as far as I am concerned is that the President needs to weigh in in a positive way. And I have made a determination, with a number of my colleagues, that I am not voting to increase the Federal debt ceiling. If the President is not going to weigh in on getting this budget balanced, our financial House in order, too often we have allowed the debt ceiling to climb, we are willing to shut down government.

Not essential services, but we are simply willing to shut down the government and call the question. And I wish it had happened 10 years ago. If it had happened 10 years ago, we would not be in the mess we are in today.

But as you point out, a lot of what we intend to do is to move this government from the Federal to the State and local level. And as I think about it, and I have to admit that I did not use to think this way. I used to think if people had different shoe sizes, the Federal Government would make sure that everybody had the right shoe size.

Instead, Washington tries to make one size fit all. So if people have a size 3, or some 18 or 16 or 15 or 10, they create and we create the shoes in the size of 9 and say: Everybody has got to wear them.

I would prefer Mississippi to have a system that fits them; Michigan to have a system that fits them; and for us in Connecticut to have a system that fits our needs and our concerns.

Mr. HOEKSTRA. I think of much of what we do in Michigan would work in Connecticut. We will export our solutions over to you.

Mr. SHAYS. I will jump in, because that is what you do with your governor. Governor Engler has made a lot of exciting reforms and the reforms are coming from states like Michigan where you have seen welfare reform and other reforms that the Federal Government has been reluctant to take.

Mr. HOEKSTRA. Yes, the next 5 or 6 months will be tough. We have a lot of work to do, even though we now have a budget document. There are issues that you and I will disagree on.

I think the exciting thing about the process that we have gone through in the last 6 months, and that we look forward to in the next 6 months, is that we have a large group of Members who do have their sights on the same vision: Creating a better America; understanding the things that we need to do to get there; understanding the many different strategies. Differing on some of the projects, but recognizing that an ability to dialogue, an ability to work together in a partnership, both on this side of the aisle, across the aisle, to the Senate, hopefully to the President, back to grassroots America. That through that dialogue and through that partnership, and only through that dialogue and only through that partnership, will we reach the type of solutions that get us to our objective and get us there in a very positive and constructive way.

So we are going to have to work through lots of differences on projects, but we recognize that we have to work through those differences. We have to reach agreement. And that as we reach agreement, we, together, will reach the goals and the missions that we have outlined.

So I think it is going to be a tough 5 or 6 months. It is going to be a very satisfying 5 or 6 months, because at the end we will have made a difference. We have been working at it for a long period of time. And we are going to take some gigantic steps in 1995 and then we have 6 more years of work to do to make sure that we get to that zero, because we have to stay disciplined for that time.

I thank the gentleman for sharing this time with me.

Mr. SHAYS. I thank the gentleman. I agree so strongly with the gentlemen words, I would like them to be what is the last words and I yield back my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) on Tuesday and Wednesday, June 27 and 28, on account of illness.

Mr. MFUME (at the request of Mr. GEPHARDT) for today, on account of travel delays.

Mr. GUNDERSON (at the request of Mr. ARMEY) for today, on account of family illness.

Mr. CAMP (at the request of Mr. ARMEY) for today, on account of the birth of his son, Andrew David Camp.

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. FARR) to revise and extend their remarks and include extraneous material:)

Mr. FARR, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. FUNDERBURK, for 5 minutes each day, on June 29 and June 30.

Ms. SEASTRAND, for 5 minutes, on June 28.

Mr. FOLEY, for 5 minutes, today.

Mr. GOSS, for 5 minutes each day, today and on June 28.

Mr. RIGGS, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. HOKE, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. CHAMBLISS, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. DORNAN, for 5 minutes each day, today and on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FARR) and to include extraneous matter:)

Mr. MILLER.

Mr. UNDERWOOD.

Mr. HOYER.

Mr. MARKEY.

Mr. BEILENSON.

Mr. BERMAN in two instances.

Ms. SLAUGHTER.

Mrs. SCHROEDER.

Mr. NADLER.

Mr. GORDON.

Mr. BARCIA.

Mr. MORAN.

Mr. HAMILTON.

Mr. ENGEL.

Mr. FILNER.

Mr. TUCKER in two instances.

Ms. MCCARTHY.

Mr. TOWNS.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. HUNTER.

Mr. FRANKS of New Jersey.

Mr. RADANOVICH.

Mr. EHRLICH.

Mr. FORBES.

Mr. BLILEY.

Mr. MARTINI.

Mr. YOUNG of Alaska.

Mr. TAYLOR.

Mr. HYDE.
Mr. SHUSTER.
Mr. STUMP.
Mr. BURTON of Indiana.
Mr. JONES.
Mr. GILLMOR in two instances.
Mr. QUINN.
Mr. HOKE.
Mr. LAZIO of New York.
Mr. SOLOMON in two instances.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, June 28, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1082. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to clarify an ambiguity relating to the applicability of section 3703a of title 46, United States Code, to vessels in the National Defense Reserve Fleet; to the Committee on National Security.

1083. A letter from the Acting Director, Office of Thrift Supervision, transmitting a report on changes and progress in the operations involving regulatory resources for the Office, pursuant to 12 U.S.C. 1462a(g); to the Committee on Banking and Financial Services.

1084. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1994 annual report to Congress on implementation of the Community Reinvestment Act, pursuant to 12 U.S.C. 2904; to the Committee on Banking and Financial Services.

1085. A letter from the Secretary of Energy, transmitting the Department's report entitled, ''Energy Efficient Environmental Program for Pollution Prevention in Industry,'' pursuant to Public Law 102–486, section 2108(c) (106 Stat. 3071); to the Committee on Commerce.

1086. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Brazil (Transmittal No. 21–95) pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1087. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Brazil (Transmittal No. 22–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1088. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Brazil (Transmittal No. 24–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1089. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of a memorandum of justification for drawdown under section 552 of the Foreign Assistance Act to support the Haitian police forces, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1090. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

1091. A letter from the Secretary, Department of Housing and Urban Development, transmitting the inspector general's semiannual report for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1092. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–67, ''Pennsylvania Avenue Development Area Parks and Plaza Public Safety Temporary Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1093. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–68, ''Prohibition on the Transfer of Firearms Temporary Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1094. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–69, ''Insurance Omnibus Temporary Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1095. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–70, ''Industrial Revenue Bond Forward Commitment Program Authorization Temporary Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1096. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–71, ''Limited Liability Company Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1097. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–72, ''Business Corporation Five-Year Report Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1098. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–73, ''Public Accountancy Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233 (c)(1); to the Committee on Government Reform and Oversight.

1099. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–74, ''Commercial Piracy Protection and Deceptive Labeling Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1100. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–76, ''Isle of Patmos Plaza Designation Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1101. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–77, ''Nonprofit Corporation Five-Year Report Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)91); to the Committee on Government Reform and Oversight.

1102. A letter from the Inspector General, General Services Administration, transmitting the office's audit report register, including all financial recommendations, for the period ending March 31, 1995 pursuant to Public Law 101–576, section 305 (104 Stat. 2853); to the Committee on Government Reform and Oversight.

1103. A letter from the Secretary, Department of Transportation, transmitting the Secretary's management report on management decisions and final actions on Office of Inspector General audit recommendations, for the period ending March 31, 1995, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1104. A letter from the Administrator, General Services Administration, transmitting the 1993–1994 report to Congress on programs for the utilization and donation of Federal personal property, pursuant to Public Law 101–612, section 5 (102 Stat. 3181); to the Committee on Government Reform and Oversight.

1105. A letter from the Chairman, U.S. Equal Opportunity Commission, transmitting the semiannual report on activities of the inspector general for the period March 31, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1106. A letter from the Secretary of the Interior, transmitting the annual report entitled ''Outer Continental Shelf Lease Sales'' for fiscal year 1994, pursuant to 43 U.S.C. 1337(a)(9); to the Committee on Resources.

1107. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to permit the Secretary of Veterans Affairs to reorganize the Veterans Health Administration notwithstanding the notice and wait requirements of section 510 of title 38, United States Code, and to amend title 38, United States Code, to facilitate the reorganization of the headquarters of the Veterans Health Administration; to the Committee on Veterans' Affairs.

1108. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of the space situation report for the National Oceanic and Atmospheric Administration consolidation for Hampton Roads, VA, pursuant to 40 U.S.C. 606(a); jointly, to the Committees on Appropriations and Transportation and Infrastructure.

1109. A letter from the Acting Assistant Attorney General, transmitting the Attorney General's report on risk exposure of private entities covered by the Federally Supported Health Centers Assistance Act of 1992; jointly, to the Committees on the Judiciary and Commerce.

1110. A letter from the Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, including any recommendations for financing changes, pursuant to 45 U.S.C. 321f–1; jointly, to the Committees on Transportation and Infrastructure and Ways and Means.

1111. A letter from the Secretary of Labor, transmitting the Department's report entitled, ''Transition Assistance Program: Phase III Impact Analysis,'' pursuant to Public Law 101–237, section 408(d) (103 Stat. 2084); jointly, to the Committees on National Security, Economic and Educational Opportunities, and Veterans' Affairs.

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. ARCHER: Committee on Ways and Means. H.R. 541. A bill to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes; with amendments (Rept. 104–109, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1642. A bill to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of Cambodia, and for other purposes (Rept. 104–160). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1887. A bill to authorize appropriations for fiscal years 1996 and 1997 for the International Trade Commission, the Customs Service, and the Office of the U.S. Trade Representative, and for other purposes; with amendments (Rept. 104–161). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1643. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Bulgaria (Rept. 104–162). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1176. A bill to nullify an Executive order that prohibits Federal contracts with companies that hire permanent replacements for striking employees (Rept. 104–163). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 173. Resolution providing for consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States (Rept. 104–164). Referred to the House Calendar.

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. THORNTON:

H.R. 1926. A bill to provide for the protection of the flag of the United States; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 1927. A bill making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEILENSON:

H.R. 1928. A bill to amend title 49, United States Code, to require that the motor vehicle bumper standard established by the Secretary of Transportation shall be restored to that in effect January 1, 1982; to the Committee on Commerce.

By Mr. BERMAN (by request):

H.R. 1929. A bill to amend the Immigration and Nationality Act to more effectively prevent illegal immigration by improving control over the land borders of the United States, preventing illegal employment of aliens, reducing procedural delays in removing illegal aliens from the United States, providing wiretap and asset forfeiture authority to combat alien smuggling and related crimes, increasing penalties for bringing aliens unlawfully into the United States, and making certain miscellaneous and technical amendments, and for other purposes; to the Committee on the Judiciary.

By Mr. ENGEL (for himself, Mr. SAXTON, Mr. SCHUMER, and Mr. DELAY):

H.R. 1930. A bill to govern relations between the United States and the Palestine Liberation Organization [PLO], to enforce PLO compliance with standards of international conduct, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR:

H.R. 1931. A bill to amend the Legal Services Corporation Act to prohibit recipients of grants or contracts from the Legal Services Corporation from soliciting clients, and for other purposes; to the Committee on the Judiciary.

By Mr. HOEKSTRA (for himself, Mr. COBURN, Mr. WELDON of Florida, Mr. VOLKMER, Mr. LAFALCE, and Mr. CANADY):

H.R. 1932. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Commerce.

Mrs. KENNELLY (for herself, Ms. DELAURO, Mr. GEJDENSON, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. FRANKS of Connecticut):

H.R. 1933. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Old State House of Connecticut; to the Committee on Banking and Financial Services.

By Mr. LAZIO of New York:

H.R. 1934. A bill to amend section 255 of the National Housing Act to extend the mortgage insurance program for home equity conversion mortgages for elderly homeowners, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. LIPINSKI:

H.R. 1935. A bill to suspend until January 1, 1998, the duty on certain twine; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. DEFAZIO, Mr. WAXMAN, Mr. SANDERS, Mr. MCDERMOTT, Mr. ACKERMAN, Mrs. MINK of Hawaii, Mr. SCOTT, Mr. TORRICELLI, Mr. DELLUMS, Mr. FLAKE, Ms. WOOLSEY, Mrs. SCHROEDER, Ms. DELAURO, Mr. OWENS, Mr. STARK, Mr. EVANS, Mr. FRAZER, Mr. BORSKI, Mr. NADLER, and Mr. SERRANO):

H.R. 1936. A bill to amend title 5, United States Code, to provide for certain minimum requirements under the Federal Employees Health Benefits Program with respect to obstetrical benefits; to the Committee on Government Reform and Oversight.

By Mr. SCHIFF:

H.R. 1937. A bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 1938. A bill to amend the vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Commerce.

By Mr. UNDERWOOD (for himself and Mr. FRAZER):

H.R. 1939. A bill to amend the Federal Home Loan Bank Act to provide for the representation of Guam and the Virgin Islands on the boards of directors of the appropriate Federal home loan banks; to the Committee on Banking and Financial Services.

By Mr. YOUNG of Alaska:

H.R. 1940. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain expenses incurred by whaling captains in support of Native Alaskan subsistence whaling; to the Committee on Ways and Means.

By Mr. OWENS:

H.J. Res. 98. Joint resolution proposing an amendment to the Constitution of the United States to clarify the meaning of the second amendment; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. DEFAZIO, and Mr. MILLER of California):

H. Con. Res. 79. Concurrent resolution expressing the sense of Congress regarding an appropriate minimum length of stay for routine deliveries; to the Committee on Commerce.

By Mr. MARKEY (for himself and Mr. LEACH):

H. Res. 174. Resolution expressing the sense of the House of Representatives regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

122. By the SPEAKER: Memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to establish an integrated spent fuel management storage facility; to the Committee on Commerce.

123. Also, memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to cause the Army Corps of Engineers to mitigate for losses on the MR&T Mainline Levee Construction Program and perform an updated environmental impact statement; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 32: Mr. KLECZKA.

H.R. 65: Mr. EVANS, MR. GENE GREEN of Texas, Mr. MOLLOHAN, and Mr. FLAKE.

H.R. 104: Mr. PETERSON of Minnesota and Mr. WATTS of Oklahoma.

H.R. 209: Mr. FIELDS of Texas.

H.R. 210: Mrs. CHENOWETH.

H.R. 246: Mr. CRANE and Mr. SKEEN.

H.R. 303: Mr. MOLLOHAN and Mr. HINCHEY.

H.R. 353: Mr. MARTINI, Mr. MOORHEAD, Mr. KASICH, and Mr. DELLUMS.

H.R. 359: Mr. MASCARA.
H.R. 390: Mr. FROST.
H.R. 394: Mr. MCCOLLUM, Mr. SCARBOROUGH, Mr. MARTINI, Mr. FILNER, Mr. LATHAM, Mr. SMITH of New Jersey, Mr. TAYLOR of Mississippi, Mr. SMITH of Texas, Mr. MOORHEAD, and Mr. ROBERTS.
H.R. 408: Mr. BLUTE.
H.R. 469: Mr. DEUTSCH.
H.R. 475: Mr. SENSENBRENNER.
H.R. 488: Mr. WALSH, Ms. PRYCE, Mr. HORN, and Mr. PASTOR.
H.R. 582: Mr. DREIER.
H.R. 598: Mr. BONILLA, Mr. CRANE, Mr. STARK, Mr. TAUZIN, Mr. BROWNBACK, Mr. WAMP, Mr. LONGLEY, Mr. GENE GREEN of Texas, Mr. LEWIS of Kentucky, Mr. BAESLER, Mr. HUTCHINSON, Mr. ROYCE, Ms. DANNER, Ms. ROS-LEHTINEN, Mr. DEAL of Georgia, Mr. ANDREWS, and Mr. WHITFIELD.
H.R. 676: Mrs. LOWEY.
H.R. 752: Mr. UNDERWOOD, Mr. HAYWORTH, Mr. FLAKE, Mrs. FOWLER, Mr. BONIOR, Mr. HASTINGS of Washington, Mr. TAUZIN, Mr. WICKER, Mr. CHRYSLER, Mr. BOEHNER, Mr. LARGENT, Mr. CHABOT, and Mr. ORTON.
H.R. 771: Mr. BARCIA of Michigan and Mr. YOUNG of Alaska.
H.R. 789: Mr. COX, Mrs. CUBIN, Mr. SAWYER, and Mr. COMBEST.
H.R. 816: Mr. MCCRERY.
H.R. 852: Mr. MARTINEZ.
H.R. 858: Mr. ENGEL, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. WILLIAMS, and Mr. DICKS.
H.R. 860: Mr. SALMON and Mr. UPTON.
H.R. 911: Mr. BONIOR, Ms. VELAZQUEZ, Mr. DE LA GARZA, Mr. FAZIO of California, Mr. MANTON, Mr. MCNULTY, Mr. NEAL of Massachusetts, and Mr. FRANKS of New Jersey.
H.R. 1020: Mr. CRANE, Mr. SHAW, Mr. EHRLICH, Mr. KANJORSKI, Mr. FROST, Mr. WICKER, Mr. TAYLOR of Mississippi, Mr. NETHERCUTT, and Mr. GREENWOOD.
H.R. 1033: Mr. LAZIO of New York.
H.R. 1047: Mr. MCINTOSH.
H.R. 1114: Mr. TAYLOR of Mississippi, Ms. PRYCE, Mr. WELLER, Mr. ARCHER, Mr. ROBERTS, Mr. SAM JOHNSON, Mr. STEARNS, Mr. FRANKS of New Jersey, Mr. LEWIS of Kentucky, and Mr. STOCKMAN.
H.R. 1143: Mr. ROMERO-BARCELO, Ms. KAPTUR, and Mr. OLVER.
H.R. 1144: Ms. KAPTUR, Mr. ROMERO-BARCELO, and Mr. OLVER.
H.R. 1145: Mr. ROMERO-BARCELO, Ms. KAPTUR, and Mr. OLVER.
H.R. 1176: Mr. FRANKS of Connecticut.
H.R. 1203: Mr. PETRI, Mr. CRAPO, Mr. LEACH, Mr. NUSSLE, and Mr. FOX.
H.R. 1226: Mr. BURR, Mr. BASS, and Mr. HEFLEY.
H.R. 1227: Mr. JACOBS and Mr. EHLERS.
H.R. 1278: Mr. LEWIS of Georgia, Mr. GENE GREEN of Texas, and Mr. FALEOMAVAEGA.
H.R. 1296: Mr. GALLEGLY and Mr. RADANOVICH.
H.R. 1314: Mr. COYNE.
H.R. 1317: Mr. LONGLEY.
H.R. 1384: Mr. FLANAGAN and Mr. QUINN.
H.R. 1406: Mr. WAXMAN, Mr. WELDON of Pennsylvania, Mr. MONTGOMERY, Mr. DOYLE, Mr. KANJORSKI, Mr. ENGLISH of Pennsylvania, and Mr. PAYNE of Virginia.
H.R. 1533: Mr. CHRISTENSEN.
H.R. 1536: Mr. FLANAGAN and Mr. QUINN.
H.R. 1541: Mr. LIPINSKI and Mr. ENGLISH of Pennsylvania.
H.R. 1567: Mr. DEFAZIO, Mr. FATTAH, and Mr. LIPINSKI.
H.R. 1619: Mr. SMITH of New Jersey, Ms. PELOSI, and Mr. TAYLOR of North Carolina.
H.R. 1626: Mrs. THURMAN, Mr. CANADY, Mr. DEUTSCH, Mr. STEARNS, and Mr. PETERSON of Florida.
H.R. 1627: Mr. HOBSON and Mr. HOUGHTON.
H.R. 1640: Mr. SHAYS, Mr. BARTLETT of Maryland, Mr. LIPINSKI, Mr. BURTON of Indiana, Mr. BAKER of California, Mr. SAWYER, Mr. TALENT, Mr. SCARBOROUGH, Mr. HOEKSTRA, and Mr. FUNDERBURK.
H.R. 1651: Mr. SMITH of New Jersey, Mr. SAXTON, Mr. HOUGHTON, Mr. STUPAK, Mr. MCHUGH, Mr. DEUTSCH, Mr. HILLIARD, Mr. ENGLISH of Pennsylvania, and Mr. BAKER of Louisiana.
H.R. 1675: Mr. JONES, Mr. TANNER, Mr. HASTINGS of Washington, Mr. DUNCAN, Mr. LONGLEY, Mr. HAMILTON, and Mr. SAXTON.
H.R. 1684: Mr. WHITE, and Mrs. SEASTRAND.
H.R. 1713: Mr. MCKEON, Mr. JOHNSON of South Dakota, and Mr. ENSIGN.
H.R. 1739: Mr. KOLBE, Mr. PETE GEREN of Texas, and Mr. WATTS of Oklahoma.
H.R. 1748: Mr. MINGE and Mr. FROST.
H.R. 1758: Mr. FAZIO of California.
H.R. 1774: Mr. LIPINSKI and Mr. DELLUMS.
H.R. 1801: Mr. CREMEANS, Mr. CHRYSLER, and Mr. SCARBOROUGH.
H.R. 1807: Mr. LANTOS, Mr. LUTHER, and Ms. NORTON.
H.R. 1818: Mr. ROBERTS, Mr. HUTCHINSON, Mr. BAKER of Louisiana, and Mr. SALMON.
H.R. 1821: Mr. STUPAK and Mr. FRANK of Massachusetts.
H.R. 1833: Mr. STENHOLM, Mr. BARCIA of Michigan, Mr. BLILEY, Mr. PETERSON of Minnesota, Mr. HOSTETTLER, Mr. HOLDEN, Mrs. CHENOWETH, Mr. VOLKMER, Mr. MANZULLO, Mr. KLINK, Mr. SCARBOROUGH, Mr. TAUZIN, Mr. HASTERT, Mr. LIPINSKI, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. HUTCHINSON, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. TIAHRT, Mr. CRANE, Mr. SHADEGG, Mr. COLLINS of Georgia, Mr. BARRETT of Nebraska, Mr. MCDADE, Mr. MASCARA, Mr. SALMON, Mr. BONO, Mr. GRAHAM, Mr. HUNTER, Mr. SOLOMON, Mr. UNDERWOOD, Mr. WICKER, and Mr. WAMP.
H.R. 1834: Mr. BARR, Mr. CHRYSLER, Mr. COLLINS of Georgia, Mr. DEAL of Georgia, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HILLEARY, Mr. KINGSTON, Mr. LARGENT, and Mr. METCALF.
H.R. 1840: Mr. HERGER, Mr. STOCKMAN, Mr. PACKARD, and Mrs. SEASTRAND.
H.R. 1856: Mr. CRAPO, Mr. COBLE, and Mr. MCHUGH.
H.R. 1884: Mr. FROST.
H.R. 1885: Mr. BLUTE and Mr. WAMP.
H.J. Res. 78: Mr. CLAY, Mr. GEPHARDT, and Mr. COSTELLO.
H.J. Res. 84: Mr. BECERRA.
H. Con. Res. 4: Mr. SOUDER and Mr. EHRLICH.
H. Con. Res. 42: Mr. FRANKS of New Jersey, Ms. FURSE, and Mr. KILDEE.
H. Con. Res. 50: Ms. RIVERS, Mr. SCOTT, and Mr. HALL of Ohio.
H. Con. Res. 65: Mr. MENENDEZ, Ms. ESHOO, Mr. FRANK of Massachusetts, Mrs. ROUKEMA, Ms. SLAUGHTER, Mr. CLAY, Mr. MILLER of California, Ms. JACKSON-LEE, Miss COLLINS of Michigan, Mr. LIPINSKI, and Mr. WAXMAN.
H. Con. Res. 76: Mr. COLEMAN, Mr. BROWN of California, Mr. FRANK of Massachusetts, and Mr. BRYANT of Texas.
H. Res. 21: Mr. GUTKNECHT.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

26. By the SPEAKER: Petition of the 47th student senate, Florida State University, relative to H.R. 1709; to the Committee on National Security.

27. Also, petition of the common council of the city of Buffalo, NY, relative to the Historic Homeownership Assistance Act; to the Committee on Banking and Financial Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MR. GOSS

AMENDMENT NO. 74: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. Effective March 1, 1996, none of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 75: Page 19, Line 16, strike ''$10,000,000'' and insert in lieu thereof ''$11,500,000''.

Page 23, line 6, strike ''39,000,000'' and insert in lieu thereof ''37,500,000''.

H.R. 1868

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 76. Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 564. None of the funds appropriated in this Act under the heading ''North American Development Bank'' may be expended except when it is made known to the disbursing official concerned that the Government of Mexico has contributed to the North American Development Bank its share of the paid-in portion of the capital stock for fiscal year 1996, $56,250,000.

H.R. 1868

OFFERED BY: MRS. MEEK OF FLORIDA

(Amendment to the Amendment Offered by Mr. Goss)

AMENDMENT NO. 77. In the matter proposed to be inserted by the amendment, strike ''when it is made known'' and all that follows and insert the following:

except when it is made known to the President that such Government is making continued progress in implementing democratic elections.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 78: Page 15, line 4, insert ''or Turkey'' after ''Zaire''.

H.R. 1868

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 79. Page 78, after line 6, insert the following new section:

PROHIBITIION OF FUNDING FOR ABORTION

SEC. 564. (a) IN GENERAL.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities, may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, directly or through a subcontractor or sub-grantee, perform abortions in any foreign country, except where the life of the mother would be endangered if the fetus were carried to term or in cases or forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or

to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, violate the law of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund has terminated all activities in the People's Republic of China; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term ''coercion'' includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

H.R. 1868

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 80: Page 78, after line 7, insert the following new section:

PROHIBITION ON USE OF MIGRATION AND REFUGEE ASSISTANCE FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 564. Notwithstanding any other provision of this Act to the contrary, none of the funds made available in this Act under the heading ''Migration and Refugee Assistance'' may be used for (1) salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; (2) salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act; (3) allowances as authorized by sections 5921 through 5925 of title 5, United States Code; or (4) administrative expenses.

H.R. 1868

OFFERED BY: MR. SOUDER

AMENDMENT NO. 81: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the Federal entity or official to which funds are appropriated under this Act that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

H.R. 1868

OFFERED BY: MR. SOUDER

AMENDMENT NO. 82: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the President that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

H.R. 1905

OFFERED BY: MR. FORBES

AMENDMENT NO. 11: Page 16, line 1, strike ''$2,596,700,000'' and insert ''$2,696,700,000''.

Page 20, line 8, strike ''$362,250,000'' and insert ''$262,250,000''.

Page 20, line 25, strike ''$239,944,000'' and insert ''$139,944,000''.

H.R. 1905

OFFERED BY: MR. HOKE

AMENDMENT NO. 12: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. The Secretary of Energy shall transmit a report to the Congress each time the Secretary authorizes the payment of travel expenses of the Secretary or other employees of the Department of Energy in excess of an aggregate of $5,246,200 for fiscal year 1996. Such report shall describe the amount authorized, the purposes for which such funds were originally allocated, and the travel expenses for which they are used.

H.R. 1905

OFFERED BY: MR. HOKE

AMENDMENT NO. 13: Page , after line , insert the following new section:

SEC. . TRANSFER OF FUNDS FOR TRAVEL.

The Secretary of Energy shall transmit a report to the Congress each time the Secretary authorizes the payment of travel expenses of the Secretary or other employees of the Department of Energy in excess of an aggregate of $5,246,200 for fiscal year 1996. Such report shall describe the amount authorized, the purposes for which such funds were originally allocated, and the travel expenses for which they are used.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 14: Page 16, line 2, insert before the period the following:

: *Provided*, That, of such amount, $44,772,000 shall be available to implement the provisions of section 1211 of the Energy Policy Act of 1992 (42 U.S.C. 13316)

H.R. 1905

OFFERED BY: MRS. SMITH OF WASHINGTON

AMENDMENT NO. 15: Page 14, line 13, strike ''$48,630,000'' and insert ''$48,150,000''.

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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, TUESDAY, JUNE 27, 1995 No. 106

Senate

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Commissioner Hodder, national commander of the Salvation Army.

PRAYER

The guest Chaplain, Commissioner Kenneth L. Hodder, national commander of the Salvation Army, offered the following prayer:

Let us pray:

Lord, at the beginning of this new workday, we ask for an enlarged capacity to care for others.

Help us to care—really care—for all those with whom we serve in this Chamber. Many of us are carrying personal and painful burdens of which others are unaware. So help us to work with each other with a gracious spirit of caring, one that reaches beyond the obvious and ministers to the hidden.

And help us to care—really care—for this Nation of others. Surely people matter most. Assist us, then, as we struggle to balance our ideas with others' aspirations, our causes with others' concerns, and our passions with others' needs.

We pledge to assist You in answering this prayer by our thinking, speaking, and doing this day.

And it is in Your strong name that we ask these things and offer ourselves. Amen.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 240, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 240) to amend the Securities and Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Pending:

Bryan amendment No. 1474, to restore the liability of aiders and abettors in private actions.

Boxer-Bingaman amendment No. 1475, to establish procedures governing the appointment of lead plaintiffs in private securities class actions.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader.

SCHEDULE

Mr. BROWN. Mr. President, this morning, the leaders' time has been reserved, and the Senate will immediately resume consideration of S. 240, the securities litigation bill. There will be 30 minutes of debate in relation to the pending Bryan amendment regarding aiding and abetting, to be followed by 30 minutes on the Boxer amendment regarding lead plaintiff.

At the hour of 10:15 this morning, there will be two stacked rollcall votes on or in relation to the pending amendments.

The Senate will stand in recess today from the hour of 12:30 p.m. to 2:15 p.m. for the weekly policy luncheons to meet.

Mr. President, at this time I suggest the absence of a quorum, and I ask unanimous consent that the time be divided equally.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1474

Mr. BRYAN. Mr. President, if I might inquire of the Chair, it is my understanding that on the Bryan amendment, there is a time agreement in which the distinguished chairman of the Banking Committee has 15 minutes allotted to him and the proponents of the Bryan amendment have 15 minutes; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BRYAN. Mr. President, I yield myself 8 minutes out of my allocated time.

Mr. President, for the benefit of my colleagues, for six decades, the foundation upon which public confidence in the American securities market has been built rests upon two fundamental premises: First, effective regulation by the Securities and Exchange Commission; second, the right of individual investors who have been defrauded to pursue a private cause of action against those wrongdoers.

Mr. President, I greatly fear that S. 240, as it is being processed through this Chamber, will, for all intents and purposes, emasculate that private cause of action, which has been so important in keeping the American securities market safe and sound and investor confidence high. Those are not just statements made by the Senator from Nevada. The former Chairman of the SEC, Mr. Breeden, the last Republican Chairman, made similar statements in

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

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testimony before the Banking Committee during his tenure. The current Chairman, Mr. Levitt, has also made that proposition.

The amendment before us seeks to correct a decision by the Supreme Court decided last year by a narrow 5-to-4 margin that wipes out liability for aiders and abettors.

Now, there has been much debate on the floor of the Senate about proportionate liability, joint and several liability, intentional misconduct, knowing misconduct, and reckless misconduct. None of those distinctions makes a whit of difference if this amendment is not granted, because under the current State of the law, no aider and abettor is liable under that theory, irrespective of his or her misconduct. Everyone is home free.

I cannot conceive of a public policy that would support that conclusion. And, indeed, the prime sponsors of this legislation have previously written—I refer to the distinguished Senator from Connecticut and the senior Senator from New Mexico—expressing their support for restoration of aider and abettor liability.

Interspersed throughout all of this debate has been a great antipathy to plaintiff's lawyers. I understand that antipathy and I do not, for a moment, doubt that there has been some misconduct, and some provisions in S. 240 deal with that misconduct. But let me point out that aiders and abettors are also lawyers, and if misconduct on the part of the plaintiff's bar ought to be addressed—as it ought to—under what theory of social or economic justice, can we assert that those who are part of the conspiracy itself—lawyers and accountants, primarily, and to some extent bankers—in effect, be given a blank check? If they did not sign their names to any of the statements, in effect, they have no liability.

Now, is this theoretical? Is it esoteric? No. If the state of law at the time of the Keating actions—one of the most notorious securities frauds of this century—were in the form that it is today, here is what would occur. My colleagues will recall that Mr. Keating, the primary wrongdoer, was bankrupt. No recovery from him. Some $262 million were recovered as a result of the Keating fraud by private investors. Jeri Mellon, a retired woman who lives in Henderson, NV, a suburb of Las Vegas, who came back, most of her savings were lost as a result of the fraud. She joined with others similarly situated in a class action to recover money. They recovered $262 million.

If that action were brought today, because aiding and abetting is no longer a part of the law as a result of the Central Bank of Denver case—I might add, the Court, in deciding that case, said, look, we do not believe that the statute can be construed to apply to aider and abettor liability, but we sure as the devil believe that there ought to be liability. So this was not a value judgment made by the Court that aiders and abettors ought not to be available. Here are some of the aiders and abettors: Parker Milliken, Kay Sholer, Sidley & Austin, Michael Milken; $121 million of the overall value of $262 million would be wiped out if that action was filed today. So we are down now to $141 million.

Previously, I offered for the consideration of the Senate a recommendation shared by the SEC, by the State Securities Association, by every regulator, by consumer groups, by those charged with public finance responsibilities at the State and local government level, to extend the statute of limitations, which is currently limited to 1 to 3, to make it a 2-year to 5-year statute of limitations.

Had the action against Charles Keating been brought today, 20 percent of the class claims would have been barred because of this restricted statute of limitations. Another $28 million in recovery, wiped out.

These are people like the Jeri Mellons. I suspect that virtually every Member of this Senate has had individuals who lost money as a result of the Keating fraud.

The recovery is down $262 million, to $113 million. Joint and several liability: Under the provisions of S. 240, in order to be jointly and severally liable, you have to either have knowing misconduct or intentional misconduct. Reckless misconduct no longer does it.

Although I recognize a distinction can be made between the two of those, the amendment that Senator SARBANES and I sought to offer in one form or another, sought to make sure that if the primary violator is insolvent, that those who are guilty of reckless misconduct—it is not ordinary negligence, not simple negligence—if a Member of this Chamber goes out this evening, gets in his or her automobile, is involved in an accident and is negligent, that Member is responsible to the party to whom he or she has inflicted the injury. Not so with securities law. Only if they are guilty of reckless misconduct.

In effect, as a result of the changes we make in the joint and several liability, those who are proportionally liable pay only their share. It is estimated that another $67 million would be wiped out in terms of investor recovery if the Keating case were brought today. S. 240 also wipes out the Rico treble damages provision, and another $30 million.

So if the Keating case were brought today, with the state of the law as it exists on this morning as this debate continues, rather than $262 million recovered by innocent investors, many of whom lost their life savings—and a disproportionately large number, small, elderly, retired investors who had little likelihood of ever regaining their loss—$262 million of recovery would be reduced to $16 million.

Mr. President, I ask my colleagues, under what theory of social or economic justice do we want to do this? Sure, we want to get at the plaintiff's lawyers that file frivolous actions, and the enhanced provisions of rule 11 under the Federal Rules of Civil Procedure address that issue.

The amendment before the Senate would simply restore aiding and abetting liability. Zippo, no recovery at all. Intentional misconduct, knowing misconduct, reckless misconduct—not 1 cent could be recovered under a theory of aider and abettor liability under the state of the law today, unless the Bryan amendment is enacted.

May I inquire, I have used my time; how is the time being charged at this point?

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has approximately 3 minutes remaining on his side.

Mr. D'AMATO. Mr. President, this is, admittedly, a very complex subject. We must distinguish between knowingly and intentionally having committed a fraudulent act and recklessly committing an act.

What is the difference between reckless conduct and intentional and knowing fraud? What standard of proof is there between gross negligence, negligence, and recklessness? These are not clear distinctions and it is because of these blurred distinctions that there has been a large body of case law, over the years, trying to make the definitions clear. This is particularly true in the area of reckless conduct; over the years a number of courts have given the interpretation that someone who was not the primary wrongdoer, but participated in the fraud and knowingly and substantially assisted in the fraud could be held liable. This does not seem to me to be reckless conduct but knowing fraud.

Courts have found, over the years, that a firm could be held fully liable for conduct which the average person would consider imprudent, negligent, or careless. Some circuit courts have recognized this so-called aiding and abetting liability as part of the recklessness standard.

Aiding and abetting liability holds the business community to an incredibly high standard, particularly when they can be held liable for damages that are far greater that any damage that they have caused. There is a real culprit to hold liable. The primary wrongdoer is somebody that has really committed fraud, who has practiced avarice and greed, who has wantonly and knowingly broken the law.

The Supreme Court decided that aiding and abetting liability applies to someone who is not the primary wrongdoer but participated in a fraud and knowingly and substantially assisted in the fraud. In the Central Bank of Denver case, the Court decided there was no aiding and abetting liability for private lawsuits involving fraud.

The Supreme Court did not believe that section 10(b) intended to cover aiding and abetting liability. Providing for aiding and abetting liability under

section 10(b) would be contrary to the goals of this legislation.

This bill is aimed at reducing frivolous litigation. Even the Supreme Court recognized that expanding 10(b) to include aiding and abetting liability would lead many defendants to settle to avoid the expense and risk of going to trial.

The Supreme Court said, ''Litigation under rule 10b-a presents a danger vexatiousness, different in degree and in kind, and would require secondary actors to expend large sums even for pretrial defense and the negotiation of settlement.''

As I have said, aiding and abetting liability would require secondary actors—not the primary wrongdoer, the person who has committed the fraud—to expend large sums, even for pretrial defense, and the negotiation of settlement.

Indeed, I do not believe that just because people have made settlements that they were guilty of fraud or that it was right and proper that they were sued.

When 93 percent of the cases—and I know not all the defendants were brought in to these suits for aiding and abetting, I grant that—but 93 percent of the defendants settled. These aiders and abettors are people tangentially involved in the fraud; they are brought into the suits only because they were involved with a scoundrel—a Keating—who was deliberately breaking the law. Often these aiders and abettors are accountants who did not notice the fraud, but possibly should have, yet we would hold them liable as if they committed the fraud. The Supreme Court said last year that aiding and abetting liability did not belong in private lawsuits involving fraud.

Of course, if someone has knowingly, intentionally, misled investors or been involved in committing fraud, they are no longer just aiders and abettors, and can be held liable for their actions.

Under S. 240, people who commit fraud will be treated as primary wrongdoers, as the culpable party, and can be held jointly and severally.

Further, S. 240 grants the Securities and Exchange Commission express authority to prosecute cases against wrongdoers who knowingly aid and abet primary wrongdoers.

This issue is both very interesting and very complex. It is not easy. First, the circuit courts recognized aiding and abetting liability, then the Supreme Court decided there is no place in these lawsuits for this liability. Using the aiding and abetting liability to proceed under rule 10(b) with a lawsuit, which is what this amendment would do, would take us to a standard that the Supreme Court decided should not be applied. Again, I quote that this liability standard ''presents a danger of vexatiousness, different in degree in kind and would require secondary actors to expend large sums, even for pretrial defense and negotiations of settlements.''

This amendment would actually destroy a good part of what this legislation attempts to do in terms of keeping lawyers honest and protecting those people who did not commit fraud, but were associated with those who did. It is my belief that these firms, the so-called aiders and abettors, are only brought in to these suits because of their deep pockets. They are professionals; securities analysts, accountants, and bankers who are involved in some way with the fraudulent party. They get brought in to the lawsuits and have to spend millions of dollars defending themselves. And their lawyers tell them that there is a chance that ''you may be held liable for the full amount.'' Why? Because when the name of a primary wrongdoer like Keating comes up, you are ''guilty by association.''

Any prudent lawyer would have to say that there is a chance you will be held liable if you were involved with a rogue—and there will be more rogues, make no mistake about it. I do not care what kind of legislation we pass here, there will be others who break the laws, who will do terrible things. It is not right that an accountant, law firm or securities broker is dragged in and linked to the fraud because they were asked to counsel and they gave some advice. They did not tell the wrongdoers to lie, they did not participate in fraud, but if they rendered some professional service, by virtue of their being linked with by that fraud they may be held liable by a jury. Do you think that a defendant is going to be able to establish clearly what is reckless conduct and what is not? The jury can find against them and then hold them for hundreds of millions of dollars in damages. That risk is why you have the incredible percentage of settlements.

You heard Senator DODD last evening explain how it was that a prominent firm, one of the big six accounting firms, did $15,000 worth of work, a contract to review something, and was then brought in to the suit. This accounting firm did defend itself and won the case, but in winning the case expended over $6 million. We cannot subject people to that kind of choice. I tell you when that accounting firm is hauled in the next time, it will settle. This amendment would allow a firm that was associated with the fraudulent firm to be fully liable for the damages. This would move us in the wrong direction, so I have to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BRYAN. Mr. President, may I inquire what the state of time is?

The PRESIDING OFFICER. The Senator from Nevada has 2½ minutes. The Senator from New York has 2 minutes.

Mr. BRYAN. Mr. President, let me, in 2½ minutes, tell my colleagues this amendment has nothing to do with frivolous lawsuits, absolutely nothing. This amendment simply indicates whether or not the Senate of the United States believes that those who counsel, who aid, who provide assistance to those who perpetrate investor fraud, ought to be held responsible. Under the current law, aiders and abettors are not liable. Among that group are the lawyers who have been the focus of much criticism during the course of the debate.

Sidley & Austin, Jones Day. These are law firms. A vote against the Bryan amendment places the individual Senator and this Congress on record as saying this kind of conduct—misconduct in my view—ought to be tolerated, approved, and tacitly accepted. I cannot conceive of such a result.

A decade ago the Congress of the United States enacted a piece of legislation, Garn-St Germain, that led, within a decade, to a savings and loan industry which cost the American taxpayers tens and tens of billions of dollars.

It is my view that S. 240, in its present form, without the kinds of amendments the distinguished Senator from Maryland and I have tried to add, will cause investor losses of those magnitudes over the ensuing years, and essentially private causes of action will be destroyed.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BRYAN. I will be pleased to yield to the Senator.

Mr. SARBANES. Am I correct, under the legislation before us, there could be no liability whatever imposed in a private action for aiding and abetting?

Mr. BRYAN. The Senator is correct, no liability.

Mr. SARBANES. In the Keating case, a large part of the recovery of the victims came from aiders and abettors, did it not?

Mr. BRYAN. If I might respond to the Senator, out of $262 million recovered in a private cause of action—because Mr. Keating himself was bankrupt—$121 million of the $262 million was recovered from aiders and abettors. Under the state of law currently, that $121 million is wiped out.

Mr. SARBANES. What public policy reason could there possibly be for letting aiders and abettors go completely free? I understand there could be an argument about what standards to impose. But on what basis in public policy is it that aiders and abettors go free?

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. BRYAN. Might I inquire if the acting floor manager will yield me 1 minute to respond to the question of the Senator from Maryland?

Mr. SARBANES. Mr. President, I ask unanimous consent the Senator be allotted 1 additional minute.

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

Mr. BRYAN. Mr. President, in responding to the question of the Senator from Maryland, I am at a total loss. It

is beyond my comprehension, whether one positions himself or herself in the political spectrum to the left of Fidel Castro or to the right of the Sheriff of Nottingham, under what theory you could say this kind of conduct ought to be encouraged and to simply say to these folks, by and large: Hey, as long as you are looking the other way and not signing any documents, you can, with total impunity under the private cause of action, counsel, aid, and provide tangible help to perpetrators of investor fraud. It is simply incomprehensible, I respond to my good friend.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. Does the Senator from Colorado seek recognition? You have 2 minutes left. The Chair recognizes the Senator from Colorado.

Mr. BROWN. Mr. President, the distinguished Senator from Nevada, I think, is a very thoughtful Member and brings persuasive arguments to the floor on this and other issues that he takes on. The concern I find, as I listen to this, is the potential of holding someone liable for another's actions when they had no idea that fraud, that action, was taking place. That is what this amendment does. This would hold someone, an accountant, someone else involved in this process who has no idea that a fraud is taking place, this would hold them liable even though they did not commit the fraud and they did not even know about the fraud.

Making someone liable, taking millions of dollars away from them, putting them through this when they did not even know about the action seems to me to be outrageous.

We yield the remainder of our time on this side.

AMENDMENT NO. 1475

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes debate on the Boxer amendment No. 1475, to be equally divided in the usual form.

The Senator from Colorado.

Mr. BROWN. Mr. President, if the Senator from California is willing, I would like to address an inquiry to her concerning her amendment.

Mrs. BOXER. Certainly.

Mr. BROWN. On the first page of the amendment, on page 98, following through line 100, you put in a subsection and insert the following subsection that reads:

> Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff's class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class . . . .

I did not read all of that. My question relates to it, and I frankly find it a bit confusing. When we say ''all named plaintiffs acting on behalf of the purported plaintiff class,'' who is it we are describing?

Mrs. BOXER. Everyone in the class. We took it right from your bill. I guess the bill the Senator is supporting; that you have to advertise that class actions are about to take place and every named plaintiff has a chance to vote on who the lead plaintiff shall be. We think this is very democratic. Unlike your bill, the richest investor will be the lead plaintiff.

Mr. BROWN. If the Senator would, my question is I think very specific. When it says all named plaintiffs, who are those? Are those solely the ones who brought the suit?

Mrs. BOXER. Every plaintiff of the class who responded to become part of the suit. There is a 90-day period where they go out and advertise.

Mr. BROWN. It would be the people who brought the suit as well as people who decided to add their names?

Mrs. BOXER. Everyone; all plaintiffs who are interested in being part of the suit gets to vote on who the lead plaintiff shall be.

Mr. BROWN. If that is the case, why do we have language ''acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff?'' What if one of the outside plaintiffs has not moved the court to serve to be plaintiff?

Mrs. BOXER. I think the Senator is confusing a very simple straightforward point. We take the language straight out of S. 240. In 90 days, there are newspaper advertisements of general circulation, and everyone who is part of the class is invited to join in the class. At that point in time, all the plaintiffs who are in the suit—and everyone is invited to be in—get to vote on who they want the lead plaintiff to be. If there is not a unanimous selection then the judge appoints.

Mr. BROWN. My question was very specific. The question I have is this: If the intention is to have it include all plaintiffs, why do we modify this by saying ''who have moved the court to be appointed to serve as lead plaintiff''? What if one of the outside plaintiffs that joined the suit does not petition the court to serve as lead plaintiff? Does that mean that they have no voice under subparagraph (a) and they are not required to consent to the naming of lead plaintiff?

Mrs. BOXER. My understanding of this amendment is clear. Everyone who has joined in the suit has an equal say. And if they cannot agree, then the court shall appoint. In S. 240 it is the richest investor. So the answer is all the plaintiffs get to choose.

Mr. BROWN. Let me just say, at least for this Member, I was intrigued by the arguments of the Senator from California last night. As I read the bill, it appears to me that the language here seems to imply that someone who is not in the original filing, or more specifically had not moved the court to be appointed to serve as lead plaintiff, would not have a voice in that unanimous consent required under selection for subparagraph (a).

Mrs. BOXER. No. I would address my friend to page 3 on the selection of lead counsel. The lead plaintiff or plaintiffs appointed under paragraph 2 shall be subject to the approval of the court selecting the named counsel. So everyone has a chance. All the plaintiffs have a chance to vote.

Mr. BROWN. My suggestion would be if the Senator does not want to limit that plaintiff class, having the words ''who have moved the court to be appointed to serve as lead plaintiff,'' I think gives the impression that you have to have been in that group. But the Senator mentioned ''rich'' under the bill. I have looked in the bill. I do not find that term. Could she show me where in the bill this indicates that the richest one determines?

Mrs. BOXER. Certainly I will. Unfortunately, at this point I would need a quorum call to find the exact place because I am working off my amendment. My friend did not tell me he was going to question me about the exact wording of the bill itself. So could we put a quorum call in place? I could find the section.

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

Mr. SARBANES. If the Senator will withhold, the bill says ''in the determination of the court has the largest financial interest in the relief sought by the class'' on page 99 of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Will the Senator yield so I may respond to his question?

Mr. BROWN. Surely.

Mr. SARBANES. On page 99 of the bill, the language is ''in the determination of the court has the largest financial interest in the relief sought by the class.'' That is the language.

Mr. BROWN. That was not the question. That is an unresponsive answer. The question was where in the bill is ''rich''? The Senator had made the point.

Mr. SARBANES. ''The largest financial interest in the relief sought by the class.''

Mr. BROWN. The Senator from Maryland is telling me ''rich'' is not in the bill, that they use terms with regard to the ''largest financial.''

Mr. SARBANES. The richest person in the sense of having the ''largest financial interest in the relief sought by the class'' is the one you are putting forward.

Mr. BROWN. Mr. President, let me simply note this.

Mr. SARBANES. ''The largest financial interest.''

Mr. BROWN. I believe it is my time. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BROWN. Mr. President, we all make mistakes in debate on the floor. I certainly am included. The point I wanted to make was that the terms used by the Senator from Maryland

and the Senator from California are in fact not in the bill. The recitation and description of what was in the bill is not in the bill. What was said was inaccurate. Mr. President, I think there is an important point here.

Let us assume you have two lawyers from New York who bring a class action against Wells Fargo. Each one of them is worth $10 million each. The public employees pension fund is also a shareholder of Wells Fargo. The manager of that public employees association has total assets about one-tenth of what the lawyers from New York have. Who is rich? Who is the richest? Are the people worth $10 million, the lawyers in New York, who are professional plaintiffs, the poor ones in this? The answer is obvious. The professional plaintiffs who are worth $10 million each are a lot richer than the person who happens to work for a living and manage the assets of the California employees' pension fund. But the California employees' pension fund has a great deal larger financial interest.

Mr. President, I simply want to assure the Senator from California, for whom I have great respect, that if she is concerned about improving on who we select to be the lead plaintiff, I will join her. But setting up a provision where professional litigants get to name the lead plaintiff and close other people out I think is a problem. The way I read this measure is it says that the people who bring the suit agree, and they may only have one share each. They may be in this only for the purposes of getting a lawsuit and naming the plaintiff and getting to name the lawyer. But if the people who are professional litigants agree and bring the suit, they can name the lead plaintiff. They can control the lawsuit. They can name the lawyer and they can benefit indirectly from the attorney's fees. That is what this is all about.

The Senator has indicated that it is not her intention to exclude those who did not specifically move the court to be appointed as lead plaintiff. It is not her intention to exclude plaintiffs. It may not have done that. But that is the wording of the amendment. If that is not the intention, the language ought to be corrected.

Mr. President, more important than anything else, if her purpose is to get the best lead plaintiff possible, I would suggest that we ought to focus on that question, and that we should not carve out an exception for those who are professional litigants who may have brought the suit.

I reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. I have heard a lot of distortions on this floor, but this one takes the cake. I say to my friends on the other side, if you ask the public who they stand and represent, most people would say it is those in the upper income brackets. And this argument proves the point better than I ever could.

That is correct, I said the ''richest'' investor, and my friend takes great umbrage with that. Let us just say largest investor. That is what you say in the bill. Let us stick with that. Because let me tell you, if S. 240 had been the law of the land during the Keating case, you know who the largest investor was? A company that turned out to be guilty in that case, a codefendant in that case. So just because somebody has the largest investment should not make them automatically the lead plaintiff.

Now, my friend can ignore it all he wants, all he wants, but that is exactly what S. 240 does. And I think it is elitist, I think it is antidemocratic, and I say to my friend that just because you may be wealthier, richer, if you will—and I am not going to change my language—have a bigger investment than everyone else does not make you better than anyone else. And if America stands for anything, it stands for that premise.

Now, I want my friend to know—and he cares a lot about process—that this provision he defends here today—and I ask my friend, was my friend involved in the writing of this bill? I ask my friend from Colorado, did he participate in the markup on this bill?

Mr. BROWN. I am not a member of the committee.

Mrs. BOXER. I think that is a point. He stands up here, and he argues about something he never marked up. The fact is we held a lot of hearings on this, and no one ever brought this issue forward about selecting the lead plaintiff. It was brought 4 days before the markup, with not one hearing. The SEC has concerns about it. The SEC is very concerned about it. They do not know how it would work. They think it is going to lead to more litigation, because what if what the Senator from California says is accurate, that in many cases you are going to have the lead plaintiff be someone who is eventually named as a coconspirator, a codefendant? Imagine the kind of lawsuits that would bring about.

Look, I do not care who is appointed attorney. I could care less. There is going to be an attorney for the class. The question is, should it be automatically the prerogative of the largest investor to determine the course of the case?

Now, in the Boxer amendment, we say, if the plaintiffs cannot agree unanimously—and any plaintiff can be part of that discussion—then the judge gets to select the lead plaintiff based on a number of criteria.

I am very proud that Senator BINGAMAN and many others are supporting me in this amendment. We can twist and turn and chastise people for using plain English on this floor, and maybe my friend just wants to talk about the exact language in the bill. I never thought we did that around here. I thought we tried to get it down to where people can understand. My friend wants me to say the ''largest'' investor? I say the ''richest'' investor, and he takes me on as if I have committed some kind of a sin. I stand by it. I think we need the Boxer amendment. I think we need to send a message from this Chamber that just because you are the largest investor does not give you the right to take over from everybody else, because let me tell you sometimes the largest investor does not really stand that much to lose because maybe he has a very large dollar investment but in accordance with his net worth it is not much, and someone who has invested $5,000 or $10,000 or $20,000 has much more to lose.

I brought to my colleagues' attention yesterday a woman from California who was bilked of $20,000 by Charles Keating. That may not sound like a lot to my Republican friend on the other side, who chastised me for using the word ''rich,'' but I can tell you that $20,000 was the difference for this woman in being able to sleep at night and pay her bills and have a sense of security.

Mr. President, at this time I reserve the remainder of my time and ask, if there is a quorum call, it be divided from each side equally.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Colorado.

Mr. BROWN. Mr. President, I feel bad that the Senator from California has responded the way she has. At least my experience in this Chamber and the legislative process is that when you read the language and there is a problem with the language and you offer to work on that, Senators are grateful. All of us have an interest in good legislation.

As I read this amendment—and I have quoted the exact language—it says, ''acting on behalf of the purported plaintiff class who have moved the court to be appointed as lead plaintiff.''

As I read that—and I certainly could be wrong; I do not mean to hold myself out as the authority—I think it suggests in very plain English you have to move the court to be appointed as lead plaintiff to come under that category. That means some people could be plaintiffs that would be excluded. That is a drafting problem. It may not be a drafting problem, but it certainly ought to be clarified, and it ought to be clarified for the benefit of the Senator from California.

Now, the Senator from California has talked about democracy in this process. Mr. President, what we are involved with here today, if this amendment passes, is stuffing the ballot box. And let me be specific. You can have one share of stock and bring the class action, and the California public employees trust fund that may have a

million shares of stock and represent 100,000 people may be excluded from the process of selecting the lead plaintiff.

Now, that is not right, and that is not democracy. Should the California public employees trust fund, a retirement fund, that owns a million times as many shares as a professional plaintiff, have more voice? I think they should. If they own a million times as many shares, they surely should have a larger voice in the selection of this.

This amendment stuffs the ballot box. It says the people who brought the suit and who have moved the court to be appointed to serve as lead plaintiff end up, under the first option, being able to dictate who the lead plaintiff is and end up being able to dictate who the lawyer is who gets the fees and ends up being able to help guide the case.

Now, that is wrong. To have a person with one share or five shares control an action where the California public employees trust fund may have a million shares is wrong.

Let me reiterate. If there is interest in adding fairness to this process, we ought to do it. One thing I might mention, because I think what was mentioned on this floor was that the person who has the largest financial interest may well have a conflict of interest, the bill deals with that on page 100.

1. Will not fairly and adequately protect the interests of the class.

Now, that is one of the grounds in which you can exclude someone, even though they may have the largest financial interest.

2. Is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

Both of those, Mr. President, would apply as we have talked.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California has 7 minutes 52 seconds remaining.

Mr. SARBANES. Will the Senator yield me just 1 minute?

Mrs. BOXER. Certainly.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, I wish to say to the Senator from Colorado that my perception of the dispute that arose as between him and the Senator from California was his taking issue with her reference to the ''richest'' plaintiff being named as the lead plaintiff under the bill.

The Senator says, well, the word ''richest'' is not in the bill. That is correct. But what is in the bill is that the lead plaintiff shall be the one who has the largest financial interest, and in that sense I think it is fair to say that is the richest of the plaintiffs, the largest financial interest.

Now, second, the Senator says, well, we have covered the problem of a conflict of interest in the bill. That is a rebuttable presumption and, as someone said last night, it is really written to be almost irrebuttable.

The SEC, which examined this provision of the legislation, having looked at it and having looked at the very provision the Senator is making reference to, said that:

It may create additional litigation concerning the qualifications of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members.

So clearly there is a problem here. And the way the bill is written it may place the lead plaintiff position in the hands of people about whom the SEC has raised large and significant questions.

I thank the Senator for yielding.

Mrs. BOXER. I thank my friend.

Mr. BROWN. May I respond?

Mrs. BOXER. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes fifty seconds.

Mrs. BOXER. How much time does the Senator from Colorado have remaining?

The PRESIDING OFFICER. The Senator from Colorado has none.

Mrs. BOXER. I will be glad to yield if I have time at the end, but we are getting down to the last 5 minutes of this discussion.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Colorado have 1 minute—I had 1 minute—to make a point in response, so the Senator from California can preserve her time in order to make her closing statement.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado has an additional 1 minute.

Mr. BROWN. Mr. President, I want to thank the Senator from Maryland for his kindness. I simply want to join the Senator from Maryland to indicate that I think he has a valid point. If someone has a conflict of interest, obviously that ought to be addressed.

I believe the plain language of the bill on page 100 covers that: ''will not fairly and adequately protect the interest of the class.'' I think that covers it. But if there is better language or more language, I want to assure him I will support it, and I will be glad to join him in that effort.

But, Mr. President, the point remains, we are not dealing with disqualifications on that basis. What we are dealing with is a whole new way to stack the deck, where someone with very few shares who brings the suit can control the action and pick the attorney, and someone who has a lot more shares and yet not be as rich, as has been used on this floor, will be closed out of the process. Stacking the deck is the problem with this amendment. If we eliminate that portion of it, I think we would have something that all parties could work together on.

I yield back any remaining time.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mrs. BOXER. Mr. President, I want to ask my friend from Colorado a question. My friend from Colorado made two attacks on this Senator's amendment, certainly not on the Senator, so I do not take it personally at all. The two attacks were, one, that the Senator from California said the richest investor and he took umbrage and said, ''Well, wait a minute, the word 'richest' is not in the bill.'' OK, that is right, the largest investor—I say the richest investor. I stand by that, with all due respect.

Second, the Senator says that only a certain number of the plaintiffs can, in fact, vote on who the plaintiff should be. The fact is if the Boxer amendment becomes law, every single potential plaintiff in the country, member of the class action, has an opportunity to be part of the selection. This is not some secret thing of stuffing the ballot box. Any plaintiff who joins the class, petitions the court, votes.

Now, if the Senator believes that the largest investor would not get involved in that, I do not know what the Senator thinks. But the fact is I do not care who the attorney is who gets to represent either side. It does not make a whit's worth of difference to me. What I care is that the lead plaintiff be selected in a way that is fair.

The fact of the matter is that the Banking Committee never held a hearing on this and it shows up in the bill 4 days before the markup. It is wrong to legislate this way. I believe it is elitist.

I pointed out to this Chamber last night that if S. 240 had been law during the Keating case and the richest investor, or as my friend would prefer, the largest investor had been named lead plaintiff, it would have been someone who was guilty along with Keating, someone who actually wound up paying to make those——

Mr. DODD. Will my colleague yield?

Mrs. BOXER. I will not yield at this time. I have very little time. I ask my friend from New Mexico if he wishes to have a couple of minutes in this debate. I will reserve that for him.

Mr. BINGAMAN. Mr. President, I will respond that I would like a couple minutes to support the amendment by the Senator from California.

Mrs. BOXER. I say to my friend, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mrs. BOXER. I yield 2 minutes to my friend, and then I will conclude.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Let me briefly say I support the effort of the Senator from California to amend the bill in this regard. This provision, this most adequate plaintiff idea, as I understand, was proposed as part of a substitute in committee. There was no hearing held on it. I believe that is the case.

Mr. SARBANES. If I could say, the Senator is correct, there have been no

hearings on this issue. It was not considered at any point until it appeared in the draft.

Mr. BINGAMAN. Mr. President, I think one of the hallmarks of our legal system has always been that a person's right to go to court or a person's right to have his or her case presented in court should not be strictly tied to the person's financial condition. We should not means test justice, as the saying goes.

I think where you get a provision like this where there is a presumption that the plaintiff who has the most invested is the most adequate plaintiff and, therefore, should control the litigation, that comes very close to means testing justice. It causes me great concern that we would have this kind of a provision.

Clearly, there have been groundless lawsuits brought, and that is the purpose. The purpose of this legislation is to deal with that. I understand that. I support this legislation. I am a cosponsor of this legislation, but when I cosponsored it, there was no provision in it for most adequate plaintiff.

Now there is a presumption that those who have the most invested should control the litigation. I do not know that that is always true. I do not know that that should always be the case. Therefore, I do have problems with the bill as it now stands.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. BOXER. I yield the Senator another 25 seconds.

Mr. BINGAMAN. I will just say, the Senator from California has made a very good-faith effort to correct this. I support her efforts. I hope the Senate will adopt her amendment.

The PRESIDING OFFICER. The Senator has 43 seconds remaining.

Mrs. BOXER. Mr. President, I gave an example of if S. 240 was the law and who would be the lead plaintiff in the Keating case. Let me give another example.

The Wall Street Journal reported last night that a Wall Street investment bank filed a class action suit against Avon Products for securities fraud. That Wall Street bank was supposed to represent the interest of small investors, but the Journal reported that that Wall Street bank tried to get Avon to settle the case by giving them $50 million to invest. That is the way they thought they would act in the best interest of the class.

Now I say to my friends, this is absurd. There is no way that small investors would have benefited from that type of a settlement, and this bill would prevent those small investors from discovering the secret deal because they would have to know about it before they could use subpoenas.

I hope my colleagues will support the Boxer-Bingaman amendment.

Mr. BENNETT. Section 102 of the legislation would require courts to consider a motion by a purported class member to become a lead plaintiff and would require courts to appoint as lead plaintiff the class member ''most capable of adequately representing the interests of the class member.'' The bill sets up a rebuttable presumption that the most adequate plaintiff is the person who has made such a motion, who has the largest financial interest in the relief sought by the class, and who satisfies the requirements of rule 23 of the Federal Rules of Civil Procedure. This presumption may be rebutted if a member of the class proves that the presumptively most adequate plaintiff will not fairly and adequately protect the interests of the class or is subject to unique defenses.

What is the purpose of this provision?

Mr. DODD. This provision has two essential purposes. First, it will improve class member choice, by giving class members an opportunity to request service as lead plaintiff. Second, it will enhance a court's ability to appoint as lead plaintiff any class member who has requested service and who otherwise meets the conditions of the provision.

Mr. BENNETT. Would this provision require courts to name any institutional investor as lead plaintiff?

Mr. DODD. No. Under the bill, a court may only appoint a plaintiff who has asked, in a motion to the court, to serve as lead plaintiff. Moreover, the institutional investor who asks to serve must satisfy the conditions of rule 23, which authorizes the court to determine whether such a party should serve as representative plaintiff in order to facilitate management of the case. The court also has to determine that the party who asks to serve has the largest financial interest in the relief sought. Finally, the presumption as to most adequate lead plaintiff could be rebutted under the bill.

Mr. BENNETT. Would the bill require any institutional investor to request that its be appointed as lead plaintiff?

Mr. DODD. No. The bill merely gives each class member the opportunity to request service. In no way does it obligate any member to do so. Institutional and other investors would continue to have the right simply to remain class members and not serve as lead plaintiff, and they may select that approach independent of any responsibility to the other class members or to anyone else.

Mr. BENNETT. Does this bill impose any new fiduciary duty on an institutional investor to its shareholders or beneficiaries, or to other class members, to request service as lead plaintiffs?

Mr. DODD. No. The bill imposes no fiduciary or other obligation on institutions or other plaintiffs to serve or not to serve as lead plaintiffs. Moreover, the court would have no authority to impose such an obligation. For example, rule 23 authorizes the court to make certain determinations about who should serve as representative plaintiff. These determinations concern management of the case, and they do not authorize the court to require a plaintiff to serve as representative due to any perceived responsibility to the other class members or to anyone else.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 1474

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 1474, offered by the Senator from Nevada [Mr. BRYAN]. The yeas and nays have been ordered.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The yeas and nays have not been ordered. The Senator from Maryland.

Mr. SARBANES. Mr. President, I believe under the procedure we are following, the Senator has 1 minute to set out his amendment; is that correct?

The PRESIDING OFFICER. That is 2 minutes for debate prior to the second vote.

Mr. D'AMATO. I ask unanimous consent that there be 1 minute equally divided for Senator BRYAN.

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

Mr. D'AMATO. I do not believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. As relates to the Boxer amendment, have the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. D'AMATO. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I want to make this very clear. I have said it ad nauseam. The Bryan amendment has nothing to do with frivolous lawsuits. The question is whether or not the Senate wants to go on record as tolerating, allowing, and permitting the conduct of aiders and abettors, whether intentional, knowingly, or reckless, to go unpunished. That is the state of the law.

This amendment would say that lawyers, accountants, bankers, and others that aid and abet securities fraud will be held liable. That was the law until the Central Bank case was decided, and the Supreme Court in deciding that case made it clear that they were not saying that aiders and abettors ought not to be liable. They just very narrowly interpreted the statute. We have hit the plaintiffs' lawyers for their frivolous actions, but how can we ignore the conduct of lawyers who counsel

those perpetrating securities fraud? If we fail to adopt the Bryan amendment, we are simply saying to that group of lawyers that you can continue and be free to continue your activities, and that may cost literally hundreds of millions of dollars to innocent investors.

Mr. D'AMATO. Mr. President, I yield 1 minute to Senator DODD.

Mr. DODD. Mr. President, very briefly, what the Senator from Nevada is doing here is raising a whole new standard that was never universally the case prior to the Central Bank of Denver. Here, in the amendment, the standard is knowing and reckless—knowing or reckless. And to include recklessness here, a standard that is so vague the courts have had great difficulty defining it, would be to open up a whole new area of law and allow proportionate liability to be gutted as a result of this amendment. What we have done with this bill is, of course, allowed the SEC to bring a Government action in the aiding and abetting.

Where you do have fraudulent intent, joint and several applies. Proportionate liability does not. In that case, where you have even the casual conduct of an aider and abettor, they would be trapped. We try to avoid when you do not have that standard being met, just a small mistake, which can be the case of a lawyer or accountant, In the process, should not be held fully accountable for the entire cost. So the adoption of this amendment would destroy that very effort which is central to this bill. So, for those reasons, because recklessness is used here—were this to be an actual knowledge—words of art in describing that—I might have some different views on this amendment. But the fact of it is, using the recklessness standard, I think, takes this far beyond where we even were before—before the Supreme Court ruled in the Central Bank of Denver case, where certain courts in this land held it to a much higher standard than recklessness.

So for that reason, I reluctantly urge my colleagues to reject this amendment.

Mr. D'AMATO. May I inquire? I did not know if the Senator from California wanted to use her 1 minute now.

Mrs. BOXER. In between the votes, I believe, is what the unanimous-consent says. I would prefer it before the next vote, before the vote on the Boxer amendment, which is what it said in the unanimous-consent request.

Mr. D'AMATO. Fine.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1474 offered by Mr. BRYAN.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

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

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—39

Akaka	Feingold	Kohl
Baucus	Feinstein	Lautenberg
Biden	Ford	Leahy
Boxer	Glenn	Levin
Bradley	Graham	McCain
Breaux	Harkin	Moynihan
Bryan	Heflin	Pryor
Bumpers	Hollings	Robb
Byrd	Inouye	Rockefeller
Cohen	Jeffords	Sarbanes
Conrad	Kennedy	Shelby
Daschle	Kerrey	Simon
Dorgan	Kerry	Wellstone

NAYS—60

Abraham	Gorton	Moseley-Braun
Ashcroft	Gramm	Murkowski
Bennett	Grams	Murray
Bingaman	Grassley	Nickles
Brown	Gregg	Nunn
Burns	Hatch	Packwood
Campbell	Hatfield	Pell
Chafee	Helms	Pressler
Coats	Hutchison	Reid
Cochran	Inhofe	Roth
Coverdell	Johnston	Santorum
Craig	Kassebaum	Simpson
D'Amato	Kempthorne	Smith
DeWine	Kyl	Snowe
Dodd	Lieberman	Specter
Dole	Lott	Stevens
Domenici	Lugar	Thomas
Exon	Mack	Thompson
Faircloth	McConnell	Thurmond
Frist	Mikulski	Warner

ANSWERED ''PRESENT''—1

Bond

So the amendment (No. 1474) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1475

The PRESIDING OFFICER. Under the previous order there will now be 2 minutes equally divided for debate prior to the second vote, which will be on the Boxer amendment No. 1475. The Senator will withhold until we have order. The Senate will be in order.

The Senator from California [Mrs. BOXER] has 1 minute.

Mr. FORD. Mr. President, the Senate is still not in order. She deserves to be heard.

The PRESIDING OFFICER. The Senate will be in order. The Senator from California.

Mrs. BOXER. Mr. President, very briefly, if S. 240 as currently written had been the law then, the lead plaintiff in the Keating case would have been one of the guilty parties in the Keating case. That is because S. 240 says the judge must choose the largest investor as the lead plaintiff and the largest investor in the Keating case turned out to be a party to the fraud.

Let us not allow this outrage. This ''largest investor'' language was added, without public hearings, 4 days before markup. The SEC has problems with it.

The Boxer-Bingaman amendment says the following, that after advertising for 90 days, all the plaintiffs——

The PRESIDING OFFICER. The Senator will withhold until we have order. The Senate will be in order.

The Senator from California.

Mrs. BOXER. The Boxer-Bingaman amendment says that after advertising for 90 days, all the plaintiffs get to select the lead plaintiff. If they cannot agree unanimously, then the judge will choose the lead plaintiff, taking into consideration all factors, including conflicts of interest, who the largest investor is, et cetera. Just because someone is rich should not automatically make them the lead plaintiffs. Support Boxer-Bingaman.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized for 1 minute.

Mr. D'AMATO. Mr. President, our bill stops the kind of outrageous conduct where the same handful of plaintiffs bring multiple complaints. Mr. Cooperman has been a plaintiff 14 times and has always chosen the same law firm.

Mr. Shore, 10 times, a professional plaintiff.

Mr. Shields, seven times.

Mr. Steinberg, seven times.

William Steiner, six times. They become the lead plaintiffs, they pick the attorneys. Our legislation would prohibit that.

This legislation would give due deference to lead the case to someone who has a real financial stake, not a phony professional plaintiff. This amendment would keep alive that race to the courthouse. That is why I urge a ''no'' vote.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from California. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. BOND (when his name was called). Present.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—41

Akaka	Ford	Levin
Baucus	Glenn	McCain
Biden	Graham	Moynihan
Bingaman	Harkin	Pell
Boxer	Heflin	Pryor
Bradley	Hollings	Robb
Breaux	Inouye	Rockefeller
Bryan	Jeffords	Roth
Bumpers	Kennedy	Sarbanes
Byrd	Kerrey	Shelby
Conrad	Kerry	Simon
Daschle	Kohl	Specter
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—58

Abraham	Coverdell	Frist
Ashcroft	Craig	Gorton
Bennett	D'Amato	Gramm
Brown	DeWine	Grams
Burns	Dodd	Grassley
Campbell	Dole	Gregg
Chafee	Domenici	Hatch
Coats	Exon	Hatfield
Cochran	Faircloth	Helms
Cohen	Feinstein	Hutchison

Inhofe	Mikulski	Simpson
Johnston	Moseley-Braun	Smith
Kassebaum	Murkowski	Snowe
Kempthorne	Murray	Stevens
Kyl	Nickles	Thomas
Lieberman	Nunn	Thompson
Lott	Packwood	Thurmond
Lugar	Pressler	Warner
Mack	Reid	
McConnell	Santorum	

ANSWERED ''PRESENT''—1

Bond

So the amendment (No. 1475) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1476

Mr. D'AMATO. Mr. President, I believe under the consent order my friend and colleague from Maryland, Senator SARBANES, is to be recognized for the purpose of offering an amendment. I have asked him to give me the opportunity—and if it looks like I am looking around, I am, because staff was supposed to prepare an amendment dealing with the issue of safe harbor. And in that provision we call for knowingly, intent, and expectation.

If I could have a copy of the bill itself, at page 121 of the bill it says, ''knowingly made.'' These are statements that are knowingly made with the expectation, purpose and actual intent of misleading investors.

There is a very real question as to what do we mean by ''expectation,'' and do we go too far? I do not believe it is a word that is necessary. I think it is gilding the lily, and for that purpose I would submit an amendment, the purpose of which is to delete the word ''expectation,'' so that it would then read: ''knowingly made with the purpose and actual intent of misleading investors.''

I ask unanimous consent that I might be able to submit this amendment and have it considered at this time.

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

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1476:

On page 121, line 1, delete the word ''expectation,''.

Mr. D'AMATO. Mr. President, I have no illusions. I recognize that this amendment does not answer all those questions or go as far as some might like. But I certainly think it clears up something that would raise a question and is a move in the right direction, and I urge its adoption.

Mr. SARBANES. Mr. President, I welcome the amendment from the Senator from New York. We spoke earlier about introducing it at this point ahead of the general debate on safe harbor. I am quite amenable to that because I want to get a substantive result. This provision was going to be a part of the debate had this not happened, I think as the Senator from New York well recognizes, but we are willing to forego the debate points in order to try to clean something out of the bill. There is still plenty wrong with it, and I am going to address that when we have the general debate on safe harbor. But I support this modification that is being made in the bill, and I hope the Senate will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. D'AMATO. I am advised—and I mention this to my colleague and friend—that there is another area of the bill that we will have to modify because it is referred to a second time. But rather than do that at this point in time, I suggest that we go forward, and then later on I will make that modification.

Mr. SARBANES. Why not go ahead?

Mr. D'AMATO. On page 114, line 7, we delete the word ''expectation'' as well. This was not done in the first. I ask that the amendment be modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 121, line 1, delete the word ''expectation,''.

On page 114, line 7, delete the word ''expectation,''.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1476), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I think under the order I am to be recognized at this point?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1477

(Purpose: To amend the safe harbor provisions of the bill)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself and Mr. LAUTENBERG, proposes an amendment numbered 1477.

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

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

The amendment is as follows:

Beginning on page 112, strike line 1 and all that follows through page 126, line 14, and insert the following:

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) CONSIDERATION OF REGULATORY OR LEGISLATIVE CHANGES.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending rules and regulations of the Commission, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) COMMISSION CONSIDERATIONS.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 73a et seq.) is amended by inserting after section 13 the following new section:

''SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) IN GENERAL.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until the court has ruled on the motion.

''(b) SUMMARY JUDGMENT MOTIONS.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that a forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

''(c) DILATORY CONDUCT; DUPLICATIVE DISCOVERY.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

''(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

''(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or to any other party to the action.''.

Mr. SARBANES. Mr. President and Members of the Senate, this is the issue of safe harbor. I know many Members have heard about this issue. In my judgment, it is an extremely important issue which we now seek to develop. We have actually addressed five major issues in this bill: Joint and several liability, statute of limitations, aiding and abetting, and safe harbor, and the lead plaintiff amendment that was offered by my distinguished colleague from California.

Now, Mr. President, this is an extremely important amendment. It is a very complex issue and some very able people have worked very hard to understand it and try to address it. I hope to develop it here over a reasonably short period.

This amendment that I have sent to the desk, this particular amendment, does not try to define in the statute the standard for safe harbor. That may come later. What this amendment seeks to do is simply to put into this bill the provision on the issue of safe harbor that was in the bill introduced by Senator DODD and Senator DOMENICI.

I want to say to my colleagues who sponsored that bill that this amendment is the provision you cosponsored. The provision that is in the bill before us dealing with safe harbor is not the provision that was in the bill which you cosponsored.

Some may say, ''Well, that's all right, I want the provision that's in this bill.'' But others may not say that. Every Member should understand that the provision that was in the bill which they cosponsored—a significant number of Members cosponsored—is the provision that is in the amendment at the desk. That is the safe harbor provision that people signed on to.

And what Senator DODD and Senator DOMENICI had done is, in effect, create a regulatory safe harbor. They had placed the burden, as it were, on the Securities and Exchange Commission to come up with a definition of safe harbor, and it set out certain standards by which the Commission would be governed.

This is an extremely important matter. It is one about which the Chairman of the Commission is very much concerned. And I submit to my colleagues, at some point in this legislative process, Members ought to stop, look and listen and ask themselves whether they want to continue to be at variance or at odds with very strongly held opinions of the regulators, of the Chairman of the SEC, of the States securities regulators, particularly in a matter as difficult and as complex as the safe harbor issue.

The regulators disagree with a majority of this body on the statute of limitations issue, but the statute of limitations issue is a relatively easily understood issue. The question was, are you going to have 1 and 3 years, or 2 and 5 years? That is not the safe harbor issue.

On May 19, the Chairman of the Securities and Exchange Commission wrote to the Banking Committee a four-page letter entirely devoted to the safe harbor issue. Only the safe harbor issue was discussed in that four-page letter.

The letter itself is complex, let alone the issue. The letter reflects the complexity of the issue.

In that letter, the Chairman states his interest in trying to have changes in the securities litigation issue. He concedes that he would like to see improvements in existing safe harbor provisions. He talks about the need to get accurate forward projections, but he also talks about the need to protect investors.

Mr. President, I ask unanimous consent that the full letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, I am quoting:

> A carefully crafted safe harbor protection for meritless private lawsuits should encourage public companies to make additional forward looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets, the two goals of the Federal securities law.

Later he says, and I quote him:

> A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information.

Let me repeat that:

> A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information.
>
> A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones. A safe harbor must also be practical. It should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue.
>
> This is a complex issue in a complex industry and it raises almost as many questions as it answers. Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements, for example, pension liabilities and over-the-counter derivatives? Should it extend to oral statements? Should there be a requirement that forward looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions, that should be subject to additional conditions?
>
> There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response and held 3 days of hearing, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject—corporate leaders, investment groups, plaintiffs lawyers, defense lawyers, State and Federal regulators, law professors and even Federal judges.
>
> The one thing I can state unequivocally is that this subject eludes easy answers.

Let me repeat that last statement. This is Chairman Levitt:

> The one thing I can state unequivocally is that this subject eludes easy answers.

Then he goes on to say:

> Given these complexities and in light of the enormous amount of care, thought and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

He then goes on to address considerations if the committee tries to put in a legislative standard, instead of having a regulatory safe harbor. I think Chairman Levitt was absolutely right. That is obviously what Senators DODD and DOMENICI thought when they put in their bill. I do not know how many other people who cosponsored that bill agreed that, in effect, giving this assignment to the Securities and Exchange Commission was the way to do it. As Chairman Levitt said:

> Given these complexities and in light of the enormous amount of care, thought and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

That is not what was done. The provision that was in the original bill, which is the amendment that is at the desk, was dropped from the bill and instead a legislative standard was substituted.

The provision that was in the bill that is on Members' desks, the original bill, is at page 19 through 22, and those pages, as Members can all see, have been stricken. That is what Members originally signed on to, and that provision has been, as you can see, lined out in this bill, and instead an effort has been made for this body to define the standard in an extremely complex matter. As Chairman Levitt said:

> The one thing I can state unequivocally is that this subject eludes easy answers.

We have just seen an example of that. My distinguished colleague from New York, just before I offered this amendment, got up to offer an amendment to amend the standard that is in the bill. In other words, here we are, they are conceding that the standard in the bill goes too far and needs to be corrected, so we just amended it. I indicated I welcome that amendment because I think this standard that is in the bill, even with the amendment, is an improper standard. But the fact that the amendment was offered is a demonstration of the point I am trying to make about the complexity of this issue and the wisdom of the original approach to, in effect, charge the Commission with the responsibility of defining the safe harbor provision, a matter which the chairman has indicated he was, in fact, working on. Now, as people who were here just a few minutes ago noted, not only was it amended, but then my distinguished colleague from New York neglected to amend another section of the bill which also needed to be amended. So you get some sense of how we are dealing with a very difficult issue. Here we are trying to jury-rig it at the last minute. Now, later, if I have to, I will try to deal with the legislative standard, but I think that fools are rushing in where angels fear to tread,

with all due respect to my colleagues. This is a matter that ought to be put to the Securities and Exchange Commission, just as Senators DODD and DOMENICI proposed in their initial legislation.

On May 19, Chairman Levitt wrote the Banking Committee a four-page letter on safe harbor only. This safe harbor is a catastrophe waiting to happen. And Members must keep in mind the danger that the safe harbor is going to become a haven for pirates. As I have said earlier, it will turn into a pirate's cove. That is where they will shield themselves in order to really perpetrate some egregious frauds on the investing public.

Subsequent to the letter of May 19 from the Chairman of the Securities and Exchange Commission, the majority within the Banking Committee, including the sponsors of the earlier bill, departed from their approach in terms of charging the Commission with the responsibility of developing a safe harbor. I mean, the Commission are the experts, they can hold the hearings, and I will discuss in a minute the hearings they held in trying to resolve this matter. But a majority decided that, well, no, they were going to do a legislative standard.

Efforts began to develop an appropriate legislative standard in discussions with the SEC and others and with members of the committee on both sides, including those of us that are now opposing this legislation. But the end result of that discussion, unfortunately, was an inability to come to an agreement. The definition, the standard in the bill I think is just fraught with danger. In fact, it was just amended by the proponents of this legislation here on the floor only a moment or two ago. They took out one element of it right here, obviously recognizing themselves the deficiencies in it. That illustrates the problem with this body trying to formulate a legislative standard.

I welcome that substantive change, but I do think it illustrates, in a rather demonstrative way, the problem with this body trying to write the legislative standard rather than letting the SEC do it. Now, if we have to write it, I will try to do it, but I think it is a mistake. This is an opportunity for Members, in effect, to go back to the provision that was in the bill.

Let me read what Chairman Levitt said about the provision that was in the markup document. In other words, after this week of working, the committee moved with a document that had this definition, and this is what the Chairman said:

> As Chairman of the Securities and Exchange Commission—

This letter came on the morning of the markup.

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

And then he discussed the problems that he saw with the provision that is in this legislation. The Chairman of the Securities and Exchange Commission said, ''I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.''

Mr. DOMENICI. Will the Senator yield for a question?

Mr. SARBANES. Certainly.

Mr. DOMENICI. Does not the safe harbor provision do just that—make sure that willful fraud is still covered, expressly stating that the safe harbor does not apply to knowing fraud?

Mr. SARBANES. I say to the Senator that I do not believe it does so.

Mr. DOMENICI. I do not know what else we can put in.

Mr. SARBANES. That is why Chairman Levitt wrote the letter. He read the provision in the bill.

Mr. DOMENICI. He wrote the letter about a lot of other issues besides that. We addressed his concerns about willful fraud. We have knowledge and intent, which exempt people from the safe harbor.

Mr. SARBANES. This letter was written the morning of the markup and was directed to the very provision in the bill, as brought out of the committee. Senator Levitt wrote an earlier letter, which I quoted from earlier. I do not know if the Senator was on the floor.

Mr. DOMENICI. He is not a Senator yet, is he? Arthur Levitt is not a Senator.

Mr. SARBANES. Chairman Levitt.

Mr. DOMENICI. I wanted to correct the RECORD.

Mr. SARBANES. I am not sure who to apologize to about that.

Mr. DOMENICI. Just to clear up the RECORD.

Mr. SARBANES. I will not try to reach a conclusion, but I do lay out a general apology for anyone who may have been offended by it. There may be differing views of the matter.

But Chairman Levitt wrote an earlier letter, which I quoted from at some length. At one point, it looked like maybe, if we were going to do a statutory definition, we might be able to arrive at an appropriate one. That did not work. The comment I just quoted is what he had to say about the provision that is in the bill. This came to us on the morning of the markup.

Now, the Dodd-Domenici bill—and I must say to my two colleagues that had we stuck with your bill, the number of issues in dispute here on the floor would have been fewer. There still would have been some.

Your bill also had in it the statute of limitations issue, and it had an approach on safe harbor which I think was acceptable, which left us, of course, with the joint and several, on which there is, I think, a sharp difference in perception and philosophy. I recognize that. And there is the aiding and abetting issue.

But the bill was introduced in the last Congress on March 24, 1994. I believe I am correct. If I am in error about that, I hope the two cosponsors will correct me, both of whom are here on the floor.

Now, that bill contained in it this charge to the SEC, which is in the amendment that is at the desk, I say to my distinguished colleagues. This amendment is your language, verbatim, from the bill as you introduced it and the bill which a lot of Members cosponsored.

The SEC put out their concept release on safe harbor on October 13, 1994. Let me just read the summary of their concept release and notice of hearing:

> The Securities and Exchange Commission is soliciting comment on current practices relating to disclosure of forward-looking information. In particular, the Commission seeks comment on whether the safe harbor provisions for forward-looking statements set forth in rule 175 under the Securities Act of 1933, rule 3b–6 under the Securities Exchange Act of 1934, rule 103(a) under the Public Utility Holding Company Act of 1935, and rule 0–11 under the Trust Indenture Act of 1939 are effective in encouraging disclosure of voluntary forward-looking information and protecting investments, or, if not, should be revised, and if revised, how?
>
> The Commission also seeks comment on various changes to the existing safe harbor provisions that have been suggested by certain commentators. Finally, the Commission is announcing that public hearings will be held beginning February 13, 1995, to consider these issues.

They went on to say:

> Comments should be received on or before January 11, 1995. Public hearings will begin at 10 a.m. on February 13, 1995. Those who wish to testify at the hearings must notify the Commission in writing of their intention to appear on or before December 31, 1994.

So the Commission is moving to try to develop a safe harbor. I think it moved relatively promptly after it saw this signal of, in effect, charging them with this mandate.

The Commission received 150 responses on the safe harbor issue. That is more witnesses, by far, more witnesses by far, than the Banking Committee has heard from on all securities litigation issues. The Banking Committee hearings with respect to the safe harbor were eclipsed by the SEC.

The SEC held public hearings, 2 days in Washington, February 13 and February 14. Then a day in California on February 16.

At those public hearings they had 62 witnesses in all. Venture capitalists, law professors, corporate executives, plaintiff's lawyers, defense lawyers, institutional investors.

Mr. President, these are the hearing records of the SEC with respect to the matter of safe harbor for forward-looking statements.

Now, I submit to my colleagues that it is—I do not want to say sheer folly, because at some point we may have to try to work out a legislative standard—but it is certainly imprudent conduct, at the least, to be trying to develop a standard here instead of allowing the Securities and Exchange Commission to develop the standard, which was recognized by the original sponsors of this legislation.

I assume they will argue, ''Well, the Commission had not done it, and therefore we are going to go ahead and do

it.'' The fact is, the Commission is working to do it and trying to struggle through some very difficult and complex issues as the Chairman of the Commission has stated.

He set out a number of questions which I read earlier, and I defy any Member of this body to take those questions and go through them and give me an easy answer to them. Not only do I defy the Members, I defy their staffs to go through it, to go through those questions and work through them—the ones that the Chairman outlined in his letter; of course, there are many others, as he indicated—and give me an easy response.

As the Chairman pointed out, ''A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information, or irresponsible and dishonest information.''

Actually, Chairman Levitt and others recognize the need to have more disclosure of information. That is a desirable objective. The question is, what safeguards do we have to ensure that this disclosure of information is not going to set people up to be exploited in fraudulent schemes?

Chairman Levitt went on to say, ''A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones. A safe harbor must also be practical. It should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue and a complex industry. It raises almost as many questions as one answers.''

He then details some of those questions, and then goes on to say, ''There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters and response, and held 3 days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject. Corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, State and Federal regulators, law professors, and even Federal judges. The one thing I can state unequivocally, is that this subject eludes easy answers.''

He then goes on to state his basic conclusion, which is, ''Given these complexities and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.''

Mr. President, that is what the amendment at the desk does. I urge its adoption. I yield the floor.

EXHIBIT 1

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protect American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, both the SEC and the Congress are working to find an appropriate ''safe harbor'' from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations and thereby run the risk of missing an opportunity to provide input for your own deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the Commission's role. The relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the federal securities laws.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, Prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should it extend to oral statements? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and Federal regulators, law professors, and even Federal

judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) ''projections'' would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the Federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

Mr. BENNETT. Mr. President, I ask the Senator from Maryland to pay attention closely to this since it concerns him directly.

I ask unanimous consent that the vote occur on or in relation to the Sarbanes amendment No. 1477 at 2:15 today and that the time between the beginning of the debate and 2:15 be equally divided in the usual form.

Mr. SARBANES. Reserving the right to object, first of all, could I inquire of the Chair, what is the time situation?

The PRESIDING OFFICER. We began consideration of this amendment at 11:09.

Mr. SARBANES. So the Senator has used 30 minutes.

The PRESIDING OFFICER. Thirty-five.

Mr. SARBANES. Mr. President, I am agreeable to dividing the time between now and 12:30 equally, and then having half an hour after lunch, equally divided, and then going to a vote on the amendment.

Mr. BENNETT. Mr. President, I would like to confer with the chairman of the Banking Committee before agreeing to that. I have no personal objection to it. I would think we ought to bring Senator D'AMATO into the discussion.

Mr. SARBANES. Fine. I was not aware of this request until I just heard it. I do think we should have some time after the caucus on the debate—after the conference luncheon.

Mr. BENNETT. Mr. President, I propound a unanimous-consent request that the time between now and 12:30 be equally divided on this issue, and leave the unanimous-consent request as to the exact time of the vote for a later request.

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

Mr. BENNETT. Mr. President, I have heard the Senator from Maryland talk at great length about all of the hearings and the comments and the legal aspects of this.

Once again, I would like to talk about it from the standpoint of the chief executive officer, struggling to maintain the investor confidence in his company, and bring an appropriate return to investors, and talk about how this safe harbor circumstance would actually work.

A chief executive officer, having been one, sees dozens, maybe hundreds, of memorandum, every week. He engages in any number of conversations with individuals in the company in any given week about any particular subject. That is the fact against which I want to paint the picture of how this thing works.

We have been having this discussion about weakening a standard, safe harbor; where should the threshold be? I think the issue comes down, do we want a safe harbor or not? If we want one, it has to be safe, or we should not go through the exercise.

Now, the opponents have suggested that the safe harbor in the bill is, in fact, a pirate's cove.

Let me list, Mr. President, the pirates who are not welcome in this cove. That is, the pirates who would be denied the right to sail into this particular harbor, by the bill.

A blank check company, a blind investment pool that does not tell anybody how they invest, a penny stock company, a rollup transaction, a going private transaction. Not to imply these people are pirates, but they could not get into the cove. A mutual fund. It is very significant that that is on the list because that is where most of the seniors invest their money. They do not go out and individually pick stocks unless they have some experience at that. They buy a mutual fund. A mutual fund cannot come into this particular harbor. A limited partnership. A tender officer. Anyone filing certain ownership reports with the SEC. Or information in the financial statements is excluded. And of course any company that has recently committed a violation of the antifraud provisions of the securities laws cannot sail into the harbor.

Those kinds of restrictions are already out there. So the safe harbor is not for the pirates. It is for the people who do not fall into those categories.

Now, for those in the harbor, they have some requirements written into the bill. They must clearly state that any projection they are making is, in fact, a statement about the future, and they must clearly state, here in the words of the bill, ''The risk that actual results may differ materially from such projections, states, or descriptions.''

In other words, there is not a risk that we might be off a day or two. There is not a risk that we might be off a penny or two. There is a risk that the actual results may differ materially from the projections or estimates. Then, of course, we have the language that the bill does not permit companies to take advantage of the safe harbor if they act with ''the purpose and actual intent of misleading investors.'' This is the language of the bill that we have before us.

Those are the requirements in this particular harbor; those that prevent people from coming in in the first place and those who govern the people who are there.

Let me explain why it is important that we not further lower the threshold that we have established with the words ''purpose'' and ''actual intent of misleading investors.'' Here is how things work in an actual company, as I say speaking from experience as a chief executive officer. You gather all of your people around you. You look at the memos and the other reports that come out, and you inevitably find that there is a difference of opinion about just about everything going on in your company. Let us talk about a new product.

Some of your people say to you, ''Oh. Our product, product X, will be available right on schedule in August. You can depend on it. You can take it to the bank.'' Others will say, ''No. We are a little worried. We may not make it in August. We have this problem. We have that problem. Our supplier may not come through. We may miss the target date.'' You are the chief executive officer. You have to decide. You have a meeting coming up with a group of security analysts, and they are going to ask you point blank, ''When will product X be on the market?'' You want to give them the very best information you can.

So you sift through all of this and ultimately you have to make a decision. And you decide based on the track record of the people who are advising you that you think product X is a pretty good bet to be on line in August just as you anticipated it would. You go before the analyst meeting. And they say

to you, ''When will product X be available?'' You say, ''Well, it is my best judgment that it will be available in August. I have to qualify that by saying that is my estimate. I tell you there are some people in the company who do not think it will be available in August. But the best I can tell, my guess, my prediction, is that we will deliver product X in August.'' He can maybe put some other caveats in. You know, this is very sophisticated. The analysts do not hear any of that. They are like pollsters. ''Who is ahead? Who is going to win the election?'' ''No. We want to know what your numbers say right now.'' And they do not listen to the caveats. The CEO can put in all the caveats he wants. But they are going to walk away saying, ''He predicted that is going to come out in August.''

Now we get to August. What happens? Any one of a number of things happens. Frankly, they do not have to be the kinds of things projected in the memo that the division manager who said it might not happen in August included. There could be a hurricane in Florida where one of your suppliers is and the supplier cannot provide the parts that you were depending on. There was no way you could predict that. There are any number of things that could have happened. But you get to August, and the company puts out a press release saying product X has been delayed and will not be introduced until sometime later in the fall.

Bang—the analysts pound the stock. There is wild speculation. I have seen those. We have all seen those. They go through the marketplace—all kinds of rumors, the company has serious problems, their management is in difficulty, so and so is going to get fired, the stock drops 10 percent, and within a week strike suits are filed naming the company, its chief executive officer, and a bunch of other officers for conspiring to put out false information about product X and misleading the marketplace.

Product X comes out in September. It is a great hit. The stock price recovers. Presumably nobody is hurt. But, frankly, all of that is irrelevant because the legal machinery is now in motion and they do not care what is happening to the product or the company. Whether they want to or not, the top management of that company must now focus on an issue that is irrelevant to the management of the business; and, if I may, Mr. President, to the detriment of the investors in that company because the investors in that company want top management focusing on sales. They want top management focusing on efficiency. They want top management focusing on cutting costs and opening new markets. But instead they have a situation where in the name of the investors the legal machinery is forcing the top management of that company to focus on something totally unproductive—coming up with a defense against the charges that they mislead the public.

Discovery: That great word in the legal lexicon; discovery starts, and it goes to every piece of paper that has to do with product X, and every memorandum that may have crossed the CEO's desk. And they find the memo from the fellow who says, ''I don't think we are going to be ready in August.'' And, bingo, we have a smoking gun. No reference is made to the other opinions now. In court the reference is all going to hammer in on this one fateful memo, and, ''Mr. CEO, did you read this memo?'' If, he says yes, he not only has knowledge that product X was not going to come in, he has actual knowledge, not just imputed knowledge, actual knowledge. He admits he read the memo. Nail him to the wall.

That is what happens if he does not have the safe harbor that we have written into this act. Let us assume that this company is not one of those that is kept out of the harbor, the list I read in the beginning. It is one of those that is allowed into the harbor and without the harbor that is what happens.

Now suppose we have the reckless standard that people have argued for. This would be a very easy standard for a plaintiff's lawyer to meet in the circumstance I have described. Arguably any projection about the future is reckless. ''You do not know, Mr. CEO, that the future is going to produce this product in August. It was reckless of you to say that you would have it in August. You may have believed it but it was a reckless statement.'' There is no protection for the CEO in this circumstance with the term ''reckless.'' No. He needs the safe harbor of the bill.

And the question is how safe should that harbor be? Well, if we had the simple knowledge standard that the SEC suggests, the question is, ''Well, did you know that this product would not meet its date in August? Well, here is a memo in the company. It came over your desk. You read it. If you did not know, you should have known.'' Simple knowledge can be twisted in the hands of a careful lawyer, and the CEO has a very difficult time explaining this circumstance.

So a knowledge standard, even an actual knowledge standard, is not going to be a safe harbor. It is not going to protect the CEO. And again the point, Mr. President, it is not going to be for the benefit of the investors because the CEO is not going to be able to be doing what he is hired by the investors to do—run the company. He is going to be worrying about this particular problem.

This is the kind of thing that drives companies to settle out of court and to say, ''Well, we really did not do anything wrong but in order to get back to the business of making products and out of the business of prosecuting lawsuits, we will settle even though we are pretty sure we did not do anything wrong.''

No. What we need to have is what we have in this bill, a safe harbor that says not only did the CEO have knowledge but he acted with the purpose and actual intent of misleading investors. Now that no one can tolerate. That clearly must not be allowed. But it must be the purpose and actual intent of misleading investors before the CEO is driven out of the harbor.

Why actual intent? Because without it intent can be implied in a number of circumstances. ''You saw this memo, the very fact that you decided to ignore it in your presentation to the security analyst, Mr. CEO, implies that you intended to deceive them.'' No. The standard must be higher than that. You must prove that he had the actual intent, that he had the purpose of deceiving investors before you drag him into that area.

Is this a high threshold? I think it is an appropriate threshold because it fits the reality of the circumstances, and it prevents plaintiffs from accusing companies and officers of committing fraud simply because documents of differing opinions exist somewhere in the file. You have to go beyond that. You have to prove actual intent.

If I may stray into waters that I probably should not, since I have not gone to law school, but I have had some experience in this area, it is a little like the standards that we apply in the first amendment.

If a newspaper inadvertently prints something that is inaccurate, they cannot be held for libel unless it is proven that they acted with malice, with actual intent, if you will, to harm the reputation of the individual. Thus free speech is allowed to go forward unimpeded, however damaging it is to the individual involved. Having been the individual involved in some circumstances, I know how hard sometimes that is to accept.

But that is the standard we have created in that circumstance, and I think the language in this bill holds that same kind of standard.

Now, Mr. President, I come to the final question, which is what I think we should focus on here. Whom are we trying to protect? With all of this legislation, whom do we seek to benefit? What is the purpose of all of this? Are we trying to protect CEO's? Are we trying to protect lawyers? Are we trying to protect security analysts and newspapers that report things? Whom are we trying to protect at base by all of this legislation? The answer, Mr. President, is the investor. The purpose of this legislation is to protect the investor and his or her investment.

Look at every issue that we are talking about here through that particular lens. Is it good for the investor or is it bad for the investor? Is it good for the investor to have the CEO feel constrained about talking about the prospects of his company? Is it good for the investor to have the CEO being hedged about by lawyers who tell him when he goes before the security analyst: You cannot talk about this; you cannot talk about that; you cannot make any speculation of any kind lest you run

the risk of exposing yourself to these kinds of suits later on.

I submit that it is good for the investor to have the CEO be as open and candid as he possibly can be and to say to the security analyst: Yes, it is my judgment that product X will be on the market in August. Because what if he is right and product X is on the market in August, and he did not tell anybody that and they did not have the opportunity to buy the stock in the expectation that that would be the case?

Is it good for the investors to have him say: I have differences of opinion within the company; there are some people who do not think it will be.

Yes, it is good for the investors to have him be as candid and open as possible. And the only way you can get that kind of candid, open discussion is if you have a safe harbor in which that honest CEO can sail knowing that he will be protected from the waves and whims of the shark suits that are out there.

Is it good for the investor or is it bad for the investor to have the CEO's attention diverted into lawsuits that have nothing whatever to do with the management of the company? I submit it is bad for the investor to have the CEO concentrating on things other than the things for which he was hired. And ultimately, is it good for the investor or is it bad for the investor to have the company paying out millions of dollars in legal fees on issues that are tangential to the company's performance?

I submit it is bad for the investor, and it becomes doubly bad for the investor when, as we have seen over and over again in the debate on this bill, the highest percentage of those fees and fines being paid out by the investor—those are the investor's moneys; those are not the CEO's moneys. When you say those are the company's moneys, there is only one source of company money, and that is the investor. That is the investor's money going out, with the vast bulk of it going out to the plaintiff's attorneys and not the investor. They say: Oh, look, we are protecting the investor. Look at the money that is going back to the investor.

No, the money is going back to the lawyer, and in the meantime all of the money and attention and activity on behalf of the management of the company has been focusing on this suit.

That is why they settle, Mr. President. They settle because it is good for the investors and for them to get this thing behind them. But it would be better for the investors if honest executives who have no intent and no purpose of deceiving have a safe harbor from which they can explain to the public the things that are going on in the company and make statements about the future fully hedged about with protections that say these are speculations so that the investor then has information from which to make his or her own intelligent decisions.

So, Mr. President, I oppose the amendment by the distinguished Senator from Maryland. I enjoy serving with him on the Banking Committee. I enjoy the intellect and I enjoy the thoroughness with which he approaches these decisions, and I hope he recognizes it is not an act of disrespect on my part when I say I disagree with him on this amendment and intend to vote against it and urge my colleagues to do the same.

Now, Mr. President, I ask unanimous consent that at 2:15 p.m. today, Senator KASSEBAUM be recognized in morning business for not to exceed 5 minutes, and that at the hour of 2:20 p.m. there be 40 minutes of debate on the Sarbanes amendment No. 1477, equally divided in the usual form, with the vote occurring on or in relation to the Sarbanes amendment at 3 p.m. today, with no second-degree amendments in order to the amendment; further, that following the disposition of the Sarbanes amendment No. 1477, Senator SARBANES be recognized to offer an amendment regarding safe harbor.

Mr. SARBANES. Reserving the right to object, Mr. President, I have indicated a desire to have an up-or-down vote on the amendment. Does the Senator have any problem with that?

Mr. BENNETT. Mr. President, I have no problem with that, but I cannot bind other Senators who may wish to make a motion to table.

Mr. President, I would have no objection to that.

Mr. SARBANES. So with that amendment to the unanimous consent request, I have no objection.

Mr. BENNETT. Yes, on the Sarbanes amendment there would be no motion to table.

Mr. SARBANES. Right.

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

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

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

Let me just, if I can, make a couple of observations here about this amendment and the history——

The PRESIDING OFFICER. Who yields time?

Mr. DODD. How much time remains?

The PRESIDING OFFICER. All of the time remaining is under the control of the Senator from Maryland.

Mr. SARBANES. Mr. President, I do not think that is correct, in all fairness to my colleague. I wish to be fair. I think the agreement was we would divide equally the time between 11:10, as I understood it, when we went——

Mr. BENNETT. Mr. President, I ask unanimous consent that the previous unanimous-consent be amended to be as the Senator from Maryland remembers it.

Mr. SARBANES. I thought that is what it was.

It would not be fair to divide the time from 11:45 equally since the time before 11:45 was consumed, not quite but primarily, on one side. That is not really fair to my colleagues, and I recognize that. I think if we divided it—was it from 11:15 on?

Mr. BENNETT. It was 11:09.

Mr. SARBANES. If that time were divided equally, what would the time situation now be?

The PRESIDING OFFICER. The Senator from Maryland would have 10 minutes, and the Senator from Utah would have 10 minutes.

Mr. BENNETT. I ask unanimous consent that that be the state of the time from this time until we break for lunch.

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

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. And that would mean from the time we went on this amendment, all time would have been equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Yes.

Mr. BENNETT. Mr. President, I yield such time as he may consume to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Utah. I yield myself 5 minutes. If the Chair would remind me at the end of 5 minutes so as not to take too much time on this because a lot has been said already about it.

Mr. President, let me make a couple of observations to underscore the point that my colleague from Utah has already addressed. Some of my colleagues have said that the safe harbor provisions of S. 240 do not go as far as some would suggest. First, our provisions of safe harbor limit significantly the circumstances in which the safe harbor applies.

I think it is very important to lay out as clearly as I can here, what is included and what is excluded.

The safe harbor provisions of S. 240 apply only—only—to statements made by issuers or outside reviewers retained by issuers. Statements by stockbrokers are not protected at all under S. 240's safe harbor. Certain issuers are excluded. Not all issuers are included; some are excluded from safe harbor, including anyone who has violated securities laws within the prior 3 years. Penny stock companies, blank check companies, investment companies, all companies, Mr. President, are excluded from the safe harbor when they engage in certain types of transactions such as IPO's, initial public offerings. The tender offers, rollup transactions, all of those are excluded. So this is a very narrow provision here. All information contained in historical financial statements is excluded as well.

Second, Mr. President, the safe harbor applies only to projections or estimates that are identified—they must be identified—as forward looking statements and that refer ''clearly and

proximately'' to ''the risk that actual results may differ materially''—that is the language, ''the risk that actual results may differ materially''—from the projection or estimate.

That goes right to the heart of what the Senator from Utah was talking about. This is a very narrow area we are talking about, and the point is to create a safe harbor. Why do you create a safe harbor? Because we are trying to solicit from these issuers as much information as possible so that a potential buyer can have as much awareness as possible about where this stock or where this company is likely to go. It is in the interest of the investor that we get as much of that information as possible.

There is no requirement in law that an issuer even put out forward looking statements. In fact, what has happened lately is a lot of them have retreated from that very advantageous idea because of the very situation we find ourselves in today. So it is in our interest to solicit this kind of information, but in doing so, we say, ''Look, we want you to share as much information about where you think this company is going, where this stock is going so that investors will make intelligent decisions.''

In doing so, if you do anything—and we say very clearly in the bill if you do anything that knowingly with purpose or intent of misleading investors, on page 121 of this bill, we now take out the word ''expectation''—knowingly made with the purpose or intent of misleading investors, then you are excluded. Not only excluded, you are subject to the penalties of the law.

So anyone who knowingly with intent to mislead in those forward looking statements is subject to the provisions of the law that apply in this piece of legislation before us. But the idea is to get that information out, and it seems to me that is in everyone's interest.

You have to strike that balance. There are those who are opposed to safe harbor. I disagree with them; I understand it. I do not think anyone who has really looked at the larger issues would agree with it. So we have attempted with this legislation to craft the safe harbor provisions.

My colleague from Maryland has correctly pointed out that in the earlier bill we introduced some 17 months ago, we asked the SEC to try to develop a regulatory scheme to deal with safe harbor. I must say, I have heard now for the last 2 days a lot of these kudos and praise over the bill that we introduced last March. I would very much have liked to have passed a bill in the previous Congress in this area, but I could not get that kind of support.

I ask unanimous consent that I may be able to proceed for 5 additional minutes.

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

Mr. DODD. Mr. President, I wish we had some of that support. The very people today who find the previous bill so attractive, I must say candidly, were not exactly racing to support the legislation when it potentially could have been adopted in the last Congress.

Putting that aside, let me also point out to my colleagues, having made the offer 17 months ago to have the SEC move, frankly, the SEC has not moved, and I am convinced today they would not move on this.

There is ample evidence to indicate that that suspicion of mine is correct. In a June 22 edition of the Bureau of National Affairs publication, which follows legislation dealing with financial institutions, under securities, the headline is, ''SEC safe harbor initiative may be overtaken by litigation reform.'' Following are several pertinent paragraphs I think support what I am saying:

> Although one agency official stated in late March that SEC action in its October concept release was imminent, that has not materialized. Rather, the SEC remains at the concept-release stage on the initiative. Its inaction during the 8 months since release was issued has been attributed by some observers to some differences of opinion within the Commission on various issues connected with the initiative.

Another Commissioner, Richard Roberts, told BNA June 21 that there are bona fide reasons that the Commission did not act quickly on the concept release, including questions about the agency's authority in the area of forward looking information.

Again, we just were not getting the action in this area.

It is a complex area. The Senator from Maryland is absolutely correct. Anyone who suggests otherwise has not spent any time looking at this. But I will argue, despite the fact that our original bill tried to get the SEC to come forward in this area—in fact they have not—that there is a good case to be made that leaving these matters just up to the regulatory bodies or, as we have seen in other cases dealing with aiding and abetting, for instance, to the courts, is not a wise way to go ultimately.

In many matters here, we ought to be trying to establish through the legislative process what our intent is. So while I welcomed in the past the SEC's efforts in this regard, that was not forthcoming. Now it is being suggested by those who opposed the bill last year that I ought to go back to my earlier position on this matter, even though the SEC did not move in this area, given the 17 months they had an opportunity to do so.

Letters are being bandied about. The letter of May 19 from the Chairman of the SEC certainly recognizes that there is a need to strengthen the safe harbor provisions. In fact, in paragraph 3 of Chairman Levitt's letter on May 19, he says:

> There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure, and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

It goes on to talk about how he was a businessman all his life, and so forth, and lays out some specific areas and talks on page 2 of this letter, in the last paragraph:

> A safe harbor must be balanced, should encourage more sound disclosure, without encouraging either omission or material information or irresponsible and dishonest information. Safe harbor must be thoughtful so that it protects considered projections, but never fraudulent ones.

I invite my colleagues to look at the language on page 121 of our bill, where we specifically lay out, No. 1, knowingly—talking about projections—knowingly made with the purpose and actual intent of misleading investors.

So we clearly there are saying if you make a knowingly fraudulent statement, a misleading—not even fraudulent but misleading statement—a knowingly misleading statement, that you are not protected by the safe harbor provisions. Is this perfect? I cannot say that it is. But I will say it conforms to what the Chairman of the SEC says, that the present situation is not working very well. We know when we see what is happening with the forward-looking statement; they are being contracted and contracted and contracted. That is the practical effect of the environment we live in today. That does not serve the investor community well, Mr. President.

With those reasons, with all due respect and great admiration for my colleague from Maryland, throwing this back into the court of the SEC I do not think is going to advance our cause in dealing with clear reform in the area of safe harbor that is needed.

I urge my colleagues to reject the amendment offered by the Senator from Maryland.

Mr. SARBANES. Mr. President, I listened very carefully to both of my colleagues and I would like to, very quickly, address some of the points they made. I think the Senator from Connecticut is being extremely unfair to the SEC in terms of saying that they did not pick up on this. They have picked up on it. Whether they should have picked up sooner is the question. But they did issue a period for comment, and that was in October 1994, and they received comments—over 150. They then held hearings in the first part of this year. The Chairman, I think, of the SEC, as the Senator quoted him in the letter, has indicated that he wants to do something about safe harbor. The Senator quoted him correctly.

Mr. President, I ask unanimous consent that a letter from Chairman Levitt, dated May 25, 1995, be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. SARBANES. The real question here is not whether we should improve safe harbor. The question is, who is going to try to do it? Where is the best place to do that? This amendment says that the best place to do that is at the SEC, and that this body is not equipped to try to work through this complex issue; and if it tries to do it, the law of unintended consequences is going to bring a lot of potentially devastating developments.

The proposal to have it done at the SEC is, of course, the proposal which the Senators from Connecticut and New Mexico had when they first introduced the bill—the bill which Members cosponsored. Members who cosponsored this legislation were cosponsoring a provision with respect to safe harbor, which is exactly the amendment at the desk. That provision was subsequently changed in the committee. That is not the provision that was in the legislation which Members were signing onto as cosponsors.

Chairman Levitt has warned us of the danger that the provision in the bill will protect fraud. Safe harbor is a grant of immunity, an exemption from any liability. Safe harbor, in effect, says that you are immunized altogether. So it is very important to properly define the safe harbor. I have been interested in Members—first of all, the chairman amended the statutory provision in the bill on safe harbor shortly a while ago here on the floor, recognizing that this effort to write this statutory standard was deficient, I assume.

My colleague from Connecticut is citing provisions in the bill where certain activities cannot get safe harbor. He specifically precludes them from doing that and he went through some of them. All of those are things that developed. We got concerned about penny stocks when they were used as an abuse. Who knows what the next abuse is going to be down the road? If the SEC does this, they are in the business of being able to adjust to the abuses as they come. The SEC can, in effect, modify the framework. These listings of exceptions to the safe harbor standard in the rule are a demonstration, in my judgment, of the inappropriateness of trying to write the standard here, as opposed to letting it be done by the regulatory authorities.

The forward-looking statements in this bill are broadly defined. They include both oral and written statements. Now, we want a lot of the information, but it is the kind of information investors use in deciding whether to purchase a particular stock.

Now, the Chairman of the SEC himself has said they want—in fact, the Senator quoted one member of the SEC who said maybe they were not moving as quickly because they had some doubts about their statutory authority to do so. Of course, his original proposal would have provided that statutory authority. So if that is an inhibition, the amendment eliminates that and any doubts with respect to the SEC's ability to move ahead. The Commission received 150 comment letters in response to the release. It has worked closely with a vast representation of the industry. In fact, when Chairman Levitt testified in April of this year, he said:

> From the Commission's perspective, an appropriate legislative approach is contained in the Domenici-Dodd bill. This provision would allow the Commission to complete its rulemaking proceeding and take appropriate action after its evaluation of the extensive comments and testimony already received. Based on the Commission's experience with this issue to date, we believe there is considerable value in proceeding with rulemaking which can more efficiently be administered, interpreted and, if needed, modified than can legislation.

The North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, and nine other groups, in a letter to the committee, on the 23d of May, expressed the same view, saying:

> We believe the more appropriate response is SEC rulemaking in this area.

Unfortunately, the committee print substitute to S. 240, unlike the bill as introduced, abandoned this approach in favor of trying to formulate a statutory safe harbor.

This is contrary to all the advice we are receiving from the regulators. Everybody gets up here and says this interest group wants this and this interest group wants that. I recognize that. I have been the first to state that you have these interest groups clashing over this thing. But what are the public interest officials telling us—those whose responsibility it is to serve the public interest, not one or another of these economic interest groups—what are they telling us? Of course, what they are telling us is that the approach in my amendment is the approach to follow.

The standard that is in the legislation, I think, is going to allow fraud to occur. In fact, Chairman Levitt, on the morning of the markup, wrote about the language that is in the bill before us. He stressed that this language failed to adhere to his belief that a safe harbor should never protect fraudulent statements. Let me quote him:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

He had seen the language. That is a comment on the very language that is in this bill. He said:

> . . . I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

Others have criticized this provision as well. The Government Finance Officers Association, representing more than 13,000 State and local government financial officials, county treasurers, city managers, and so forth, wrote on the safe harbor provision in the bill:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

I say to my colleagues, no one is arguing here that we do not need to do something to improve safe harbor. The issue framed by this amendment is, who should do it? I submit, as I indicated earlier, in an issue of this complexity, it is better that it be done by the Securities and Exchange Commission.

The North American Securities Administrators Association represents 50 State securities regulators. They said:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

These are on the front line of defense against securities fraud. They are really the regulators closest to the individual investors. They call the provision in this bill an overly broad safe harbor, making it extremely difficult to sue when misleading information causes investors to suffer losses.

AARP has also written calling for replacement of the safe harbor provision, with a directive to the SEC to issue a rule which structures a safe harbor that protects both legitimate business and investors.

Given the broad definition in this legislation of forward-looking statements, discussed above, it is crucial that the legislation not shield such statements when they are false. Encouraging reasonable disclosures is one thing. Allowing fraudulent projections is another. Actually, that kind of safe harbor would hurt investors trying to make intelligent investment decisions and penalize companies trying to communicate honestly with their shareholders. It runs counter to the whole premise of our Federal securities laws, which has helped to give us strong markets. The fraud must be deterred, and the fraud must be punished when it occurs.

Mr. President, I think it is important that safe harbor not protect fraudulent statements and, in my judgment, the best way to address this issue is to, in effect, use the approach that was initially in the legislation charging the SEC with developing a safe harbor regulation—a process now engaged in.

These are the transcripts of the hearings they held on the issue. They received over 150 comment statements and letters, and they have engaged in an extensive discussion with a whole range of people who have acquaintance and knowledge in this area.

I very much hope the body will adopt the amendment.

EXHIBIT 1

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 25, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that this morning you and the members of the Banking Committee will be considering S. 240 and that you will be offering an amendment in the nature of a substitute. While I have not had the opportunity to analyze fully the May 24th manager's amendment to the Committee print, I appreciate your leadership and efforts to address the concerns of the Commission in drafting your alternative.

The safe harbor provision in the amendment, in my opinion, is preferable to the blanket approach of H.R. 1058. It addresses a number of the concerns pertaining to the size of the safe harbor and the exclusions from the safe harbor. The Committee staff appears to be genuinely interested in the Commission's views of its draft legislation and has attempted to be responsive. I was pleased to see the latest draft deleted the requirement that a plaintiff must read and actually rely upon the misrepresentation before a claim is actionable. Your attempt to tailor the breadth of the safe harbor of the Securities Exchange Act of 1934 to the more narrow safe harbor of the Securities Act of 1933 was encouraging. However, I continue to believe that the definition should be further narrowed to parallel the items contained in my letter of May 19th. Moreover, there remain a number of troubling issues.

I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds. I believe that there should be a direct relationship between the level of scienter required to prove fraud and the types of statements protected by the safe harbor. My letter of May 19th indicated the discreet list of subjects that are suitable for safe harbor protection, assuming a simple ''knowing'' standard. Accordingly, if the Committee is unwilling to lower the proposed scienter level to a simple ''knowing'' standard, the safe harbor should not protect forward-looking statements contained in the management's discussion and analysis section. This would be better left to Commission rulemaking.

In addition to my concerns about the safe harbor, there is no complete resolution of two important issues for the Commission. First, there is no extension of the statute of limitations for private fraud actions from three to five years. Second, the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion. I am encouraged by the Committee's willingness to restore partially the Commission's ability to prosecute those who aid and abet fraud; however, a more complete solution is preferable.

I also wish to call you attention to a potential problem with the provision relating to Rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in your draft may have the unintended effect of imposing a ''loser pays'' scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

I would like to express my particular gratitude for the courtesy and openness displayed by the Committee and its staff. I hope we will continue to work together to improve the bill so as to reduce costly litigation without compromising essential investor protections.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:33 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

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

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

Mr. BRADLEY. Mr. President, I ask unanimous consent that I may proceed as if in morning business for up to 3 minutes.

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

The Senator from New Jersey is recognized.

Mr. BRADLEY. I thank the Chair.

(The remarks of Mr. BRADLEY and Mrs. KASSEBAUM pertaining to the introduction of S. 969 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The time from now until 3 p.m. will be reserved for debate on the Sarbanes amendment with the time to be equally divided in the usual manner.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1477

Mr. DOMENICI. Mr. President, I have discussed this with Senator D'AMATO. Some of the time remaining will be allocated to me by him. So let me start by yielding myself 7 minutes from our side.

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

Mr. DOMENICI. Mr. President, speaking now of the safe harbor amendment that is before us, and the safe harbor language that is in the bill, I first want to call to the Senate's attention the chilling effects on voluntary disclosure that exist today because of our failure to have an adequate safe harbor for voluntary statements about future conditions.

First:

Seventy-five percent of the American Stock Exchange CEO's surveyed have limited disclosure of forward-looking information.

That is according to an April 1994 survey.

Limited disclosure:

Seventy-one percent of more than 200 entrepreneurial companies surveyed are reluctant to discuss the companies performance. (National Venture Capital Association, 1994.)

Nearly 40 percent of investor relation personnel surveyed at 386 companies have cut back on voluntary disclosure of information to the investment community. (National Investor Relations Institute, March 1994.)

Fear of litigation is the number one obstacle to enhance voluntary disclosure by corporate managers. (Harvard Business School study, 1994.)

Less than 50 percent of companies with earnings result significantly above or below analysts' expectations released information voluntarily. That information, too, is from one of our great universities, the University of California, (November 1993.)

Mr. President, it has been asked why, originally in the Dodd-Domenici or Domenici-Dodd bills we did not have this statutory safe harbor language.

Mr. President, fellow Senators, the truth of the matter is that it has been 4 years since we first started this exercise of trying to get this law. And the final draft, more or less, of what is being alluded to as the Dodd-Domenici or Domenici-Dodd bill is 3 years old.

For those who are questioning why we do not adopt the original bill's language on safe harbor, let me just suggest that such an approach's time has come and gone. If the Senators suggesting the regulatory approach would have all come to the party 3 years ago, the bill would have been enacted. But nobody would. So what happened is we had in that bill asked that the Securities and Exchange Commission solve this problem.

Mr. President, for various reasons the Securities and Exchange Commission is not able to solve the safe harbor problem. They have had numerous hours of hearings, Commissioners are split, we are short two Commissioners. There are vacancies. Entrenched staff of that institution are arguing back and forth on philosophy and language. Meanwhile, the status quo continues, and here we sit with an unfixed safe harbor even though Congress has asked them to fix it.

Last year in appropriations, Mr. President, fellow Senators, I put in the appropriations bill report language that the SEC needed to create a new safe harbor and to report back to us by the end of the fiscal year. The provision called upon them to tell the people of this country what the safe harbor would be since the SEC wanted to develop it. They have not done it. It is almost time for another appropriations bill. And they have not done it.

Let me suggest that inaction and gridlock at the SEC do not mean we should not do something. In fact, I do

not believe that is what the current head of the SEC, Arthur Levitt is saying, that we should not do anything because we should still leave it up to them 3 years and untold numbers of hours, and hundreds of pages of testimony. So frankly, we ought to do something statutorily about the safe harbor.

The fact that it is a problem is absolutely manifold before us here today. And the fact that those very same lawyers, that small group of sharks, that sit around waiting for litigation, are fighting so hard to keep the current, ineffective safe harbor makes it patently clear that filing frivolous lawsuits when a company misses an earnings projection is one of their great slot machines. This is one situation where they just jump out there and pick up on statements that are predictions of the future, and anything that does not turn out as it was spoken as a basis to file a lawsuit.

Forward-looking statements are predictions about the future. Frequently, these lawsuits are based on past statements of future expectations.

Why do not future predictions always come true?

Mr. President, changes in the business cycle occur beyond the control of the company or their executive or their accountants. Is that fraud?

Changes in the market occur. And ask somebody why the changes have occurred and you will get as many answers as there are people you would ask. Is that fraud?

Changing the timing of an order—is that fraud?

Because forward-looking statements often involve future products, innovations, technologies of the future, failure to meet one or another expectation, is inevitable. But it should not be inevitable that a lawsuit follows. But I ask: Is each of those a fraud if you do not meet them? No. It is simply failure of a prediction about the future to come true.

Talk about the chilling effects of disclosure. I have just explained the reality of harm this ineffective policy is causing in the marketplace. And so now let me proceed to talk about the safe harbor in this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield myself 5 more minutes.

Arthur Levitt, for whom I have great respect, and he knows that, said he wanted a balanced safe harbor. The SEC has been promising this new safe harbor for at least 3 years. Arthur Levitt has said that the current safe harbor ''is a failure.''

That is not Pete DOMENICI, who proposed this bill some 4 years ago; it is Arthur Levitt saying the current safe harbor, whatever it is, is a ''failure.'' The securities litigation reform bill that Senator DODD and I introduced, directed them to make plans for, and recommend a fix to this broken safe harbor situation. We have gone through that with you already. But I can repeat again, frustrated by this lack of progress, I put language in the appropriations bill's report.

Actually, it has been 8 months since the SEC took its first step and issued a concept proposal, and still we get nothing.

So in answer to those in the Chamber, including my friend from Maryland, Senator SARBANES, who say Senator DODD, Senator DOMENICI, if you left the bill the way it was when you originally introduced it, I would be for this provision because you did not have the provision that is before the Senate today. Of course not. We have been anxiously waiting for 3 years now for the SEC to fix this. And since they have not, we believe the committee has come up with an excellent solution to this problem.

Let me go on then and cite for the RECORD a little detail about the disagreements among the Commission and various staff at the SEC just to show that there is great imbalance.

Wallman wants a meaningful safe harbor. Beese wants a strong safe harbor. The Commission is two commissioners short and there will be three empty seats soon. With new commissioners eventually coming on board, it will slow the process even further. It will be years.

The Senate bill recognized the problem at the SEC and the urgency of a meaningful safe harbor. The committee made the change and crafted a statutory safe harbor, even though the Securities Commission could not tell us how to do it. And I believe the committee have done it right. They had the benefit of this entire record before the SEC.

The main concern that Arthur Levitt has expressed to the Congress is that there should be no safe harbor for predictions about the future that were intentionally false.

The Council of Institutional Investors, the mutual fund managers, did not agree with Arthur Levitt and they had suggested that Congress go further than our bill. They argued that statements which are accompanied by warnings should be per se immune from liability. The Senate bill does not go that far.

CALPERS—the California public employees pension fund—in their testimony to the SEC, stated:

> By definition, projections are inherently uncertain. The more such statements are based on assumptions susceptible to change, the less useful they are in assessing prospective performance. Investors recognize this and appropriately discount the importance of such information when making investments. This being the case, we see no reason why investors should then be allowed to rely upon such statements in an action for fraud after their speculative nature has been fulfilled.

There is a warning that will accompany each of these statements if it is to be protected under the safe harbor created by the bill. It will clearly: say these forward looking statements are predictions; they may not come true. It may turn out that the actual results differ materially from this prediction about the future.

The Council of Institutional Investors—that is the professional people who manage these funds, people who have a fiduciary duty and high level of trust to manage pension funds—told the SEC that any safe harbor must be ''100 percent safe.'' This means that all information in it must be absolutely protected even if it is irrelevant or unintentionally, or intentionally, false or misleading.'' The bill does not go that far.

For decades, Congress has deferred to the courts in setting the contours of class action 10b–5 litigation. We are changing that in this bill, and we should not pass the buck on to anyone on something as important as safe harbor.

The chilling effect on the willingness of companies to make disclosures is bad for investors, for analysts, for professional fund managers, for retirement stewards, companies and the market in general. The high technology companies cannot grow without a meaningful safe harbor, and we provide just that.

We provide a meaningful safe harbor. That meaningful safe harbor clearly does not protect against intentional fraud and knowing misrepresentations. We have made it very specific; individuals engaging in that type of activity can not get into our safe harbor. Those statements are still actionable. So any statements on the floor that we will let people perpetrate fraud because of this statutory safe harbor, which includes knowledge, purpose and intention, that is not so. Nonetheless, you either have to have a safe harbor that works on future statements that are predictive only or you have it wide open again for litigation and we are right back where we started.

Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, the safe harbor provisions of the bill have been criticized by some of my colleagues. I would like to address those criticisms by pointing out that S. 240 puts more responsibilities on companies seeking to use the safe harbor and puts more conditions on their use of the safe harbor than the SEC does in its current rules. It also goes further than a number of courts of appeals that have examined the issue of liability for forward-looking statements.

I wonder if the bill's manager would engage in a colloquy with me on this point?

Mr. D'AMATO. I would be delighted to.

Mrs. FEINSTEIN. First, S. 240 has a definition of forward-looking statement. It includes projections of revenues, statements about management's plans for the future, and statements about future economic performance of a company, among other things. Can you tell me where that definition came from?

Mr. D'AMATO. It came directly from rule 175. It is the SEC's own definition of forward-looking statements.

Mrs. FEINSTEIN. Now, the Banking Committee excluded a number of companies and a number of transactions from using the safe harbor. Can you explain why that was done?

Mr. D'AMATO. The Banking Committee made a policy decision to exclude from the safe harbor certain companies and certain transactions in which the incentives for making overly optimistic forward-looking statements might be present. It is important to note that the safe harbor does not apply to:

First, statements about a company that within the past 3 years has been convicted of certain violations of the Federal securities laws.

Second, statements made in an offering by a blank check company. These are companies that offer securities to the public, but which have no clear business plan and are therefore highly speculative.

Third, statements made by an issuer of penny stock. These are companies that sell very low priced stock, often through brokers who use high pressure sales tactics. There have been significant problems of fraud in the sale of these securities in the past.

Fourth, statements made in connection with a rollup transaction. These are transactions in which sponsors of limited partnerships attempt to combine many separate partnerships and rake off huge management fees. Congress passed legislation to address these abuses in 1990. We shouldn't allow these transactions to use the safe harbor.

Five, statements made in connection with a going private transaction. These are transactions in which a company buys back its shares from its public shareholders. Often, it involves management of the company buying back the shares.

Six, statements made in connection with the sale of mutual funds. Mutual funds simply should not be making projections. The SEC has a long series of rules governing mutual fund disclosure.

Seven, statements made in connection with a tender offer also are excluded. These often are hotly contested takeover battles, and we have decided not to give them any safe harbor protection.

Eight, statements made in connection with certain partnership offerings and direct participation programs. Very often, these are securities products put together in-house at a broker-dealer, and we think the temptation for making rosy performance projections may be too great in these cases.

Nine, statements made in connection with ownership reports under 13(d) also are excluded. These are the reports required under law by anyone who purchases 5 percent or more of a company's securities. The law also requires that they state their plans with respect to the company. The committee decided these statements should not be protected under the safe harbor.

Ten, finally, the safe harbor does not apply to forward-looking statements in the financial statements of a company.

So, to answer your question, we excluded a long list of companies and transactions from the safe harbor, because we were concerned that, in these companies and in these transactions, there might be a temptation for companies to make rosy projections.

Mrs. FEINSTEIN. The committee's bill also has a tough requirement that, in order to use the safe harbor, a company has to accompany any projection with a warning is that not correct?

Mr. D'AMATO. That is true. The bill requires that there be a clear warning that actual results may differ materially from any projection, estimate, or description of future events.

Mrs. FEINSTEIN. Then, I want to compliment the committee for its work here. Clearly this is a difficult area. We want to provide certainty for companies and encourage them to make disclosure. At the same time, we want to make sure that no one takes advantage of the safe harbor to mislead investors. You have tried to strike a balance here.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be deducted equally.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING OFFICER. The Senator still has 5 minutes 48 seconds; the other side has 18 minutes.

Mr. SARBANES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. SARBANES. How much is remaining on the other side?

The PRESIDING OFFICER. About 5 minutes.

Mr. SARBANES. I thank the Chair.

Mr. President, the amendment we are about to vote on shortly is an amendment that puts into this bill the very provision that was in the bill introduced by Senators DODD and DOMENICI, which referred over to the Securities and Exchange Commission the responsibility for developing a safe harbor provision.

I have to tell you, I think it is either the height of arrogance or the height of folly to be trying to draft these standards here in the committee and in the Chamber of the Senate. Even the proponents admit this is a very complex issue. The original bill as introduced and as cosponsored provided to send this issue to the Securities and Exchange Commission in order for them to put their expertise and their rulemaking authority to work in order to develop an appropriate safe harbor provision.

Now, the Chairman of the SEC has indicated that he thinks changes need to be made with respect to safe harbor for forward-looking statements. But he has also indicated that the provision in the bill is not acceptable, that it goes much too far. And, in fact, the very morning of the markup he said in a letter to the committee, ''I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.''

In other words, it is his view of the standard written in the bill that it would provide safe harbor protection for willful fraud. I challenge anyone in the Chamber to rise and defend that should be the case.

What they will try to argue is, ''No, this standard does not really permit that.'' But here is the Chairman of the Securities and Exchange Commission, in effect, saying that this standard does permit that. And he is supported in this judgment by a range of public interest groups concerned with securities regulation. The North American Securities Administrators Association has come in with respect to this matter and have indicated that they believe that the safe harbor definition should be left to the Securities and Exchange Commission. In a May 23, 1995, letter, the North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, and nine other groups expressed the view:

> We believe the more appropriate response is SEC rulemaking in this area.

Mr. DOMENICI. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. DOMENICI. Mr. President, I stated in the Senator's absence—you can charge this to my time; I do not mean to use his—that the SEC had been trying to do this for 3 years. And last year, we put it in the appropriations bill. I said, because I was the one who wrote it in, while funding the SEC, we expect them to do it. Is it not true they have been unable to arrive at a consensus and present one that they are willing to say will work and should be adopted? Is that not true?

Mr. SARBANES. No. I think what is true is that the SEC—the Senator put it in his bill that he introduced 15 months ago, in March 1994, was when he first brought forth in statutory language the proposition that it should be referred to the SEC. The SEC, in October 1994, issued a concept release and notice of hearing. In that concept release, they invited comments to be made before the end of the year, and they also scheduled hearings to take place in February of this year, of this very year.

Now, the SEC received over 150 comments by the end of the year. They held 3 days of hearings, 2 days in Washington and 1 day in California. This, in fact, is the hearing record from those hearings conducted by the Securities and Exchange Commission. Now, as the Chairman of the Commission pointed out in a letter to the committee about the problem of working this out, he said there is a need for a stronger safe harbor than currently exists. He has

made that statement. And I think generally people accept that. The question is, who is going to write this safe harbor? Does it make sense for the Congress to be writing the safe harbor instead of the experts and the regulators who represent—who are supposed to represent the public interest in this matter to devise the safe harbor?

Mr. DOMENICI. May I ask a question?

Mr. SARBANES. Certainly.

Mr. DOMENICI. The Senator is assuming we do not have the public interest in mind when we write this?

Mr. SARBANES. We do not have the expertise.

Mr. DOMENICI. We do not?

Mr. SARBANES. We do not have the expertise of the SEC. And we do not, particularly in an area that is as difficult and complex as this one. I think that is very clear. In fact, the standard you propose in the bill was amended here on the floor by the chairman of the committee earlier today.

Mr. DOMENICI. I understand.

Mr. SARBANES. In response to criticism. If we have to define it legislatively, of course we will have to try to do that. But I invite the Senator's attention to the provisions of the bill that try to define out the safe harbor. It is obviously a very intricate and complex section. The Chairman of the Securities and Exchange Commission, upon reading this, then wrote a letter to the committee saying he could not embrace the proposal because it would allow willful fraud to receive the benefit of safe harbor protection.

So, in fact, your very bill—it is very interesting the way this bill has been structured. The proposal now before us allows the SEC to expand the safe harbor. In other words, they can provide even more of a safe harbor, but it does not allow the SEC to limit the safe harbor. So it is all a one-way voyage. It is a one-way voyage, and really giving the SEC the role that it ought to have in this situation and has been denied to them.

I think the Members are assuming an incredible responsibility here. As I pointed out earlier, the North American Securities Administrators, the Government Finance Officers, the National League of Cities, and nine other similar groups all express the view that they thought what was a more appropriate response is SEC rulemaking in this area. Now, then, I quoted earlier from the Chairman of the SEC. The Government Finance Officers Association, representing more than 13,000 State and local government financial officials, county treasurers, city managers, and so on, wrote of the safe harbor provision in the bill, and I am now quoting them:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Let me repeat that.

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

The North American Securities Administrators Association, which represents the 50 State securities regulators—they are really a front line of defense against securities fraud—have called the provision that is in the bill ''an overly broad safe harbor making it extremely difficult to sue when misleading information causes investors to suffer losses.''

Mr. President, I submit that the wise course of action here is to adopt this amendment. That is the provision that was originally in the bill. That is the provision that Members were acquainted with when they cosponsored the bill. Let the Securities and Exchange Commission, which has the expertise and the knowledge and the experience, deal with this very complex area and shape a proper safe harbor provision which is not subject to abuse and which is not subject to the objection of the Chairman of the Commission, who stated with respect to the provision that is in this bill that we are now trying to change:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

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

Mr. DODD. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The minority has 7 minutes, 40 seconds. The majority side has 4½ minutes.

Mr. DODD. I ask consent to have 2 minutes, if I may?

The PRESIDING OFFICER. Is the Senator from Maryland yielding?

Mr. SARBANES. Yes.

Mr. D'AMATO. Yes, certainly. I yield 2 minutes to my colleague.

Mr. DODD. Let me state again, Mr. President, there are those, I suppose, who would always say, in any matter, defer to an agency to write it. We deal with a lot of complex areas of law. This is one of them. I admit that.

But the notion inherent there is that there is in the SEC an ability to deal with this issue beyond the capacity of this body. I do not think that is necessarily true. In fact, the Commission itself is so highly divided on the issue we might wait 2 or 3 years before we get an answer. If you read the two letters from Arthur Levitt, one dated May 19 and one May 25, you would hardly recognize they are coming from the same author. In the May 19 letter, it says, this area has to be cleared up. The letter of May 25, I would call a fairly strident letter. The authors might have been different people, although they were signed by the same individual.

We have in this legislation very emphatically made it clear that for any individual who knowingly and intentionally misleads, knowingly intentionally misleads an investor, that there is no protection of safe harbor. I do not know how much more clear and explicit you can be.

The idea somehow that this is a major gaping hole by which defrauded investors are somehow going to be taken advantage of is rhetoric. We close up that loophole. We close it up by saying no misleading statements.

In fact, we go further than that. We require there be warnings in these forward-looking statements. It narrows it down to who can take advantage of safe harbor, under what circumstances, what kind of people. This is not available to stockbrokers or others. It is the issuers, and it is designed specifically to give investors the kind of information they need.

We need to encourage the issuers to step forward with their statements, not cause them to step back. It does not serve the economic interest of this country, or anyone for that matter, to be faced with that kind of a problem. That is why we included safe harbor, that is why we included the language to cut out the misleading statements. We think this is a good provision, and we urge that we stick with the language of the bill.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes 40 seconds. The Senator from New York has 2 minutes 22 seconds.

Mr. SARBANES. Mr. President, I say to my colleague from Connecticut, I think he is being extremely unfair to the Chairman of the Securities and Exchange Commission. I think the two letters that the Chairman wrote us are perfectly consistent with one another.

I know the Senator is very involved in this legislation and very anxious to try to pass it. I differ sharply with him on that issue, but I do not think in the course of the debate he ought to, in effect, demean the Chairman of the SEC.

The letter he wrote on May 19 spelled out his very considerable concern over the safe harbor provision. I quoted from it at great length earlier in the day. I am not going to repeat that here except, for instance, he says:

> A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones.

He then raises a lot of questions about what safe harbor can cover, and he states right in the letter, this is the earlier letter:

> Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

That is what the amendment at the desk does. That is what this amendment does.

The Chairman then went on, since the Senator from Connecticut, or at least colleagues of his were pushing hard for statutory definition, to spell out the components that he thought ought to be in any statutory definition of safe harbor.

At that time, efforts were being made to shape this. Those efforts did not

prove fruitful and, in the end, on May 25, the morning of the markup, the Chairman wrote a letter to the committee expressing his view about the provision that is in this bill, the very provision we are now trying to change. And he said:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

I think Chairman Levitt is a dedicated public servant. I think he is trying to do what is right. In his letter, he acceded to the view that something needed to be done to provide a stronger safe harbor protection, but then he raised his concerns in the nature of the protections that ought to be made. He has spent a lifetime on Wall Street. He is an experienced businessman. In fact, he quoted himself as a businessman about the problem of meritless lawsuits. He recognizes the problem of frivolous lawsuits and, in fact, has been working with the committee to try to address those. He has a sufficient removal representing the public interest as he does to be able to identify provisions in this bill which he thinks are defective.

I want the Members to realize what they are doing here. They are trying to enact a standard which the regulators—the Chairman of the Securities and Exchange Commission, the State regulators, the Government finance officers—are all telling them, ''Don't do this; don't do this.'' This is not as though we were putting into the law a standard which the regulators acceded to or thought was reasonable. They are saying, ''Don't do this, don't put this standard in.''

There are two ways to correct that. One is to refer it back to the Commission, which is exactly what was in the bill as it was introduced and a matter the Commission was working at, and that is what this amendment does. The other is to try to define the standard here. If we have to do that, I am prepared to address that subject.

I do not think that is the wise thing to do. I do not think that, frankly, with all due deference to my colleagues, that there is anyone here who really knows this law intimately and well enough in a highly complex area to write the standard. I say that with all due deference, and I include myself within those about whom I am making that judgment. So it ought not to be done in the legislation.

The initial approach by Senators DODD and DOMENICI was the correct approach, and that is what this amendment does. This amendment is word for word what was in the bill. It would provide the opportunity for the Commission, through broad rulemaking authority, to improve the safe harbor provision, and I very strongly commend this amendment to my colleagues.

I yield the floor and reserve whatever time is remaining.

Mr. D'AMATO. May I ask how much time?

The PRESIDING OFFICER. The Senator from New York has 2 minutes 22 seconds. The Senator from Maryland has 1 minute 48 seconds.

Mr. D'AMATO. Mr. President, let me refer to one of the two letters mentioned by my colleague. In the letter, sent by the Chairman of the SEC, the Chairman says:

> There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure, and I share the disappointment of the issuers that the rules have been ineffective in affording protection for forward-looking statements.

He says clearly in this letter that we have not afforded protection for forward-looking statements.

History shows that we have been waiting for 3 years for the SEC to work out the safe harbor issue. Last year, the Appropriations Committee stated that the time for the SEC to act on this had come, it said, ''We want some rules. We can wait no longer.''

The Chairman of the SEC has been working on this but it is obvious that the Commission has some concerns on the safe harbor and cannot come to a point where it publishes rules. I say the media does not know what they are writing about. What we are attempting to do with this legislation is to allow companies the flexibility to make forward-looking statements but, holding them liable if they make knowingly and intentionally misleading statements. There is no safe harbor for any untested companies and there is not safe harbor in situations where we felt the investor was at too great a risk of being mislead. To this effect, the safe harbor provision excludes IPO's, it excludes tender offers, and excludes stockbrokers. If you want a good example of legislation that goes too far, look at the House bill.

I think some of the journalists writing on this legislation, particularly those from the New York Times, have not taken the time to really understand what this legislation does. I suggest that they take some time to read the bill before they write. There is not a safe harbor that allows companies to say anything—anything, even intentionally false or misleading statements—as long as there is a disclaimer that the statement is in the safe harbor. This legislation does not institute a caveat emptor, buyer beware, attitude. I believe that would be going too far, much too far. But to say that the safe harbor in S. 240 would do this is wrong; it is wrong.

We cannot continue to allow businessmen to be held up by a handful of buccaneering barristers. That is an artful term used by my friend and colleague from Connecticut, and that is exactly what these lawyers are doing, they do not give two hoots and a holler about the stockholders. They care only about their own personal enrichment. That is why I have to oppose this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Maryland.

Mr. SARBANES. Mr. President, I, in fact, quoted the very sentence the Senator from New York quoted from Arthur Levitt where he says, ''There is a need for a stronger safe harbor than currently exists.'' The question is, how are you going to develop that safe harbor?

This amendment says the SEC should do it. That is what the bill introduced by Senators DODD and DOMENICI on March 24, 1994, provided for. Then they say, well, the SEC has delayed. The SEC put out their concept release on safe harbor in October 1994. In other words, about 7 or 8 months ago. They received 150 responses on the safe harbor issue. That is more testimony than the Banking Committee has had on all securities litigation issues.

The SEC held 3 public hearings on the safe harbor issue in February—2 in Washington, 1 in San Francisco—62 witnesses in all: Venture capitalists, law professors, corporate executives, plaintiffs lawyers, defense lawyers, institutional investors.

Arthur Levitt says:

> There are many questions that have arisen in the course of the commission's explanation of how to design a safe harbor.

He then talks about the concept release, the comment letters, the 3 days of hearings, and his meeting personally with a wide range of groups that have an interest in the subject.

This matter should be handled by the SEC, just the way it was proposed in the original bill, which Members have cosponsored. That is what this amendment does.

I urge its adoption.

VOTE ON AMENDMENT NO. 1477

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1477 offered by the Senator from Maryland.

Mr. D'AMATO. 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 are ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BOND (when his name was called). Present.

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

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—43

Akaka	Glenn	Moynihan
Biden	Graham	Nunn
Bingaman	Harkin	Pell
Boxer	Heflin	Pryor
Bradley	Hollings	Robb
Breaux	Inouye	Rockefeller
Bryan	Jeffords	Roth
Bumpers	Kennedy	Sarbanes
Byrd	Kerry	Shelby
Cohen	Kohl	Simon
Conrad	Lautenberg	Snowe
Daschle	Leahy	Specter
Dorgan	Levin	Wellstone
Exon	McCain	
Feingold	Mikulski	

NAYS—56

Abraham	Ford	Lugar
Ashcroft	Frist	Mack
Baucus	Gorton	McConnell
Bennett	Gramm	Moseley-Braun
Brown	Grams	Murkowski
Burns	Grassley	Murray
Campbell	Gregg	Nickles
Chafee	Hatch	Packwood
Coats	Hatfield	Pressler
Cochran	Helms	Reid
Coverdell	Hutchison	Santorum
Craig	Inhofe	Simpson
D'Amato	Johnston	Smith
DeWine	Kassebaum	Stevens
Dodd	Kempthorne	Thomas
Dole	Kerrey	Thompson
Domenici	Kyl	Thurmond
Faircloth	Lieberman	Warner
Feinstein	Lott	

ANSWERED ''PRESENT''—1

Bond

So the amendment (No. 1477) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized to offer an amendment.

Mr. DOLE. Mr. President, will the Senator yield to me for 3 minutes?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. SARBANES. Mr. President, at the end of that time I will be recognized to offer the amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I thank the Senator.

NATURAL BORN KILLERS

Mr. DOLE. Mr. President, today's Boston Herald contains a shocking front-page story—a story that should send shivers down the spines of all Americans, especially those who have criticized my call to the entertainment industry to exercise good citizenship when it comes to producing films that celebrate mindless violence.

That is the headline: ''We're 'Natural Born Killers.'" There was a movie called ''Natural Born Killers.'' This is a story, the prosecutor says, where the suspects bragged about the slaying saying, ''We're natural born killers.''

''We're 'Natural Born Killers,'" the headline blares, referring to the critically acclaimed Oliver Stone film.

This is what happened. The Boston Herald story begins, and I quote:

As they changed out of their bloody clothes, the men who plunged a knife into an elderly Avon man 27 times bragged they were ''natural born killers,'' a Norfolk County prosecutor said yesterday.

''Haven't you ever seen 'natural born killers' before?,'' 18-year-old suspect Patrick T. Morse allegedly bragged to a girl after the gruesome slaying.

According to the Norfolk County prosecutor, ''This is one of the most vicious premeditated murders I have ever seen.'' And Massachusetts State Police Trooper Brian Howe said ''My understanding was that they were drawing a comparison between the characters in the movie and themselves.''

Of course, no movie caused this brutal killing in Massachusetts. We are all responsible for our own actions, period. But, at the same time, those in the entertainment industry who deny that cultural messages can bore deep into the hearts and minds of our young people are deceiving themselves. If the Boston Herald story is true, and if these are the kinds of role models that Hollywood is content to promote, then perhaps some serious soul-searching is in order in the corporate suits of the entertainment industry.

Let me just indicate again that is the headline. It is not BOB DOLE's headline. It is the headline this morning in the Boston Herald about how these young murderers bragged about attacking an old man and stabbing the person 27 times. In fact, it goes into graphic detail about the knife that was so bloody that they had to ask for a new knife.

Something is wrong in America with the entertainment industry, and maybe it is high time they took a look at themselves and put profit behind common decency.

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

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

WE'RE ''NATURAL BORN KILLERS''

As they changed out of their bloody clothes, the men who plunged a knife into an elderly Avon man 27 times bragged that they were ''Natural Born Killers,'' a Norfolk County prosecutor said yesterday.

''Haven't you ever seen 'Natural Born Killers' before?'' suspect Patrick T. Morse allegedly bragged to a girl after the gruesome slaying of 65-year-old Philip Meskinis.

Chilling details of the trio's murderous attack and their fascination with the murder spree depicted in the motion picture ''Natural Born Killers'' were revealed yesterday when Morse, 18, and Leonard Stanley, 20, were arraigned on murder charges and held without bail.

Police are scouring the Brockton area for a third suspect, Michael F. Freeman, a 20-year-old fugitive and former convict who allegedly wielded the knife that slashed Meskinis' throat early Friday morning and punctured his body with 27 stab wounds.

''I've been doing violent felonies for 20 years,'' Norfolk County prosecutor Gerald Pudolsky said after the arraignment. ''This is one of the most vicious, premeditated murders I've seen.''

After an intensive investigation that led to Morse's arrest about 36 hours after the grisly murder, and Stanley's surrender shortly after 11 p.m. Sunday, police learned in interviews with Morse and the trio's associates that the men and their female friends ''on occasion'' watched ''Natural Born Killers'' after one person bought the movie, said State Police Trooper Brian L. Howe.

''My understanding was they were drawing a comparison between the characters in the movie and themselves,'' Howe said.

In Stoughton District Court yesterday, Morse and Stanley sat expressionless as Pudolsky recited the threesome's alleged vile deeds.

''I think the only thing they're sorry about is they got caught,'' Howe said after the arraignment.

The trio allegedly started plotting the slaying at a coffee-ship in Avon after Freeman—whose handicapped mother once dated the disabled victim—told Morse and Stanley that Meskinis had money and guns stashed inside in his School Street home, Pudolsky said.

At 5 p.m. Thursday, the trio went to a girlfriend's house in Avon where they discussed ''pulling an armed invasion at Mr. Meskinis' house,'' Pudolsky said.

Armed with at least two, maybe three knives, the suspects left the girl's house in Morse's Chevrolet Cavalier at about 1:30 a.m.

''Mr. Freeman knew he was going to kill the victim and the other two went along 100 percent,'' Pudolsky said in an interview.

As Meskinis lay asleep in his bed, the men invaded his home and Freeman launched the bloody assault, jamming a knife repeatedly into the helpless man's body.

''So much blood was coming from Mr. Meskinis' body that Mr. Freeman actually lost the grip on the knife,'' Pudolsky said.

Freeman yelled to Morse for another knife and Morse complied, passing a Buck knife, Pudolsky said. The blows were so forceful that Freeman allegedly broke Meskinis' wrist and clavicle during the relentless hacking.

Stanley was ''ready, willing and able'' to assist in the bloody siege—although his attorney and relatives insisted yesterday that he was not in the bedroom during the murder.

The suspects stole a shotgun and a .22-caliber rifle, stashing them first in the woods, and later inside the girlfriend's house.

Police recovered two knives, two victim's guns and bags of bloodied clothing ditched in a dumpster behind a Brockton convenience store.

The trio returned to the woman's home where three other female friends were staying that night, police said. They stripped their bloodied clothing, and worried that they had left behind fingerprints, Morse and Freeman brazenly returned to the murder scene at abut 5 a.m. to remove evidence from ashtrays and door knobs, police said.

As Morse and Freeman sat down at 8:30 a.m. for breakfast, Stanley said he was not hungry.

But Stanley, using a glass of water, gurgled the liquid in his mouth to imitate ''the death chortle of Mr. Meskinis as his throat was being slashed,'' Pudolsky said.

ELECTIONS IN HAITI

Mr. DOLE. Mr. President, long-delayed parliamentary elections were held in Haiti last weekend. The long-suffering Haitian people deserve credit in what is a momentous step in their efforts to develop democracy. For many months, it appeared elections might never take place. Since January, President Aristide has been governing by decree because elections were not held in the constitutionally mandated period.

All reports out of Haiti indicate confusion and chaos in the electoral process. Hundreds of thousands of Haitians were waiting to vote 24 hours after polls were supposed to close. Some polling stations opened very late, and some never opened at all. An election station was burned in northern Haiti. Turnout was low.

According to information my office received from Haiti today, the ballot counting process is in total disarray. The final results are not yet in, but the early returns indicate deep flaws in the process leading up to the election, deep flaws on election day, and now a complete breakdown of the process. All the signs point to an election process that is fatally flawed.

There are credible reports of ballots being destroyed, and of nonexistent ballot security. No one knows when ballot counting will be completed—or if it can ever be done credibly.

You may have seen a picture of ballot security in the Washington Post this morning, boxes and boxes of ballots stacked up and ballots spilling out of the boxes.

Witnesses today cite cases of ballots being shoveled into trash containers, and left in the street.

The International Republican Institute [IRI] documented dozens of shortcomings in the months and weeks leading up to the election. The IRI delegation, headed by Congressman PORTER GOSS, issued a statement yesterday titled: ''Irregularities Mar the Electoral Process.'' The IRI statement details grave concerns with the Haitian elections.

The International Republican Institute deserves credit for its honest and serious effort to expose flaws in the Haitian election process. The international community should not just stand by and applaud a deeply flawed election. As Chairman GOSS' statement noted yesterday, ''The Haitian people deserve better.''

In light of the work done by IRI, it was all the more surprising to see the Washington Post editorialize today against IRI's work. The Post claimed IRI's criticism was not informed or constructive, but misunderstood the tough effort to rehabilitate Haiti. I agree the effort to rehabilitate Haiti will be tough—but it will not be served by turning our eyes from the very real problems in Haiti, or from an election that is fraught with problems. This is not a Republican view—it is an honest assessment of the facts. The New York Times today reported that the Haitian election unraveled further yesterday. The mayor of Port au Prince, an old ally of President Aristide, said yesterday: ''There has been massive fraud. It does not seriously advance the process.''

I expect hearings into Haiti's election to begin as soon as the Senate returns from recess in July. Instead of criticizing the monitors of the election, the Post should look for answers to the tough questions:

Why were thousands of candidates rejected by the election council in total secrecy?

Why was an official list of candidates never released?

Why weren't election administrators trained until it was too late—despite the availability of millions in international assistance for such training?

What happened to 1 million voter registration cards missing before election day? Why were voter registration records unavailable on election day, and then being destroyed 48 hours later?

Why was there a complete lack of ballot security on election day and subsequently?

Why were thousands of ballots and tally sheets destroyed and discarded before any official count was recorded or finalized today in Port au Prince and other departments?

Are the verifiable cases of ballot substitution part of a national pattern to influence the outcome of the elections?

Why was President Aristide silent on key issues of election integrity in the days before Sunday's balloting?

Who in the government and police force played a role in the undermining of Haitian democracy?

What has happened to the millions of dollars in election assistance given to Haiti—amid rumors that elections workers will not be paid?

Is the election chaos in Haiti orchestrated, as charged by credible international observers on the scene today?

These and other issues deserve serious scrutiny—not just cheerleading. The Haitian election process is at a standstill. I believe the election process in Haiti should be judged by the same standard used for other elections in other parts of the world—the Haitian people deserve no less. The election observers have left the country but IRI is still on the ground asking the tough questions. I am confident Congress will fully examine all issues associated with the Haitian elections in the coming weeks.

I ask consent that a summary of the preelection analysis and the International Republican Institute statement of June 26, 1995, be printed in the RECORD.

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

INTERNATIONAL REPUBLICAN INSTITUTE,

Washington, DC, June 26, 1995.

IRREGULARITIES MAR ELECTORAL PROCESS—STATEMENT BY REP. PORTER GOSS (R–FL), DELEGATION CHAIRMAN

Good morning. This is our second press conference. On Saturday, the International Republican Institute (IRI) released its pre-electoral assessment in which we expressed our concern over a number of issues. They include the implications of the failure of the electoral authorities to create an open, transparent and verifiable process; the disqualification of parties and candidates; the lack of adequate training for electoral workers; and the failure to conduct any civic education to encourage voter participation. Today, all of us here have seen the consequences of these failings.

I want to underscore the fact that our delegates are still in the field throughout the nine departments sending in reports. Election day has only recently come to an end and the counting continues. Our serious concern about the total lack of ballot security is being borne out as I speak. We received reports from our delegates early this morning who observed disturbing irregularities at BEC level (regional collection and counting station). I have asked our delegation to determine the extent of these abuses for our evaluation of the count. The problems in this electoral process can only complicate the strengthening of democracy in Haiti.

Frankly, the Haitian people deserve better. We saw their remarkable dignity and endurance yesterday while trying earnestly to participate in an arbitrary process. We share a common objective with others in the international community—we all want a better Haiti and a stronger democracy here. IRI is not here to certify this election. Only the Haitian people themselves have the right to determine the legitimacy of this process. Already several major parties have issued statements challenging the integrity of the process. We must take their judgements seriously.

Let me share with you our observations about yesterday's events. We received radio and telephone reports from IRI delegates in the field from Les Cayes to Fort Liberte. Together, the IRI delegates have visited during the course of election day about 500 BIVs (local polling stations). Our delegates in Jacmel and Jermie reported an election we had hoped for—sufficiently organized, whose irregularities were overcome by the Haitian people and the electoral workers themselves. For myself, the only normal process I observed was at Cabaret, which is doubly ironic because it used to be Duvalierville, the former dictator's Potemkin Village. Our delegates throughout the departments in the north reported graphically about the closing of the BIVs, the intimidation of politicians and the burning down of the BEC in Limbe. Today in Port-au-Prince our delegates observed the use of xeroxed ballots, and early this morning we witnessed tally sheets being intentionally altered and ballots being substituted with newly marked ballots. This occurred in the Delmas BEC, not 10 minutes from where we are today. This raises the serious possibility of the political manipulation of this election.

So let me take a step back and point out a positive aspect of these elections. Throughout the country, all of us were surprised and impressed by the significant presence of political party observers. I would like to give credit to the Haitian private sector who filled a crucial void by providing the necessary support to field these pollwatchers. The Center for Free Enterprise and Democracy (CLED) deserves credit for putting this bold initiative together in 48 hours.

Let me summarize our grave concerns:

Security: The international military served as a deterrent to widespread violence for these elections. However, the issue of personal security for those participating in this political process remains a serious concern. This issue was permeated every step of the process, affected the quality of the campaign, the environment in which this election occurred and clearly lessened voter participation. It was magnified yesterday by threatened electoral workers and intimidated and harassed candidates. Yesterday, violent incidents closed BIVs in Port-au-Prince, Limbe, Port de Paix, Don Don, Ferrier, Jean Rabel, Carrefour and Cite Soleil. These actions disenfranchised an undeserving Haitian population. Without visible security, BIV authorities were forced to close the polls and in other cases voters went home without casting their votes.

Voter Materials: The CEP failed to deliver and distribute voter materials in the necessary time frame. Many BIVs also received incomplete election material packages. This resulted in countless delayed BIV openings. This created enormous voter frustration and even postponed the elections in La Chapelle.

Unpaid Elections Workers: As noted in our pre-electoral assessment, the failure of the CEP to pay thousands of electoral workers was attributed as one of the reasons for absenteeism which delayed and closed many BIVs. Demonstrations were reported in several departments.

Administration Capability: As noted in our pre-electoral assessment, electoral workers received minimal or no training on the duties and procedures. This resulted not only in lengthy delays but jeopardized the security and secrecy of the process.

Secrecy of the Ballot: There was widespread disregard for the secrecy of this process. IRI and other delegates reported that the ballot box seals were rarely used. Additionally, the setup of most BIV's did not afford voters secrecy in marking their ballots.

Security of the Ballot: The most flagrant lack of control occurred from the point of the count to the BEC level. Upon arrival of the ballots at the BEC's, observers reported a lack of control of used and unused ballots. The most egregious examples of this known to IRI occurred in the Delmas BEC where clean ballots were marked and substituted for ballots that had arrived from the BIV's; tally sheets were altered.

Disqualification of Candidates: The thoroughly arbitrary process of qualifying candidates led to serious consequences which we anticipated in our pre-election report. While some argued that the number of candidates that were disqualified was not statistically significant, it proved on election day to destabilize the electoral environment in certain areas. The results of this ranged from a low voter turn out in Saint Marc where five candidates for magistrate were left off the ballot to Jean Rabel, where it was reported that followers of independent candidate Henry Desamour burned ballots and closed BIV's because his name did not appear on the ballot.

Voter Turnout: IRI delegates reported low to modest voter turnout in the BIV's they visited. If this remains the case, we believe that it is the consequence of a compressed election timetable, a lack of civic education, and frustration with the electoral process.

It was important for Haiti and the international community to hold this election, but holding an election is simply not enough. The purpose of this election was to create layers of government that can serve as checks and balances on each other and decentralize power as envisioned by the 1987 Constitution. That is why it was important to have an inclusive process, not one marked by exclusion.

It has been IRI's intent throughout this process to be thorough, independent, objective and constructive. In this regard, IRI will maintain a presence in Haiti through the final round of elections and will make recommendations for the formation of the permanent electoral council.

HAITI—IRI PRE-ELECTORAL ASSESSMENT OF THE JUNE 25, 1995, LEGISLATIVE AND MUNICIPAL ELECTIONS, JUNE 24, 1995

I. EXECUTIVE SUMMARY

On June 25, 1995 Haiti will hold elections for 18 Senators, 83 Deputies, 135 mayors and 565 community councils. These elections were originally to be held in December but were postponed several times for a variety of reasons.

This election occurs at a pivotal time for Haiti as it struggles to rejoin the family of democratic nations and offer renewed hope of stability for its people. This election is also critical for the international community as it seeks a benchmark to demonstrate the transition from an internationally dominated country to a Haiti governed by Haitians. For many in the international community, these issues have made the holding of an election far more important than the quality of the election. IRI has sought to evaluate the pre-electoral process and environment for their comparision to minimal standards of acceptability.

ELECTORAL PROCESS

The legal foundation for these elections was a Presidential decree that subverted the legislative process.

The formulation of the Provisional Electoral Council (CEP) itself breached an agreement between the President of the Republic and the political parties to allow the parties to nominate all candidates from which CEP members would be chosen by the three branches of government. Only two of the nine CEP members were chosen from the parties' list.

The voter registration process, to have been administered by the CEP, was complicated by miscalculations of population size, lack of sufficient materials and registration sites, and one million missing voter registration cards.

The CEP review of the over 11,000 candidate dossiers for eligibility was a protracted process that occurred under a cloak of secrecy. When the CEP made its decisions known, by radio, no reasons were given for the thousands of candidates rejected. After vehement protests by the parties, some reasons were supplied and supplemental lists were announced through June 14, thirty-one days after the date the final candidate list was to be announced. This stripped the CEP of its credibility with the political parties. There is still not a final list of approved candidates available.

The sliding scale of registration fees imposed by the CEP—whereby political parties with fewer CEP approved candidates pay larger fees—has made it difficult for many parties to compete. As of June 20, five days before the election, protests against this unusual requirement have gone unanswered.

The ability of the CEP and those under its direction to administer an election is unclear. As of June 20, five days prior to the election, formal instructions for the procedures of election day and the count has yet to be issued; this has prevented the 45,000 persons needed to administer election day from receiving specific training.

As of June 20, those persons designated by the political parties as pollwatchers had not yet received any training from the CEP which could lead to serious confusion on election day.

These actions have led to deep misgivings across the Haitian political spectrum about the ability of the CEP to fulfill the mandate and functions normally executed by election commissions. Political parties had no idea to whom to turn with complaints in the process—the CEP, the President of the Republic, the United Nations Electoral Assistance Unit or the United States Government. Three political parties withdrew from the process as a form of protest.

ELECTORAL ENVIRONMENT

A concern for security is an issue that has permeated every step of the process. The assassination of Mireille Durocher Bertin, a well-known lawyer and leading political opponent of Aristide, only confirmed the fears of the parties and candidates. During the crisis, many elected representatives feared returning to their districts, contributing to the decay of political infrastructure. Candidates have curtailed their campaign activities and have given personal security a higher priority.

The campaign itself began late and has been barely visible until some activities in the last week prior to elections. Given the process and environment surrounding these elections, it is doubtful many of Haiti's recognized political parties could have competed effectively.

The electorate itself is basically uninformed about this election—what it stands for and who is running. There has been no civic education campaign, with the exception of some limited U.S. and U.N. military efforts, to illuminate the purpose of this election.

Similarly, there has been no educational campaign on how to vote, which for a largely illiterate population in Haiti could pose serious difficulties on election day.

Compared to other ''transition elections'' observed by IRI, such as in Russia in 1993, El Salvador in 1994, South Africa in 1994 and even China's Jilan Province village elections in 1994, the pre-electoral process and environment in Haiti has seriously challenged the most minimally accepted standards for the holding of a credible election.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Maryland to offer an amendment.

AMENDMENT NO. 1478

(Purpose: To amend the safe harbor provisions of the bill)

Mr. SARBANES. 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 Maryland [Mr. SARBANES] proposes an amendment numbered 1478.

On page 114, strike lines 7 and 8, and insert the following:

''(1) made with the actual knowledge that it was false or misleading;

On page 121, strike lines 1 and 2, and insert the following:

''(1) made with the actual knowledge that it was false or misleading;

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, the previous amendment, the one we just considered, which was not adopted on a vote of 43 to 56, would have sent the matter of defining the parameters of the safe harbor exemption to the Securities and Exchange Commission.

I, of course, argued very strenuously in the consideration of the amendment

that that is where this ought to be done, that it ought not to be done, well, in the committee and now in this Chamber, because the existing definition in the bill has already been amended.

The Senate did not adopt that provision, and the question now arises, if you are going to have a statutory definition, what should it be? What should it be?

This amendment that has been sent to the desk would strike out the language that is in the bill. What the bill says is that the exemption from the liability provided does not apply to a forward-looking statement that is knowingly made with the expectation, purpose, and actual intent of misleading investors.

Earlier the Senator from New York modified that and struck the word ''expectation,'' but the problem still remains, the essential problem which prompted the Chairman of the Securities and Exchange Commission to say, and I quote him, ''I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.''

So we are now into the question, if the standard in the bill is inappropriate, as I believe strongly it is, and as has been indicated by the Chairman of the Securities and Exchange Commission, and indeed by other securities regulators, State securities regulators, by Government finance officers and others, all of whom in a sense are outside the controversy amongst the economic interests associated with this bill, and represent the public interest, the question now is, is this standard so difficult that all but the most egregious fraudulent efforts would be exempted from liability. And I submit that it is, and the amendment I have sent to the desk is an effort to modify that. The standard provided for in that amendment is made with the actual knowledge that it was false or misleading.

Let me repeat that: Made with the actual knowledge that it was false or misleading.

There are forward-looking statements that would be exempted from liability under the standard in the bill that would not be exempted from liability under the standard of this amendment.

The question then becomes, is the standard in this amendment an appropriate one? And I defy anyone to advance a rationale why a forward-looking statement made with the actual knowledge that it was false or misleading should be protected from liability. I have heard people talk, oh, we are not going to allow knowing fraud to be protected.

That is exactly what this amendment provides. It says that the exemption from liability provided for in this bill does not apply for a forward-looking statement that is made with the actual knowledge that it was false or misleading. And I want to hear from others, if they oppose the amendment, why they believe a forward-looking statement made with the actual knowledge that it was false or misleading ought to be protected from liability.

Mr. President, this is an issue of significance and moment. We have heard from the various securities regulators in opposition to the provision in the committee bill. The National Association of Securities Dealers has written to us in opposition to it, as has the Government Finance Officers Association. SEC, of course, I have already quoted their statement. But let me just point out the Government Finance Officers Association, which represents more than 13,000 State and local government financial officials, county treasurers, city managers, and so on, and which issues securities and invests billions of dollars of public pension and public taxpayer funds every year, wrote of the safe harbor provision in the bill, the standard that we are seeking to change, the one in the bill which says knowingly made with the purpose and actual intent of misleading investors, ''We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.''

Let me repeat that: ''We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.''

The provision in the bill requires you to show the actual intent of the parties making the forward-looking statement. Not only that, you have to show that it was knowingly made with the purpose of misleading investors. And as originally written also the expectation, although that was stricken earlier in our consideration. So it is now knowingly made with the purpose and actual intent of misleading the investors.

That is what you have to demonstrate in order for the forward-looking statement to lose its immunization from liability. And that is a standard that is so extreme that the Chairman of the Securities and Exchange Commission wrote to us and said, ''I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.'' And that is the provision which the Government Finance Officers Assocation said, ''We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.''

The amendment that I have sent to the desk very simply states that the exemption from liability is lost for a forward-looking statement that is made with the actual knowledge that it was false or misleading, very simply put. You make a forward-looking statement, and you make it with the actual knowledge that it was false or the actual knowledge that it was misleading, and you lose your immunity. You lose your immunity.

Why should anyone who makes a forward-looking statement with an actual knowledge that it was false or misleading have immunity from liability for that forward-looking statement?

That is the issue that is before us by this amendment. It was my preference that this issue be worked out by the Commission. I thought that is where it ought to go in terms of expertise.

If Members want to deal with it here on the floor, then we need to examine it on the standard, address the standard that is in the bill, why I think it opens, as the Government Finance Officers said, a major loophole, or which, as the Chairman of the Commission said, would allow willful fraud to receive the benefit of safe harbor protection. That ought not to be the case. Therefore, I propose to substitute the language ''made with actual knowledge that it was false or misleading.'' No statement made with the actual knowledge that it was false or with the actual knowledge that it was misleading ought to have safe harbor protection.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, what we are talking about now is what we call in legal jargon the scienter standard. It is not an easy one. It can be difficult to understand. And indeed it can open up an incredible loophole, one that we are attempting to deal with; that is, to permit people to make projections. And they must state—I can have that disclaimer—they must state this is a projection, this is a projection, and that it may not be accurate. I will get the exact verbiage. It may not be accurate.

Whole classes of issuers are exempted, the penny stocks, the mergers and acquisitions. ''Refers clearly that such projections, estimates, or descriptions are forward-looking statements and the risk that the actual results may differ materially from such projections, estimates, or descriptions'' has to be included.

Now, let us read the language, because I have heard this, and I have seen it written, too. It is inaccurate to describe this bill as giving a license to people to knowingly, with intent, defraud. It is just wrong.

Here is the language in the bill. We modified it today because I thought there was one standard that might go above and beyond. The exemption from liability provided for in subsection A does not apply. It does not apply. In other words, you get no exemption. Then on page 114, line 4, it says:

(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

In other words, you get no exemption.

(1) knowingly made with the expectation, purpose, and actual intent of misleading investors.

So if you knowingly make a false statement, knowingly, with the purpose and actual intent of misleading

investors, you are not protected. And that is as it should be. These are projections. Now, I have to ask the question, who knows what someone knows, what is knowledge to them? And once you have that, once you say, if you knowingly made this, all they have to do—the plaintiffs bar this particular group, very small group —is allege that you knowingly made a false statement.

The burden now comes upon that person who has this complaint filed against them to prove that they did not. How do you prove it? How do you prove it? That is why we say, look, it has to be a little tougher. You cannot say, ''You knowingly made this. You knowingly made this, knowingly, with intent, with the purpose to mislead investors.'' It seems to me that that is pretty reasonable.

If a person does that, then you should go after them and hold them. We do. They are not exempt. We get down to the issue of splitting legal hairs and opening the doors for this group of bandits. That is what they are, bandits, absolute bandits; this is the group that, you know, suggests that we make it easier to bring these kinds of suits. We do not want to make it easier to bring suits that have no merit, where people allege someone knowingly, falsely made these statements. All you have to do is allege someone made the statement. Bingo, we have not solved the problem. That brings us right back into court and brings us into the situation where a person gets sued for millions, and has to settle for millions of dollars and/or pay millions of dollars in legal fees against claims that would otherwise be worthless and should get no dollars.

I have to tell you something; that we have sat back for far too long in dealing with this because it was really a very small and almost insignificant portion of the population that was affected. We did not see on a daily basis lawsuits being brought with no claim. We did not see where we had, for example, of 229 cases filed, 229 cases filed, 38 percent used the same repeat plaintiffs; 38 percent used the same cadre. In other words, they were professional plaintiffs. And I have to tell you why we may have cured that and said—by the way, they were paid bonuses. These people, for letting their names be used, got $15,000, $20,000, $25,000 for being professional plaintiffs.

So when we talk about protecting the little guy, we are not protecting the little guy. What we are trying to do is put a stop to and really protect the investors who have their money invested in these small companies, who have the mutual funds, who have those pension funds, which represent trillions of dollars and truly represent millions of people. Give them an opportunity. Give them a say. And do not have their companies savaged by people who are only looking to take care of their own interests. And those are the buccaneering barristers, those lawyers. The term was coined, at least the first time I heard it, by Senator DODD. He happens to be correct. They are sharks who are looking to eat whatever they can and the devil may care as it relates to the harm and the injury that they bring, in many cases, to good people simply by being able to allege that someone knowingly made a misleading statement.

We say, no, you have to go a little further. Knowingly, and you have to show intent. Because who knows what ''knowingly'' is. Show me. You say: I allege you knew it. I say I did not know. But if one has to allege that you knew and you had intent, that is a little more difficult; is it not? I think people are entitled to that presumption. I do not think they should be subjected to these scurrilous lawsuits. And they have taken place. That is why we say ''knowingly, with intent,'' and that you deliberately did this to mislead investors.

It is one thing to have people subjected to suits where there is intent to deliberately mislead, and it is another thing where people have made accidents and now are held to a standard whereby that was an accident and they say, ''You knew.'' You say, ''I did not know.'' You did and you actually made, if the fellow actually made the statement, he made the statement. Nobody can say he actually did not. So the word ''actually,'' that is nothing. They say you have knowledge, claim you have knowledge. Wait, I did not know that it was wrong. I got you in court because all I had to do is say that, well, you did. You had actual knowledge, and if you checked your papers, you would have found out that the projections you were making were off. Now I have him in under a claim of actual knowledge.

Did he really have actual knowledge? No. But it is very easy to allege. And once you allege it, you have him in this revolving door, in the chain. What do his lawyers say to him? ''We can fight it. We may be able to win it.'' But you know what? You may stand to lose, if they get a judgment against you, tens of millions of dollars, and put the company—a startup company —out of business. Or if you are an accountant, yes, we can probably win it. But you can get hit pretty hard. Because you know, these people made this and you saw it and they dragged you in.

I think that when you look at and read what we have put in, not what somebody puts in substitution, tell me how you can read this bill and say, anybody, that we say that you can deliberately lie and mislead with intent, and that we give you safe harbor for that? We do not.

I want to do it, and I will sit down and read once more, there is no exemption from liability where, line 7, a forward looking statement is:

(1) knowingly made with the expectation, purpose, and actual intent of misleading investors.

They are not protected. You can be sued. And if that is the case, you should be sued, no doubt; absolutely. There is nothing that keeps the SEC from doing this, from bringing these suits. Our bill does not protect fraudulent statements or conduct. The administration does not say that it does. It does not say that it does.

A letter, from Abner Mikva, counsel to the President, asked for clarification. I do not think that our bill is unclear on this point. I can clarify it. If it is, this debate should provide important guidance that the bill does not and will not protect fraud. I think this is clarification enough. How many times should we state it? We do not do it, we will not do it, that is not my intent, and I urge my colleagues to oppose the amendment by my distinguished colleague and friend from Maryland.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, the distinguished Senator from New York read the standard that is in the bill, and that is the problem, that standard. Those who are knowledgeable in the securities field have looked at that standard and reached the conclusion that it is an enormous loophole, and it will enable people to engage in willful fraud.

The amendment which I sent to the desk, which would change that language, would not allow a forward-looking statement to claim exemption from liability where the statement was made with the actual knowledge that it was false or misleading.

What every Member has to ask themselves is on what possible basis would you want to give immunity to a forward-looking statement that was made with the actual knowledge that it was false or with the actual knowledge that it was misleading? I submit to you, statements of that sort ought not to be protected from immunity. The bill, as written, would, in effect, allow statements made of that sort to have protection from immunity.

The standard in the bill is so high and so narrow that virtually any forward-looking statement is going to have immunity. The burden of showing purpose and actual intent—before, of course, we also had expectation which the Senators struck from the bill—but to show purpose and actual intent is so heavy that a lot of very fast games by some very fast artists are going to be played on the investing public and is going to cause a lot of people a great deal of grief and harm and damage.

So I urge Members to examine this issue very carefully. This is one of those issues that will come back to haunt you because people are going to be swindled, they are not going to be reachable because of the immunity which the bill provides, and everyone is going to look at what they did and say, ''Why should these people be immunized from liability,'' and the responsibility for immunizing them is going to rest on the people voting on this

amendment and voting on this legislation.

So I very strongly urge the adoption of the amendment.

Now, the letter to which my colleague referred is a letter from the counsel to the President, Judge Mikva. I ask unanimous consent that the letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. SARBANES. Mr. President, I quote:

The White House

Washington, June 27, 1995.

DEAR SENATOR SARBANES: I am writing to express the administration's support of your amendment to S. 240. The administration strongly believes the bill's safe harbor provision should not protect a statement made with the actual knowledge that it was false or misleading.

Let me repeat that:

. . . should not protect a statement made with the actual knowledge that it was false or misleading.

The bill's current safe harbor standard would exclude forward-looking statements ''knowingly made with the expectation, purpose, and actual intent of misleading investors.''

And as I noted, let me depart from the text of the letter for a moment, not very long ago, earlier in our proceedings, the Senator from New York struck the word ''expectation'' from the standard that is in the bill.

So he continues then, it now reads:

''knowingly made with the purpose, and actual intent of misleading investors.''

I double checked, and I am told that does not affect the import of this letter, and that knowing of that change, the letter still stands as sent to us. I double checked that in order to be very accurate with my colleagues.

The letter goes on to say:

The Securities and Exchange Commission has opposed the use of this standard because it might allow some defendants to avoid liability for certain false statements.

In the Statement of Administration Policy forwarded to the Senate on June 23, 1995, the administration urged the Senate to clarify whether the safe harbor's current language would protect statements known to be materially false or misleading when made. The Senate can best ensure that the safe harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.

Let me repeat that:

The Senate can best ensure that the safe harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.

Sincerely,

ABNER J. MIKVA,
Counsel to the President.

Mr. President, my colleague from New York has suggested, well, we are just splitting legal hairs here. We are engaged in some difficult legal analysis, that is quite true. And I suggested that when we did the previous amendment that the place where this ought to be done is by the SEC. The Senator from New York did not agree with that, and a fairly narrow margin of the Members of this body supported him in that view and, therefore, the burden falls upon us to define the standard here.

The SEC and the State regulators have told us that the standard, as written in the bill, will protect fraud artists. In effect, the bill swings the pendulum too far and the language of the bill goes too far and, therefore, will end up protecting fraud and hurting investors.

This amendment is an effort to bring the pendulum back toward the middle. It still will provide an enhanced safe harbor over what now exists, but it will not go to the extreme lengths of the provision in the bill which all the experts tell us, all the people whose responsibility it is to deal with securities fraud, who work in the field full-time all the time, they all tell us that this will end up protecting fraud artists. As I said, the Chairman of the SEC said:

I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

That is what we are talking about here. The substitute standard which I am proposing simply says that you are not going to give protection from liability to a forward-looking statement—listen very carefully to this—to a forward-looking statement that is made with the actual knowledge that it was false or misleading. You cannot make the statement with actual knowledge that it is false or actual knowledge that it is misleading and be protected from liability. And I invite anyone to explain to me why that kind of statement ought to get protection from liability. I would think it is as clear as can be that is the very sort of statement that ought not to get protection from liability. Therefore, I say to my colleagues, if—as apparently has been decided—we are going to write the standard right here, clearly, we must rewrite the standard in the bill. I submit that the standard contained in the amendment is an appropriate standard, if we are going to be concerned about a proper balance that will help to provide some insurance that investors will not be subjected to fraud.

Mr. President, I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, DC, June 27, 1995.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Administration's support of your amendment to S. 240. The Administration strongly believes the bill's safe harbor provision should not protect a statement made with the actual knowledge that it was false or misleading.

The bill's current safe-harbor standard would exclude forward-looking statements ''knowingly made with the expectation, purpose, and actual intent of misleading investors.'' The Securities and Exchange Commission has opposed the use of this standard because it might allow some defendants to avoid liability for certain false statements.

In the Statement of Administration Policy forwarded to the Senate on June 23, 1995, the Administration urged the Senate to clarify whether the safe harbor's current language would protect statements known to be materially false or misleading when made. The Senate can best ensure that the safe-harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.

Sincerely,

ABNER J. MIKVA,
Counsel to the President.

Mr. D'AMATO. Mr. President, I think we have debated this point now over and over. First, let me say, that if the Securities and Exchange Commission has constructive suggestions to make in this area, we stand ready, willing, and able to adopt them. We would be happy to have hearings. But, we have been waiting for the safe harbor standards for 3 years, and we finally have felt compelled to create the safe harbor ourselves. Once again, I direct my colleagues to the letters from Chairman Levitt. He has shared with us the frustration and problems that the business community face. He alludes to these problems and he has recognized that there is a need to begin solving these problems.

Now, if you look at the language of my friend and colleagues' amendment, and then look at the language in S. 240, as it currently exists, it is very clear that the current language means that if you knowingly make a statement with the purpose and intent of misleading investors you will be held liable. This current standard means that you have to demonstrate that this statement was made with an intent to mislead investors. However, the Sarbanes amendment would reduce that standard to just knowing a misstatement was made. That is too easy to allege. That opens the door to meritless suits and that then forces firms to pay huge settlements. That is what we are attempting to stop.

We cannot countenance lying nor can we countenance the making of false statements. But the fact of the matter is, if we use this scienter provision, it will open the door to meritless litigation based only on allegation. This will prove to be a nearly impossible standard—how does one prove that he actually did not know and was not aware of the misstatement? How does one prove that? That is the high burden that we place on the defendant with this standard. With this standard, I feel that firms will be forced to settle and that means payments of millions of dollars.

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. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. There is no control of time.

Mr. DODD. Thank you. Mr. President, let me commend my colleague from Maryland, first of all, for offering a creative amendment here. It looks tempting with the language that is offered and the arguments he has given

as to why not just support the replacement language that he has offered, which would strike paragraph one on page 121 and paragraph one on another page—I apologize for not having the page number—and replace what we now have, ''knowingly made with the purpose and intent of misleading investors,'' to ''actual knowledge of false and misleading information,'' I believe is the language of the amendment.

Let me begin, Mr. President, by stating what I hope all of our colleagues will accept is the point here. That is, that we are all after the same goal—certainly, those of us who have spent time over the last 3 or 4 years in trying to deal with the broader issue that this legislation attempts to address. I have tried to strike a balance that will deal with an existing problem that we have identified over these last several days in our debate.

Let us also assume that we have some six, seven, eight pages here in the bill that deal with the issue of safe harbor. An amendment being offered by the Senator from Maryland deals with one clause—an important clause, but nonetheless one aspect of safe harbor.

I said earlier today, Mr. President, that the purpose of safe harbor is designed to encourage the disclosure of information, to encourage the disclosure of information. There is no requirement, under law, that companies disclose information to potential investors. There may be those who want to require that, but the law does not require it.

So the very purpose of having a safe harbor is not just to create some island where people can make statements, futuristic statements, and avoid litigation or be immune, but because we think it is important to elicit from businesses, from industry, from corporations, statements about what they believe the company is likely to be doing.

Good news and bad news. It is not just good news. A forward-looking statement can be bad news about what may happen—product lines that are not necessarily going to live up to earlier expectations.

I hope that everyone would agree that it is in the interests of our country economically to encourage businesses to be forthcoming about information which they possess that will allow for investors to make intelligent, reasonable decisions about whether to buy stock, sell stock, whatever else they may be engaged in. That is why we create a safe harbor. That is the only reason for it.

If you had a law that required businesses to tell everything they know, you would not need safe harbor. No one is suggesting we do that. Proprietary information, businesses trying to make plans for the future, should remain private. In the whole area of securities litigation, the notion of safe harbor is a longstanding notion.

The problem, today, as identified by the Chairman of the Securities and Exchange Commission is that the present safe harbor is not working.

We have heard at length earlier today, and maybe I ought to put in the letter again, the letter of May 19, in which the Chairman of the SEC identifies in paragraph 3 of that letter, ''There is a need for stronger safe harbor than currently exists.''

Mr. President, I ask unanimous consent this letter be printed in the RECORD, because the Chairman of the SEC lays out why that problem exists.

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

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protect American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, but the SEC and the Congress are working to find an appropriate ''safe harbor'' from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations and thereby run the risk of missing an opportunity to provide input for your own deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the Commission's role. The relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the federal securities laws.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, Prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions

that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and federal regulators, law professors, and even federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) ''projections'' would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

Mr. DODD. Mr. President, if you disagree with safe harbor, and wish to apply a standard here that is appealing on its face, but actually undercuts the very intention of the safe harbor, then it seems to me you run the risk of destroying a very important vehicle that causes businesses to voluntarily give information out that is critical. Information, as I say, that could be positive or negative information. So that is the reason it exists.

Now let me cite examples where I believe that the actual knowledge standard, as tempting as it is, can actually just bring us back to the point we are trying to get away from, and that is the litigation that has swamped up in many ways in terms of the ability of these companies to move forward and to, as I said earlier, to give the kind of information that may be necessary.

We all want safe harbor, as I mention. We want a safe harbor that will work. When the chief executive officer of a large industry goes to his general counsel in a very practical way, and says ''Should I tell pension fund investors,''—remember, that is primarily who we are talking about— ''that,'' returning to an earlier example, ''a new disk drive at the heart of their investment in this company, may not quite work as well as we planned.''

We should have a safe harbor that will allow the general counsel to say ''Yes, you can say this without being sued.'' It is so the company now has this information, not required by law, that it share that information. But the CEO says, ''I do not think this disk drive will work quite as well as I planned, and I want to know whether or not to let people know,'' knowing full well what may be the implication in terms of the investors.

Pension funds obviously, I think, are entitled to information even if it is not required to be disclosed. We want to make sure that CEO's can say and tell us what is going on without the fear of millions of dollars in litigation costs. That is the point of this bill—trying to reduce litigation costs.

If we do not make this a very clear division, a very clear division, as to when safe harbor does not apply, it is not going to be safe enough, and that general counsel is then going to say to that CEO, ''You are not required to say anything—don't say anything. Don't say anything.''

Who are the winners and losers, when that decision is made? The general counsel says ''Don't say anything here, don't you dare say anything. You are not required to by law.'' You can never be sued for what he did not say in this case. So they do not do anything.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. If I could finish this train of thought, I will be glad to yield for a question.

We are trying here to get this information out. As the Council of Institutional Investors, representing literally millions of small investors in this country with hundreds of billions of dollars in assets, said in testifying before the SEC, the safe harbor must be 100 percent safe.

Let me go back at that point quickly. There is a fear that Members will think that anything that anybody does in relationship to securities can fall into this safe harbor category. That is not the case at all.

As pointed out by the distinguished junior Senator from Utah today, by the Senator from New York, and myself, let me go back, there are 6 or 7 pages in the bill dealing with safe harbor. This is one line in that entire section.

Safe harbor only applies to statements by issuance and reviewers hired. Statements by stockbrokers are not included. Certain issuers are excluded from safe harbor, including anyone found to have violated securities law, anyone involved in penny stocks, blank check companies, investment companies, IPO's, tender offers, roll-up transactions—all are exempted. Historical information contained in historical financial statements is excluded as well.

I forget to mention this earlier, but in this bill we require cautionary language be included in forward-looking statements so investors can pick up the kind of language that ought to give them a better sense to put them on notice that maybe these predictions are not going to turn out to either be as bad or as good as the company may utter and say. That was never before required.

In the discussion of safe harbor, remember, we are dealing with narrow fact situations here.

Mr. D'AMATO. Will my friend yield for a question?

Mr. DODD. I yield.

Mr. D'AMATO. Is it not true that one of the other provisions never included, safe harbor will now permit the SEC to bring suits for disgorgement, for violation of safe harbor provisions?

Mr. DODD. I was just about to get to that point. That is a second added new provision.

Mr. D'AMATO. That has never been in before?

Mr. DODD. Never before in this legislation. It is all new authority we are extending to the SEC.

To listen to this debate, we would think we have been stripping away and stripping away. What we are doing is providing different vehicles. As we listened and heard testimony, the Council of Institutional Investors represents, I said, millions of people in the country, involving billions of dollars.

They want that information. These pension funds want to know what is going on in these companies. If these companies do not provide that kind of information, these pension funds are not making decisions with all of the information they have when they decide whether or not to invest or not to invest.

So the safe harbor is a critical issue in soliciting that kind of information. That is why it is so important. I think their testimony before the SEC on truly a safe harbor, a 100 percent safe harbor is absolutely critical. Again in the context of what we are talking about, those that are excluded, from the protections of safe harbor.

Now, returning to my earlier example, I illustrate the problem with the amendment of my colleague from Maryland. The CEO in the fact situation I described does not think it will work out as well as it is, and goes to

the general counsel and says, ''should I share this information?''

It turns out the disk drive prediction that he had made was a panic decision; that, in fact, the disk drive turns out to be fine, turns out not to be as bad as he thought. But many shareholders, based on the earlier prediction, sold their stock. Now they sue them for actually knowing that the disk drive was really OK.

Of course when he gets before a jury he will be able to make his case. But the problem is, Mr. President, before you get to the jury, you are probably going to end up with a settlement involving millions of dollars, because there were memos or other information that came across his desk that said, ''Mr. CEO, we think this disk drive will be OK.'' During the discovery period, as a practical matter in litigation, every single paper that crossed that CEO's desk is going to be subject to discovery.

So there on the table is a memo or two or three that says, ''We think this disk drive is not as bad as you think,'' but he felt based on his feelings about this, with the advice of general counsel that he said ''I don't think it will do that well.''

Now you have yourself with actual knowledge—not with intent, not with purpose, to mislead, but with actual knowledge of information—that suggested a different result than what the CEO predicted when he put out a statement that he thought the pension funds ought to know about.

I do not believe that it is in our interest in the safe harbor context—not in other issues of aiding and abetting and joint and several and proportional liability, but in safe harbor context, if it is a standard of actual knowledge of something that existed that contradicted your own statement, thereby you said something misleading, because there was information that reached a different conclusion, and you end up with a lawyer saying ''Look, you know, I don't know how a jury will find with this.'' The Sarbanes language in this bill says ''actual knowledge.''

Mr. SARBANES. Actual knowledge that it was false. Why should anyone be able to make a statement that they have actual knowledge that is false.

Mr. DODD. Misleading. That could be the subject of litigation here. You made a statement that you said you thought this disk drive was going to do poorly. You had information before you that said something else. I sold my stock on the basis of that prediction you put out, that it was not going to do well.

Now I know you had information from your people in your divisions that said it would do fine. You made a prediction it would do poorly. You had actual knowledge there was different information available to you. You cannot tell me about that. As a result, I am suing you, and I think I can collect.

Mr. SARBANES. Do you think he should have told? Do you think he should have had a forward-looking statement that said some have said we have a problem; others say we do not have a problem. Would that not be an honest statement to the potential investors?

Mr. DODD. Let me say to my colleague, another aspect of this bill, here in the safe harbor context, in the safe harbor context, it is our common desire to solicit information from these businesses that do not have to make it forthcoming. I think, frankly, going to the intent and purpose, to disregard intent and purpose of that CEO, and have the mere standard actual knowledge, I think, creates a nightmare. That is my view.

Mr. SARBANES. Is it the Senator's view—will the Senator yield for a question?

Mr. MCCAIN. Regular order. If the Senator asked for the Senator to yield for a question, fine.

The PRESIDING OFFICER (Mr. GRAMS). The Chair reminds the Senator——

Mr. DODD. I am happy to yield to my colleague.

Mr. SARBANES. I just asked the Senator if he would yield for a question.

The PRESIDING OFFICER. A reminder that the Senator must address the Chair to ask a question.

Mr. SARBANES. Mr. President, I ask the Senator if he will yield.

Mr. DODD. I am happy to yield to my colleague.

Mr. SARBANES. Is it the Senator's view that all forward-looking statements are voluntary? As I understand it, the Senator says you are going to dissuade forward-looking statements because these are voluntary things; and, if they have a problem with what the standard is, they will not volunteer the information.

Is that your position?

Mr. DODD. That is the difficulty here. Yes.

Mr. SARBANES. What is your explanation of the language on page 113 of the bill which includes within the definition of a forward-looking statement in paragraph 3, lines 18 through 22, a statement of future economic performance contained in the discussion and analysis of financial condition by the management, or in the results of operations included pursuant to the rules and regulations of the Commission.

Mr. DODD. I do not understand the purpose of the statement.

Mr. SARBANES. It is my understanding that currently under the rules and regulations of the Commission you are required to provide certain information that is in effect a forward-looking statement.

Does the Senator agree to that?

Mr. DODD. I understand that. How much information you have to——

Mr. SARBANES. But you earlier made the statement in effect that this was all voluntary, and that people, if they were dissuaded, would provide no information. The fact is under current SEC requirement they are required to provide some forward-looking information.

Is that correct?

Mr. DODD. The Senator is correct. I stand corrected.

My point here is that soliciting all the necessary information one would like to have is not required by law. Some statements are. The point I was trying to make was in the case of the one that I ascribed to. But the condition of a particular product line, a case could be made that that information would not necessarily be required to be forthcoming.

So my point is that while the temptation to adopt the actual knowledge standard here, in effect we may be undoing the very purpose that I presume is unanimous here. Maybe there are some who disagree with us, but you want a good safe harbor. The purpose of having a safe harbor is that it be safe. If it just be a harbor that is sometimes safe or never safe or rarely safe, then the very purpose for its existence is undermined. As a result, you defeat the very purpose of creating it.

My point here is that a simple standard of actual knowledge can undermine that very desire that I believe is unanimously held in this body to create that safe harbor. So while the standard of actual knowledge is a difficult standard to overcome rhetorically in the subject of debate, in the practical application of it, then I think it is a standard that undermines the very purpose of safe harbor.

I say to my colleague from Maryland and others, they know I have some difficulty even with this standard. I am worried about having a good one that does create the safe harbor, and that does apply to those efforts. My colleague from New York and I and Senator DOMENICI have discussed this at some length. And there are many different ways we may finally get some language here that can be appropriate. But establishing just actual knowledge with no intent or no purpose to mislead, it seems to me, runs the risk of having the very purpose of the safe harbor destroyed.

I cite the factual kind of example involving a good meaning, well intended person—let us assume that most of the people we are talking about here are not inherent crooks. We are talking about decent, competent people who want to do their business appropriately and properly. And sharing information that can then undermine them and end up with significant litigation costs is not exactly serving the purpose of the intent when we desire to put in a safe harbor in the legislation.

The SEC itself, as I said earlier, feels as though the safe harbor needs to be strengthened. Their present standard is ''acted in good faith and reasonable basis for believing what you are saying.'' That, of course, created a mountain of problems over the issue of reasonable basis.

But as I mentioned a moment ago, we have added language here that requires

cautionary language. The Senator from New York has pointed out that we extended to the SEC the authority to go after these matters which may be the best way of recovering, I would say anyway, because they are not necessarily out to just win for themselves but rather win for the investors where they have the knowingly intentionally and with purpose attempted to mislead the investor. That may not be a perfect standard but I think our desire here to have a higher standard makes sense if you understand the value of safe harbor.

Again I will state what I said at the outset. For those who do not believe in safe harbor, adoption of the Sarbanes amendment makes sense because in my view that undermines the safe harbor.

So I would respectfully disagree with my colleague in his amendment, as appealing as it is to the rhetorical sense. I think the net effect of it at the end of the day is that we are going to abandon the safe harbor protection. Information will not be forthcoming that could otherwise help your institutional investors, particularly in terms of deciding whether or not to buy or sell the stock in a particular company.

I think that is a shortcoming, if we adopt this language as part of this bill. I think it will hurt what we have tried to do here with this legislation in trying to strike the balance.

With that, Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. LAUTENBERG. Mr. President, the Chair has an obligation to recognize the Senator who stood up first.

Mr. McCAIN. Mr. President, last September the United States——

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senate is out of order. The Senate will be in order. Both Senators were standing. The Senator from Arizona has been standing.

Mr. LAUTENBERG. I have been standing. With all due respect, I have been here, was here before the Senator from Arizona, and I called for recognition from the Chair. And the Chair, as I saw it, deliberately chose to ignore my appeal for recognition. The Chair I guess has that right. But that is not the way this body is to operate.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. Mr. President, my friend from New Jersey is obviously upset. Could I ask how long the Senator from New Jersey intended to speak?

Mr. LAUTENBERG. Probably 15 minutes. I am not upset at the Senator from Arizona. I am upset because of common courtesy.

Mr. McCAIN. I understand. May I say that I believe it is a very close call. And, Mr. President, I ask unanimous consent to yield 15 minutes to the Senator from New Jersey, and that as I do so, I have been in these similar situations with very tough calls from the Chair as to who speaks first. I believe the rule of the Senate is who is on their feet and speaks first is who seeks recognition. I believe we were both on our feet. I do not believe that the rule of the Senate is who has been standing the longest.

With that, I ask unanimous consent that the Senator from New Jersey is to be recognized for 15 minutes, and then I would be recognized for my remarks.

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

Mr. LAUTENBERG. The Senator from Arizona is very courteous.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I respect and appreciate it.

How long does he intend to speak?

Mr. McCAIN. About 10 minutes. Please go ahead. The Senator was on the floor. Please go ahead.

Mr. LAUTENBERG. I thank the Senator from Arizona.

Mr. President, I ask unanimous consent to be added as a cosponsor of the Sarbanes amendment.

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

Mr. LAUTENBERG. Mr. President, as the Senator from Maryland explained, this amendment would modify a provision of S. 240 that I find very troubling. I know that earlier today our colleague from New York tempered somewhat the existing language relating to the safe harbor provision, but Mr. President, I do not think he went far enough.

One goal of this bill is to minimize the existing disincentives to provide detailed forward-looking statements about the economic prospects of their companies.

Everyone agrees that is a desirable goal.

I certainly do.

Indeed, my support is based on personal experience.

Prior to coming to the Senate, I worked in the private sector. I cofounded a company with two others, three of us from poor working-class homes, that today employs over 20,000 people. It is an American success story. I say that because I think it is important to occasionally call on one's background as we review some of the legislation that is proposed in front of us. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believed that it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if it needed modification during the period due to changes and conditions, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in ADP—my company—caused our stock, which is listed on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

There used to be a company in the investment business, an old name in the financial world, Kidder-Peabody. And each month they would publish a list known as The Nifty 50. These were the highest price-earnings ratio companies that were listed. They did that for over 265 months, for more than 22 years. Every month they would publish lists of the companies that were among the investors' favorites. The company that led that list was my company, ADP. It was on the list 215 out of 265 months, far more than the next best company which listed among the top list more than 200 times. Obviously, the company did well. It performed well year after year. But it was the investors' belief, the investors' confidence, that they could always count on ADP to tell the truth about what was happening that caused the stock price to swell as the earnings grew.

As I look back at that period, I know that I was in the forefront of CEO's who provided investors with forward-looking statements on my company's financial health. It made sense to me then. It makes sense to me now.

One of the things that I know this bill would like to accomplish is to make sure that the public is as well informed as possible. It is not simply to focus on whether or not litigation is possible or whether there ought to be ceilings on certain claims but, rather, to give the public a chance to know what is going on and at the same time not to encourage frivolous or whimsical lawsuits.

It is important that investors have as much information as they can. Everyone knows, especially in the larger companies, that senior executives in the company know very well what they are expecting to happen over a year, 2, 3, 4, 5 years in advance. It may not be precise, but they have a target; they have a goal. Everyone knows that in addition to the executives within the company, the board of directors has to be notified if there are any changes.

What does that represent? It represents an advantage that people on the inside have over those on the outside who are investing their money. And there is nothing, no reason at all why anyone on the inside ought to have privileged information with which to sell stock or buy stock ahead of the investing public. It is critical that all investors have as much information about the company as they can to make informed investment decisions.

Despite the desire to provide information, many issuers, many companies do not provide sufficient information. They do not because they are concerned about their potential liability, which this bill addresses, should these forecasts turn out to be off the mark. Well, if things change, as I said in my comments, then what ought to happen is the company ought to say: Investors, be prepared. We have to take a hit on

our earnings because of this product or this market or what have you, but we have confidence in the future and this is what we expect. The investors will stay with the ship. This is especially true for the small high-tech companies, which is what my company was. These are companies whose growth we want to encourage. It is not in the public interest for these companies to go out of business because of a lawsuit based on a financial forecast or information which despite the company's best efforts later turns out to be inaccurate. And that can happen despite the best intentions of the company.

I remember how much the stock of biotech companies dropped when we were discussing health care last year. And should those biotech companies be held accountable for this drop? Of course not. We want to protect the research and the innovation that develops from such firms. But I believe that this bill goes too far in the effort to do that.

The recently amended language in S. 240 provides a safe harbor from liability unless the issuer's statement is knowingly made with the purpose and actual intent of misleading investors, and on its face that legislative language looks reasonable. But the committee report notes that purpose and actual intent are separate elements that must be proven by the investor.

To me, this standard, although an improvement over the version reported out of the Banking Committee, is still too high a threshold. This amendment provides safe harbor protections for issuers who make forecasts, but we narrow this protection so that issuers who make statements with the knowledge that the information was false or misleading would be liable. That is a reasonable standard, and it is a standard supported by the SEC and by the administration. It protects those who should be protected. And it does so without creating a safe harbor for those who should be subject to litigation.

It may seem to those listening or who may be watching this debate that the Senator from Maryland and I are splitting hairs with single word changes. However, when the next financial scandal rocks our markets and investors are prevented from recovering their losses caused by intentionally misleading forecasts because they are unable to demonstrate actual intent, those affected investors will certainly feel the difference. We do not want to hurt those investors who are able to demonstrate that an issuer intentionally made a misleading statement but are unable to show actual intent.

I cannot understand this. I say that again as a person who has been on both sides of the matter—as an investor and as an issuer. I believe that the amendment as proposed provides the right balance. If you make a forward-looking statement knowing it was false or misleading, you should not be immune from liability. You have to pay the price for the deception.

Now, I understand why the Senator from New York would want to expand the current safe harbor. Everyone wants that, including the SEC. But I think this bill has gone too far in the other direction. We should not be encouraging or protecting fraudulent statements, which I believe is what S. 240 might inadvertently do.

Mr. President, we have the most efficient markets in the world, and this is due in large part to the reliability of information available to investors. I do not understand why we would want to enact legislation that might jeopardize this.

Once again, I thank my colleague from Arizona for yielding the floor.

I urge my colleagues to support this amendment, and now I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my friend from New Jersey. I say to him I understand the sensitivity of recognition. I remained in the minority party for some 12 years, and I appreciate the sensitivity involved with that. I believe that in all fairness the Chair is required to recognize the person that the Chair hears first, and I as always appreciate his courtesy.

Mr. President, I rise in support of the amendment.

HAITI'S ELECTION

Mr. MCCAIN. Mr. President, last September, the United States sent 20,000 of its sons and daughters to Haiti. Their ostensible mission was defined in the name given to this unopposed invasion of another country—Operation Uphold Democracy. Today, we are told by some Haitian Government Ministers, by the head of Haiti's Provisional Electoral Council, and even by our own Washington Post, that democracy—a form of government that we exported to Haiti at the risk of American lives—may be, in the end, too much to expect from this poor, troubled, violent country.

Few would disagree that what happened last Sunday at least raised questions, serious questions, about whether Haiti's elections were free and fair. But, as I just noted, among the few, were some Aristide ministers; Mr. Remy, the hopelessly incompetent chairman of Haiti's election council; and, again, the Washington Post. In truth, the gross irregularities that plagued last Sunday's election, and the polling that occurred on Monday purportedly to compensate for a small fraction of those irregularities, as well as the mounting evidence of vote counting fraud have made it, in the sensible judgment of Representative PORTER GOSS—''impossible to verify the results of this election.''

Mr. GOSS led an accredited election observation team from the International Republican Institute [IRI]. I have the honor of serving the institute as chairman of its board of directors. I am proud of IRI's work generally, and its work in Haiti specifically. I will talk some more about the quality of that work a little later in my remarks.

I want to first talk briefly about the elections and the gross irregularities that indeed make it impossible to verify the results. It is important to note that no observer of the election—be it OAS observers, or observers on the White House delegation, or even one very candid Government minister in Haiti, will dispute the evidence of irregularities which IRI's observers and these other monitors uncovered. IRI observers found that these elections were, in a word, chaotic.

The headline for today's Washington Post story on the elections was ''Unanimity in Haiti: Elections Were Chaotic.'' Unfortunately, no one seems to have told the Washington Post's editorial writers. Or, possibly, those writers do not believe that the chaos which, in truth, defined these elections seriously undermined their integrity. If that is the judgement of the Washington Post's editors it is a faulty one, and it cannot withstand the weight of the abundant evidence that the election process—from the campaign season through election day to the ballot counting—was plagued by very grave problems.

People can judge for themselves whether these problems have rendered the elections completely unfair and unfree. The IRI delegation's responsibility as impartial observers was to simply call them as they saw them. What they saw was rather discouraging, so discouraging that even Aristide's Minister for Culture, Jean-Claude Bajeux, offered an apology. ''As a member of the Government,'' he said, ''I am not proud of this.'' Minister Bajeux went on to observe that ''instead of improving on the 1990 elections, we have done worse.''

Not surprisingly, the widespread irregularities have prompted opposition parties to reject these elections as fraudulent. That charge was leveled by the mayor of Port-au-Prince, Evans Paul, as well. You will recall, Mr. President, that Mayor Paul's post support for President Aristide was often referred to by President Aristide's supporters in the United States.

Mr. President, let me offer a brief sampling of the irregularities which the IRI delegation documented. I will first read from the executive summary of IRI's pre-election report which evaluated the pre-electoral process and environment for their comparison to minimal standards of acceptability.

The elections were originally to be held in December, but were postponed several times for a variety of reasons.

Mr. President, I ask unanimous consent that the complete executive summary be printed in the RECORD.

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

EXECUTIVE SUMMARY

ELECTORAL PROCESS

The legal foundation for these elections was a Presidential decree that subverted the legislative process.

The formulation of the Provisional Electoral Council (CEP) itself breached an agreement between the President of the Republic and the political parties to allow the parties to nominate all candidates from which CEP members would be chosen by the three branches of government. Only two of the nine CEP members were chosen from the parties' list.

The voter registration process, to have been administered by the CEP, was complicated by miscalculations of population size, lack of sufficient materials and registration sites, and one million missing voter registration cards.

The CEP review of the over 11,000 candidate dossiers for eligibility was a protracted process that occurred under a cloak of secrecy. When the CEP made its decisions known, by radio, no reasons were given for the thousands of candidates rejected. After vehement protests by the parties, some reasons were supplied and supplemental lists were announced through June 14, thirty-one days after the date the final candidate list was to be announced. This stripped the CEP of its credibility with the political parties. There is still not a final list of approved candidates available.

The sliding scale of registration fees imposed by the CEP—whereby political parties with fewer CEP approved candidates pay larger fees—has made it difficult for many parties to compete. As of June 20, five days before the election, protests against this unusual requirement have gone unanswered.

The ability of the CEP and those under its direction to administer an election is unclear. As of June 20, five days prior to the election, formal instructions for the procedures of election day and the count had yet to be issued; this has prevented the 45,000 persons needed to administer election day from receiving specific training.

As of June 20, those persons designated by the political parties as pollwatchers had not yet received any training from the CEP which could lead to serious confusion on election day.

These actions have led to deep misgivings across the Haitian political spectrum about the ability of the CEP to fulfill the mandate and functions normally executed by election commissions. Political parties had no idea to whom to turn with complaints in the process—the CEP, the President of the Republic, the United Nations Electoral Assistance Unit or the United States Government. Three political parties withdrew from the process as a form of protest.

ELECTORAL ENVIRONMENT

A concern for security is an issue that has permeated every step of the process. The assassination of Mireille Durocher Bertin, a well-known lawyer and leading political opponent of Aristide, only conformed the fears of the parties and candidates. During the crisis, many elected representatives feared returning to their districts, contributing to the decay of political infrastructure. Candidates have curtailed their campaign activities and has given personal security a higher priority.

The campaign itself began late and has been barely visible until some activities in the last week prior to elections. Given the process and environment surrounding these elections, it is doubtful many of Haiti's recognized political parties could have competed effectively.

The electorate itself is basically uninformed about this election—what it stands for and who is running. There has been no civic education campaign, with the exception of some limited U.S. and U.N. military efforts, to illuminate the purpose of this election.

Similarly, there has been no educational campaign on how to vote, which for a largely illiterate population in Haiti could pose serious difficulties on election day.

Compared to other ''transition elections'' observed by IRI, such as in Russia in 1993, El Salvador in 1994, South Africa in 1994 and even China's Jilan Province village elections in 1994, the pre-electoral process and environment in Haiti has seriously challenged the most minimally accepted standards for the holding of a credible election.

Mr. MCCAIN. Those are the problems that undermined the integrity of the election before election day. We have all read newspaper accounts over the last 2 days which chronicled the abuses and irregularities that occurred on Sunday. Mr. Goss accurately reported in a press statement yesterday the following serious problems.

While the international military served well as a deterrent to widespread violence, the elections were not free of violence and intimidation. Violent incidents closed local polling stations in Port-au-Prince, Limbe, Port de Paix, Don Don, Ferrier, Jean Rabel, Carrefour, and Cite Soleil.

The election council failed to deliver and distribute voter materials to a number of polling stations. This resulted in countless delayed voting place openings and postponed the elections in some places. Unsurprisingly, these delays and postponements caused widespread voter frustration which helps explain why turnout was low.

There was also widespread disregard for the secrecy of the ballot. Many voters had little choice but to mark their ballots in the open.

The thoroughly arbitrary process of qualifying candidates led to serious consequences which we anticipated in our pre-election survey. The disqualification of some candidates proved to destabilize the electoral environment in certain areas, this was most acutely the case in Saint Marc and Jean Rabel.

The New York Times reports that at least 200,000 voters are still waiting to cast their ballots, but election officials still won't say when and if they will be allowed to do so.

Regarding the vote tally, I will quote not from IRI's report but from the Organization of American States which had a much larger observation team in Haiti. Because of administrative failings in the election it remains to be seen how effectively the count will be carried out.

As anyone who read a newspaper today discovered, allegations of widespread abuse and irregularities in the counting process are coming in by the dozens. Again and again, we are hearing from all observers that unmarked ballots are being marked at the regional counting centers to indicate a vote for Lavalas candidates.

Mr. President, this is, as I said, only a brief sampling of the problems which IRI observers and all credible observers witnessed. For calling the press' attention to these problems, the IRI mission was chastised today in a Washington Post editorial for unconstructive political science correctness.

In response to that charge let me just quote the last two paragraphs of Mr. GOSS' statement yesterday as chairman of our delegation.

It was important for Haiti and the international community to hold this election, but holding an election is simply not enough. The purpose of this election was to create layers of government that can serve as checks and balances on each other and decentralize power as envisioned by the 1987 Constitution. That is why it was important to have an inclusive process, not one marked by exclusion.

It has been IRI's intent throughout this process to be thorough, independent, objective and constructive. In this regard, IRI will maintain a presence in Haiti through the final round of elections and will make recommendations for the formation of the permanent electoral council.

This is hardly inflammatory language, Mr. President. In fact, I think most people would consider it as well as all of IRI's reporting to be constructive, informed criticism. Indeed, Brian Atwood, Director of U.S.A.I.D. and head of the Clinton administration's observation delegation in Haiti, said about IRI's reporting: ''they have performed a service.''

The Post's editors are being a little disingenuous, I fear, when they raise the obviously bogus charge of political correctness. After all, that is not a problem that the Post usually finds distressing.

What the Post is really saying, as are those hysterical critics of IRI's delegation in the Aristide Government and on the Provisional Electoral Council; What they are really saying is that Haiti should not be expected to adhere to minimally acceptable election process standards.

IRI has observed elections in 48 countries. Some of those countries and some of those elections were the subject of disagreements, sometimes, but not always, partisan disagreements in the U.S. Congress. Elections in Chile, Nicaragua, El Salvador, Russia come to mind. Never, not once, has there been the slightest intimation that IRI delegations were anything other than objective, scrupulously fair, committed, hard working professionals. On the contrary, IRI delegations are routinely acclaimed for their thorough professionalism.

But because IRI discovered and reported information which, apparently, the Washington Post editorial writers would have preferred to have gone unnoticed, the integrity of these observers—not the election, but the observers—is now called into question by those editorialists and others.

What the Post editorial writers and others are really saying is that whatever standards we hold El Salvador to; whatever standards we hold Nicaragua to; whatever standards we hold Croatia to; whatever standards we hold Serbia

to; whatever standards we hold Albania to; whatever standards we hold Bulgaria to; whatever standards we hold Azerbaijan to; whatever standards we hold Russia to; whatever standards to which we hold all these countries where IRI observed elections without controversy, no matter how minimal those standards are we cannot expect Haiti to meet them.

Mr. President, that is what the Washington Post said today, and it is an injustice. It is an injustice to IRI; to Mr. Porter Goss and all the good and honorable people on IRI's election observation delegation in Haiti.

Most importantly, Mr. President, it is an injustice to the people of Haiti. They are human beings who yearn for freedom like any other nation, and who are capable of building and sustaining the institutions that will protect that freedom. To expect any less of Haiti is, as I said, an injustice. The people who have condescended to Haitians, including the Post editorialists, by asking the world's indulgence of their election's failings, should apologize to the Haitian people, and to those good Americans who they have maligned in the process.

Mr. President, I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 1478

Mr. D'AMATO. Mr. President, I would like to inquire of my colleagues if any of them have any statements to make with respect to the pending amendment, and how much time they intend to take. Might I ask my colleague how long he believes he will take?

Mr. BROWN. I have a brief statement that I think will be more than completed in 5 minutes.

Mr. D'AMATO. Mr. President, I ask unanimous consent that after the Senator from Colorado makes his statement that I be recognized—it is my intent to make a motion to table. Does the Senator wish to claim time to respond?

Mr. SARBANES. I may. I do not know what he is going to say. Why do we not say 10 minutes evenly divided and go to the vote?

Mr. D'AMATO. That is fine. I ask unanimous consent that after the statement of the Senator from Colorado, which will take 10 minutes equally divided, at that point in time I will ask for the yeas and nays and make a motion to table.

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

The Senator from Colorado.

Mr. BROWN. Mr. President, distributed on our desk is a statement from Abner Mikva, counsel to the President and former Member of this Congress, who has what I believe is a very distinguished record, as well as a fine record as a judge for this Nation. I have the utmost respect for Judge Mikva, and so it is with seriousness that I view his letter that has been distributed.

It addresses the subject which we are discussing, and the implication is, of course, that this is an important factor in the President deciding whether he will sign this bill. He speaks out strongly on behalf of Senator SARBANES' amendment, I think for no other reason than that it is worth taking a serious look at.

As I read the two standards, I suspect other Members will find it a challenge, as I do, in pinpointing precisely what the difference is. The bill carves out an exclusion; that is, a safe harbor. What we found under current law is that people in business, in order to avoid liability in terms of speculating about their company or commenting on their company's future, simply have clammed up. Their lawyers tell them, ''Look, if you say anything and it turns out not to be totally accurate or if you speculate on the future and it goes the other way, you are going to get sued.'' So to avoid being sued they say, ''We don't want you to say anything.'' Literally, that is what many companies will say.

''How is the weather at your plant?''

''Can't say.''

''What do you expect your earnings to be?''

''I don't know.''

What this issue revolves around is the fact that we have denied economic free speech. It is a different issue than misleading people. I think everyone here—at least I hope they would—would feel very strongly that if someone intentionally misleads you for their own gain that we give redress for that. We expect people to be honest and that is fair and reasonable. But what we have found is the penalties are so profound and enormous and the ease of bringing a suit is so great that we have tried to address the problem by at least not penalizing people who make reasonable statements about the future of their company. That is what this is all about.

The first thing the bill does is go through a series of instances where some people have been known to make misstatements about a company in the past, and they specifically exclude them from this safe harbor. In other words, they say, Look, if you are convicted of any felony or misdemeanor, you are not going to come under this provision at least for a few years. If you are offering securities by a blank check company, you're not going to come under this safe harbor provision. If you are involved in issuance of penny stocks, you are not going to come under this safe harbor provision. If you are dealing with a rollup transaction, you will not come under the safe harbor provision. If you are dealing with a going private transaction, you will not come under the safe harbor provision.

The bill has said here are some areas, and we understand in the past people have made misleading statements or false statements, and we are going to specifically exclude them from the safe harbor. Mr. President, I think that is responsible. I want to commend the chairman of the committee for doing that. I think it is a responsible approach. I want to say on this floor that if there are other areas that have had this kind of problem, we ought to pay attention and add them to this section. That is how to deal with this area. If there is a problem, we have to deal with it. What is left, which is considerably reduced, is meant to give some freedom of speech and is meant to allow people to make reasonable statements.

The problem here is that any time you attempt to forecast earnings, any time you, again, attempt to forecast what is going on, you are probably not going to have any better record of forecasting than the weather bureau has. They are conscientious, honest, and they miss it about half of the time. It does not mean that they are evil. What it means is that it is difficult to forecast. The question we have to answer is, should we simply, by putting tough penalties into place, prevent people from economic forecasting. Maybe we ought to put into law that it is illegal for anybody to come in about the future of their company. The reason we do not is that it probably does not help investors very much.

Mrs. BOXER. Will the Senator yield?

Mr. BROWN. I will yield when I finish my statement. This is an attempt. One says, ''knowingly made with a purpose and actual intent of misleading investors.'' The amendment says, ''made with the actual knowledge that it was false or misleading.''

Well, ''knowingly made'' and ''actual knowledge'' sound similar and have some similarities. I believe, in reading the legislation, the big difference is this: It is in the words of ''purpose'' and ''actual intent.'' I think as Members try and make a decision about how they can vote, they ought to ask themselves, if somebody makes a statement and it turns out not to be accurate, should we insist, before we penalize them, that they had the purpose and actual intent of misleading someone? Or was it an innocent statement and they did not intend to mislead someone, they did not have that actual intent? I believe the purpose of misleading someone and intent of misleading someone is at the heart of this amendment.

The amendment is offered by a very conscientious, thoughtful legislator. It is endorsed by a very thoughtful and reasonable judge, who acts as counsel to the President. I think the heart of the issue comes down to whether or not we want to extend economic free speech in these areas. Should you have the purpose and intent of misleading people, or should you be allowed to say what is appropriate without that?

Mr. President, I want to pledge one thing. I think the issue raised is appropriate and is a good one. I pledge one thing. If there are additional carved-out areas, exemptions from this that we ought to look at, I want to look at them and support them if they are reasonable. But let me say, Mr. President, that I think it is important that we be very careful about denying economic free speech. It is an important aspect of giving a full picture in describing economic opportunities and economic endeavors.

Mr. D'AMATO. Mr. President, I believe that under the present order we have 10 minutes equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, we have debated this issue for several days and I think the Senator from Colorado stated the concern with this amendment well. If there are areas where we need additional carve-outs—to exempt people from getting this safe harbor, I am willing to look at them. Senator DODD is willing to look at them. Senator DOMENICI is willing to look at them. If there are reasonable suggestions that the SEC has, we will look at them. We are going to go to conference if we pass this bill, and I pledge that we will keep the offer open to look at those suggestions. We have been looking for them for 3 years. If suggestions come up now, because of this legislation, and they make sense, I will certainly consider them. We have worked to modify and strengthen, S. 240, to protect the rights of the legitimate investor and understand their concerns. That is what we attempted to do in drafting this legislation.

I yield the floor.

Mr. SARBANES. Mr. President, I just want to make a couple of comments here at the close of the debate on this amendment. I have to say to my colleagues, I hope everyone understands that they are ignoring the recommendations and judgment of the Chairman of the SEC, the State Securities Regulators, Government Finance Officers Association, and so forth. It may well be that people feel so knowledgeable and have such expertise in this area that that does not trouble them. I have to tell you, it troubles me and would trouble me wherever I found myself on some issues. I would want to be very certain about ignoring those opinions.

Arthur Levitt said:

> A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors.

That is what the Senator from Connecticut has been asserting. No one is challenging that. He earlier said, ''You are not going to have any safe harbor.'' Nobody is saying that.

Arthur Levitt goes on to say:

> At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the Federal securities law.

He has said about the language that is in the bill, the language we are trying to take out:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

That is what the issue is. The Government Finance Officers Association has written to us that the safe harbor provision in the bill opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery. That is the issue.

I understand that we need a meaningful safe harbor, but the safe harbor should not be structured in such a way that pirates can find shelter in it. And, as written, the language in the legislation does exactly that. That is why the Chairman of the Securities and Exchange Commission, the Government Finance Officers Association, the North American Securities Administrators Association, which represents the 50 States' security regulators, that is why—the North American Security Administration Association called the provisions in the bill ''An overly broad safe harbor making it extremely difficult to sue when misleading information causes investors to suffer losses.''

The amendment is very simple. The amendment would take out the language in which all of the regulators have seen major problems, in terms of investor fraud, and substitute for it that you do not have protection in a safe harbor if you make a forward-looking statement made with the actual knowledge that it was false or misleading. And no one yet on the floor has explained to me why such statements ought to get protection from liability.

Mrs. BOXER. Will the Senator yield?

Mr. SARBANES. I yield to the Senator from California.

Mrs. BOXER. Mr. President, I think that this is the crux of the matter. And the ranking member is really the conscience of the Senate on this whole matter. I want to ask a very direct question. I am not an attorney, and my learned friend is.

If we vote for S. 240 without the Senator's amendment, is it the Senator's view that a company or an officer of a company, could make a false statement—tell a lie, put it that way—make a false statement, which is tell a lie, that he had actual knowledge was a lie?

In other words, I know I am wearing a yellow suit. If I said I am wearing a blue suit, I am telling a lie. I have to know that this is yellow. Is my friend saying that unless we adopt his amendment we could have a business person make a false statement that he knew was false, and he could still benefit from the safe harbor in S. 240 and hide behind that?

Mr. SARBANES. He could find shelter within the safe harbor even though he had actual knowledge that the statement was false—even though he had actual knowledge.

Mr. D'AMATO. Mr. President, I have heard many statements in this debate. One particular statement I have heard is about a pirate's cove. The pirate's cove exists today, those pirates are taking investors for a real ride, and they are drowning them. They are drowning companies and they are drowning good people.

All the pirates have to do is allege fraud, and companies find themselves facing millions of dollars in damages or in settlements. If we adopt the standard in this amendment, nobody will be willing to make predictions. They will not take the risk.

Now, look at what S. 240 says. It says, with no exceptions, that the safe harbor does not apply to a forward statement that is knowingly made with the purpose and actual intent of misleading investors.

We think that this standard will encourage people to make statements, make predictions, but will hold them liable if they knowingly, with intent to defraud make a statement that is false. Anything less than this standard will allow the same band of pirates that we have now to continue to bring meritless cases.

S. 240 stops lawyers from being able to pay their professional plaintiffs. They were actually paying people $10,000, $15,000, $20,000 to use their name on the suit. One of these characters has signed up 14 times with the same law firm, the same law firm that is working, lobbying, paying millions of dollars to try and defeat comprehensive reform.

If we want reform and to we want to get rid of these pirates, we need to pass S. 240. This amendment will cause a chilling effect on the ability of people to make projections about the future.

I yield the floor.

Mr. D'AMATO. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—50

Abraham	Chafee	DeWine
Ashcroft	Coats	Dodd
Bennett	Cochran	Dole
Brown	Coverdell	Domenici
Burns	Craig	Faircloth
Campbell	D'Amato	Ford

Frist	Jeffords	Reid
Gorton	Kassebaum	Santorum
Gramm	Kempthorne	Simpson
Grams	Kyl	Smith
Grassley	Lieberman	Snowe
Gregg	Lott	Stevens
Hatch	Mack	Thomas
Hatfield	McConnell	Thompson
Helms	Nickles	Thurmond
Hutchison	Packwood	Warner
Inhofe	Pressler	

NAYS—48

Akaka	Feinstein	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murkowski
Boxer	Heflin	Murray
Bradley	Hollings	Nunn
Breaux	Inouye	Pell
Bryan	Johnston	Pryor
Bumpers	Kennedy	Robb
Byrd	Kerrey	Rockefeller
Cohen	Kerry	Roth
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Shelby
Dorgan	Leahy	Simon
Exon	Levin	Specter
Feingold	McCain	Wellstone

ANSWERED ''PRESENT''—1

Bond

NOT VOTING—1

Lugar

So the motion to lay on the table the amendment (No. 1478) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I would propound a unanimous-consent request which I believe will deal with all of the outstanding amendments. I believe there are six amendments, three on each side, and it would be my intent to ask that we stack those votes so we could give our colleagues the opportunity to arrange their evening schedule. Possibly, with the concurrence of the two leaders, we can agree to time limits on all of those amendments, so we can take them up tomorrow morning and then proceed to final passage. That is my intent, to see if we can reach that agreement. I bring this up because some of my colleagues have asked what the schedule will be. If we can work out that agreement, it would be my hope that we would dispose of all of the amendments this evening and then start voting at a certain time tomorrow morning.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise to speak on the bill.

DISTURBING EVENTS IN HAITI

Mr. COVERDELL. I wish to comment specifically on the remarks that were made earlier by the Senate majority leader and the Senator from Arizona with regard to the disturbing events we have witnessed in Haiti.

Mr. President, we have received reports that voting tally sheets were being intentionally altered and ballots were being substituted with newly marked ballots. While widespread violence had been deterred, there has been a lack of visible security, and closed individual polls have forced Haitians to go home without casting their vote. There have been long delays in the opening of polls in many areas and a shortage of electoral material. Many ballot boxes were not sealed properly before being turned over to the regional centers. Observers found a few cases of ballot stuffing.

In short, we have a serious situation. I conferred with the majority leader with regard to these events, and want to announce to the Senate we will conduct hearings on the week we return in the subcommittee of the Foreign Relations Committee, specifically the Western Hemisphere Subcommittee. I wanted to make that known to the Senate.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that I may speak as if in morning business.

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

EVENTS IN HAITI

Mr. DODD. I was not in Haiti this past weekend as part of an observer group, but as I think most of my colleagues know, I have been there on numerous occasions. In fact, I lived on the border of that country for 2½ years and have a more than passing interest in the awareness of Haiti.

As I have listened this afternoon to several speeches now made about the events in Haiti over the past several days, I find it stunning in many ways. My colleagues, by their remarks, almost imply that the situation in Haiti would have been preferable had there not been an election or had there not been the decision by the administration in previous months to go back to intercede, along with the support of the international community, to try to restore the democratically elected government of that country.

This was not a perfect election in Haiti. There were serious problems. But, remember, this is a country that can count free elections on one hand—fewer fingers in fact—that they have had over the years. The last free one was 4 or 5 years ago when President Aristide was elected. And then we watched that election be ripped from the people of that country through a coup.

President Clinton, the administration, took the courageous decision to restore President Aristide to power in that country. And I recall back in those days during that debate the almost apparent disappointment that there was not more of a tragedy. We did not lose a single soldier in that effort. In fact, the President deserves great commendation, mind you, for the courage he showed in making an unpopular move. It was not popular at the time. Today, interestingly, the majority of people in this country think the President did the right thing.

Now, over the weekend, they had an election. It is a poor country with a tremendous level of illiteracy and staggering economic problems. So it did not look like a perfect election in this country. But it is an effort of poor people to get out and freely choose its leadership, literally hundreds and hundreds of candidates for local office and national office in that country. And rather than castigate and denounce the effort for the shortcomings that certainly were obvious and apparent, why are we not applauding the fact that this country was trying to embrace democracy and do so in a noble way?

Granted they had problems with ballot boxes and people abused the process. Votes were not counted. There were shortcomings, to put it mildly, in the process. All of that I accept. But instead of picking this process apart, there ought to be at least some underlying statements that indicate that we support this effort. We hope it is not just a one-time effort, but that in coming months and years we will see democracy take hold in this poor, little country to our south.

And so I have been disappointed. It is just a continuum of almost the disappointment people expressed over the last year over the President's decision to go in and restore President Aristide, which was a success. It seems to be a continuation of that. I am disappointed by these remarks. This is working. It is not perfect. We have watched what happened in other countries, including what we are watching in the former Soviet Union, the New Independent Republics. Countries that are struggling to find their democratic feet do not do so instantaneously. It takes time.

So I commend President Aristide and commend the people of Haiti for the courageous attempt to have a free and fair election. I am terribly disappointed it did not meet our high standards of a perfect election. But rather than spend our time denouncing the imperfections, we ought to take a moment out and commend these people. Some people walked literally miles and miles to get to a polling place in order to exercise their rights. Most of them are illiterate, cannot read or write. They have to vote by looking at colors or symbols on a ballot in order to choose their party or candidates. And to watch people get out with, I think, the returns somewhere around 60 or 70 percent—in our elections in 1974 we had 38 percent that turned out to vote.

So with all its imperfections, I think the people of Haiti deserve our applause, our commendation for their efforts. And certainly the Government of Haiti does, as well, for conducting this election. And albeit with its shortcomings, my hope is in coming years we will see better results and less imperfections in the process. But they do not deserve to be denounced, in my

view, for the significant efforts they have made.

Mr. President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. Senator from Arizona.

Mr. MCCAIN. I listened with interest to the statement just made by my friend from Connecticut. And all I can say is it is deja vu all over again. I remember the criticism that the Senator from Connecticut leveled at the election in El Salvador that was attended by me and others. And, Mr. President, he might have missed the thrust of my remarks. And that is, that this election, according to the same group, the IRI, that has observed some 48 elections around the world, did not meet high standards. They did not meet minimum standards, I say to the Senator from Connecticut.

I applaud the effort of the people of Haiti for wanting to be involved in the electoral process. I applaud the efforts that have been made by many people. But the fact is, by objective judgment, this election was chaos—chaos.

And, Mr. President, the report of our observers—I will be brief because I know the Senator from New York gets understandably impatient with this issue impeding the progress of the pending legislation. But this is the report of the objective observers, these same observation teams that, as I say, observed 48 other elections throughout the world and judged by the same standards, not high standards, Mr. President, the same standards. Here's what they said:

General: Total breakdown in reception of ballots and tally sheets to counting centers; total abandonment of materials; zero supervision of materials; counting of ballots occurring without supervision.

Tally Sheets: Tally sheets being destroyed deliberately; tally sheets have been created/replaced; tally sheets with opposition parties leading have been destroyed in front of observers; tally sheets and other electoral records are being thrown out as garbage—and trash is being removed from site.

Ballots: Ballots have been burned, both used and unused; ballots have been substituted with newly marked ballots; unused ballots by the hundreds of thousands are readily accessible at counting sites.

Let me repeat that. Perhaps the Senator from Connecticut feels it is a real high standard not to expect unused ballots by the hundreds of thousands readily available at counting sites.

Unused ballots being mixed in with marked ballots; new ballots clearly being marked at counting sites; crumpled ballots, registration materials, and ballot boxes accumulating in trash heaps, inside and outside counting sites.

Ballot Boxes: Ballot boxes universally unsealed; ballot boxes being sealed at counting sites with serial numbered seals that may not correspond to actual voting site number; sealed ballot boxes are being thrown away.

Registration Cards: Registration records in total disarray; registration records being jettisoned into the trash in large quantities; unused registration cards (remember one million missing) found in large quantities.

This is not a result of underdevelopment nor simple mismanagement; this is orchestrated chaos.

Mr. HARKIN. Would the Senator yield for a question?

Mr. MCCAIN. I would be glad to.

Mr. HARKIN. You mentioned—I do not know who IRI is.

Mr. McCAIN. The International Republican Institute, which was there monitoring this election, as they have some 48 elections throughout the world. I say to my friend from Iowa, there are certain standard procedures used in judging any election, whether it be Russia, El Salvador, Haiti, anywhere else. These minimum standards are what an election is judged by.

Mr. HARKIN. If I could ask another question.

It is the International Republican Institute. I did not know that.

Second, in this institute, did they monitor the elections that were held in Haiti about, if I am not mistaken, a little over 2 years ago when the junta, the military, was in charge and there was an election there?

I am wondering whether they monitored that election and if they drew any comparisons between this election and that election. I only ask that question because——

Mr. MCCAIN. My answer is, as you know, that that election was so fraudulent there was no international observer groups allowed there. But in the words of other people who observed the 1990 election, this was far worse than the 1990 election conducted in Haiti which was observed by international organizations.

Mr. HARKIN. May I ask one more question? Does the Senator know how much money the United States or other nations may have provided and support that we may have provided in order to help that electoral process in Haiti, being a poor country? I just wonder if there are any figures on how much we did in terms of monitoring assistance to help them do the things that the Senator has pointed out were shortcomings in that election.

Mr. MCCAIN. I respond to my friend from Iowa, I do not know the amount of money. I do know what the commitment on the part of the American Government was. But I know the election should have met certain minimum standards. Otherwise, there is no sense in holding an election. And the observers who came in to observe this election and others did not believe those standards were met. I mean, the front page of the Washington Post this morning, ''chaos'' and other descriptions along those lines clearly indicate that if we did spend money, and I am sure we did, that it was either misplaced or improperly used or something.

The real point here, I say to my friend from Iowa, is I do not know how much money was spent. I know money was spent, but I know that these are trained observers who observe election after election after election around the world and judged the election in Russia to be overall fair, the election in El Salvador to be fair, the election in Nicaragua to be fair, the recent election in Chile to be fair. This is the first time they have judged this election not to be, that I know of, one which was fair and open. But they certainly did not judge the previous election to be in any way acceptable. They did not even go to see it because everybody knew what that election was all about.

Mr. HARKIN. I thank the Senator.

Mr. MCCAIN. I thank my friend. I always appreciate this dialog with my friend from Connecticut. I think he may have misunderstood the point when I made my statement. I also admire the tenacity, desire, the will of the Haitian people to obtain freedom. They are people who deserve, if any one group of people in this hemisphere deserves our assistance and help, and they deserve a freely elected government after all they have suffered through.

I am just saying to my friend from Connecticut that there are certain standards that must be observed, that must be adhered to in any election; otherwise, the people do not have that precious right, and that is to choose their own leadership.

It is not clear to me yet what all the reasons behind this failure were but, in my view, it has been a significant failure.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it had been my intention at this point to offer an amendment, but I ask unanimous consent for time as in morning business.

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

OBSERVATIONS ON ELECTIONS IN HAITI

Mr. GRAHAM. Mr. President, I was in Haiti on Saturday and Sunday of this weekend, and I would like to share with my colleagues some of my observations. I intend to submit a more formal statement later, but for this afternoon, I would like to talk about some of the things that I saw.

Frankly, to my good friend from Arizona, who was represented in Haiti, he and the IRI, by another good friend, Congressman PORTER GOSS of my State of Florida, I was concerned about my first experience in Haiti this weekend. I got off the plane Saturday morning at approximately 11 o'clock, and at the foot of the plane were several U.S. reporters, including a representative of one of the major networks. The first question that was asked was what did we think about the report that had been issued a few hours earlier on Saturday morning—this is the day before the election—by the IRI criticizing the election that had not yet taken place?

Obviously, we were in no position to comment on a report that we had not

seen about an election that had not yet taken place.

Mr. MCCAIN. Will the Senator yield to me to respond to that?

Mr. GRAHAM. I would like to complete my comments and then yield.

Mr. MCCAIN. The Senator made a serious charge. I would like him to let me respond.

Mr. GRAHAM. That is not a charge. It is a factual statement.

Mr. MCCAIN. As the Senator knows, it is the preelectoral process and, to be fair, the Senator from Florida ought to say that. They did not comment on the election itself, they commented on the preelectoral process. Let us not distort the record here, I say to my friend from Florida.

Mr. GRAHAM. I am not distorting the record. They were commenting and made a conclusionary statement as to what they thought the status of the election was 24 hours before the election took place.

Mr. MCCAIN. I say to my friend from Florida, I have the document in my hand: ''Preelectoral Assessment of the June 25, 1995, Election.''

Mr. GRAHAM. You do not have the document in your hand.

Mr. MCCAIN. Preelectoral.

Mr. GRAHAM. Because the document was approximately 300 pages long, assessing an election that was 24 hours yet before it was to commence.

Mr. MCCAIN. I have the executive summary of the 300-page document, and it clearly states ''preelectoral.'' Preelectoral.

Mr. GRAHAM. It seems to me that it would have—and this is just my assessment, this is my editorial judgment—that it would have been more appropriate to have made such an assessment after the election had taken place as opposed to the morning prior to the election taking place. And it would have been more appropriate to have deferred to what has been the tradition of American politics, which is that partisan politics end at the Nation's boundaries.

The reality is——

Mr. MCCAIN. Will the Senator yield again? Is the Senator impugning the integrity of Congressman GOSS, who was the leader of that organization, saying that he took partisanship past the water's edge? If the Senator has evidence——

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. GRAHAM. I am not impugning anyone's integrity. I am suggesting that I believe that where the United States sends organizations to a foreign country to serve as objective election observers, that both in terms of their objectivity as election observers and in the spirit that partisan politics end at the Nation's boundaries, that it would be appropriate to defer observations on the election until after the election has taken place.

There is a suspicion raised that the purpose of issuing a report on an election 24 hours before it commences is to either influence the election in that country or to influence domestic politics within the United States. I do not think that the process of American political party involvement is advanced by issuing a report of 300 pages on the morning before the election. That is my judgment. I would not recommend that that be done. Others may have different assessments as to the propriety of doing so, and I would not state that my values on this are biblical or absolute, but they are my values.

Mr. President, after having gotten off the plane and responding to that series of reporters' questions, we then went to a series of sessions in which we were briefed as to what we might expect on election day and some of the preparation for this election.

Let me say, this election is one that originally was supposed to have taken place in February or March of this year, coincident with the completion of the term of all of the members of the lower house of the Haitian Parliament and approximately half of the members of the Haitian Senate. Because of a variety of difficulties in getting the election organized, it was postponed several times and finally took place last Sunday.

There will be a runoff election towards the end of July in those races where there was not a majority of the vote secured by any candidate.

I think it is important—and I say this not in an attempt to create an unduly positive sense of the atmosphere, environment, but the reality of conducting an election in Haiti.

First, you are dealing with a nation that has a very high proportion of its population that is illiterate. Because of that, the ballots that were printed were some of the more complex ballots that I have ever seen. They were multicolored, in order to depict the parties by being able to fully illustrate the party symbols. If it was a rooster, it was a red rooster, with all of the coloration of the rooster. They also had pictures of all of the candidates for the Senate. And in the first voting precinct that I visited in Cite Soleil, one of the large slum areas in Port-au-Prince, there were 29 candidates for the Senate from that particular district, two of whom would be elected. There were 29 pictures of each of those candidates for the Senate. These are logistically difficult steps to take in order to assure that people, many of whom cannot read and write, would be able to cast an informed ballot.

We are also dealing with a country which has had only two elections within a whole generation. People do not have much experience—those people who are running the election, those people who are participating in the election. Basic electoral infrastructure is largely missing. Highways are extremely substandard. Telephone and other means of communication are often nonexistent.

So those are some of the practical circumstances under which an election was held. Many of the shortcomings which were cited by the Senator from Arizona and the Senator from Georgia were the result of an attempt to increase the democracy of the elections. They may have been attempts which exceeded the capability of those responsible for administering the election. As an example, a decision was made that no precinct would have more than 400 registered voters. The theory was that they did not want to overburden the people who were at the precinct and had the responsibility for managing by having an excessive number of voters at each precinct. The number 400 was selected as a manageable number.

The problem with that was that they ended up with over 12,000 precincts in order to have everybody in a precinct with no precinct more than 400. Even more than that, because of the attempt to allow as many people a chance to register as possible, registration did not close until a few days before last Sunday's election. So you had many people who registered late, who were assigned to one of these precincts with no more than 400 people, where they did not have the time or the logistical capability to get the ballots printed out to those precincts that were created in order to accommodate the late registrants. Probably, in retrospect—and maybe this will be a lesson to be applied at the runoff election next month and at the Presidential election at the end of the year—they will close the registration books earlier to assure that there is an adequate amount of time to process all of the registered people and get the materials to those precincts.

That is an example of the kind of circumstance which started from a good motive, to get as many people registered and participate as possible, which ended causing the kinds of problems that have been cited.

I talked to IRI—International Republican Institute—people who were actually out in the field in the precincts and small towns. I talked to OAS representatives in Port-au-Prince, and to others who were observing the election. I asked, ''Is there any evidence that these problems were intended to benefit a party or a set of candidates?'' The answer was, from all sources, ''no.'' The problems, the shortfalls, were as a result of incompetence, maybe an overreaching in terms of the desire to extend the election to all of the people, and to the kind of basic circumstances that are the atmosphere, the environment for any election in a country like Haiti. But there was no evidence that those were intended to serve partisan political advantage.

As some have said, we are going to have an early opportunity to see whether some of the lessons learned last Sunday will be applied, because there are going to be a second round of elections in just a matter of 4 weeks. It will be the opportunity for those responsible for the electoral process to

incorporate some of those lessons that have been learned, in seeing that the next round of elections are more orderly.

Let me just recite some of the vignettes that stick in my mind of this election. In 1987, there were elections scheduled in Haiti, and as people lined up at 6 o'clock in the morning to vote, the Tontons Macoutes came by with machine guns and slaughtered people in the voting lines. You would think that kind of circumstance that occurred less than a decade ago would create a sense of anxiety and apprehension for people to go out and vote on a Sunday morning in 1995. That was not the case. People were, in fact, joyful in their attitudes. They were enthusiastic about the opportunity to vote. At 6 o'clock in the morning in Cite Soleil—the same place people were being shot down 8 years ago—40 people were standing in line waiting to be able to be the first to vote at that particular precinct. It was an exciting exhilarating experience to see people who wanted so much to participate in democracy.

I was particularly impressed with the number of young people. I just read an article about the low participation in American elections by our youngest voters. In Haiti, the youngest voters seem to be the most participating. I made a point, through a translator, of asking a number of these young people why they were doing this. Why was this 18-year-old out on a Sunday morning standing in line to vote? The answer was, ''This is my country, this is my future. It is important to me and my country that democracy work.''

That is exactly the kind of spirit that will drive this country into a better future, the kind of spirit that will begin to eradicate those circumstances that have made holding an election in June 1995 so difficult.

So, Mr. President, as I said, I will be submitting a fuller report at a later time, but I wanted to put in context what is happening in this country. I do not intend to be naive or Pollyannaish about the difficulties, including the difficulties of this election. But I believe that we, as Americans, can take pride in what we have accomplished, taking a country which a year ago was under one of the most brutal dictatorships in modern history in the Western Hemisphere, where bodies where showing up every morning butchered as a result of the previous night's brutality by agents of a military dictatorship; and now we have people standing upright, prideful of their country, optimistic of their personal future, desirous of being a part of the future of their nation and seeing democracy as the means by which that future would be achieved.

I think we should take some pride in that and that we will be able to look back, I hope, at this experience last Sunday as an important step in what will be a long path toward the emergence of Haiti as a fully committed, operative democracy with an economy that provides opportunity and a future for its people and a government which respects the rights and dignity of each individual citizen of Haiti.

(Ms. SNOWE assumed the chair.)

Mr. DODD. If my colleague will yield. Madam President, I want to commend our colleague from Florida, who took the time, once again, as he has on numerous other occasions, to personally participate and observe routine, watching the elections in Haiti.

Senator GRAHAM of Florida has a consistent and longstanding interest in Haiti, and I think it is worth our while. We anticipate and await a more detailed report.

I was particularly interested in hearing your firsthand accounts of what actually occurred this past weekend, with all of the shortcomings that occurred.

I read with some interest the departure statement of the U.S. Presidential delegation who observed the Haitian elections and the number of places that the delegation—some 300 polling sites—observed complicated balloting procedures involving elections for more than 2,100 legislative, mayoral and local council offices, 25 political parties, and it goes on how complicated this process was.

The delegation notes here that:

Despite repeated misunderstandings over the actions of election officials at all levels, the delegation saw little evidence of any effort to favor a single political party or of an organized attempt to intentionally subvert the electoral machinery. At many points, the Provisional Electoral Council's actions and public statements raised questions about the credibility of the process. The most significant of the problems was the failure to explain the reasons candidates were rejected. Political parties raised these and other concerns relating to the transparency of the elections in their contacts within the delegation.

It goes on. I think it points out the success of this delegation.

Last, Mr. President, in the Miami Herald, Monday, June 26, edition, ''Haiti: Ballots, Not Bullets.'' I think it is a worthwhile headline to note, Ballots Not Bullets.

Historic vote is mostly free of violence. Democracy scored a fragile victory Sunday as Haitians trooped to the polls under a blazing sun and a cloud of confusion to vote on all but 10 of the country's 2,205 elected offices.

I ask unanimous consent to have the article printed in the RECORD.

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

HAITI: BALLOTS, NOT BULLETS

(By Don Bohning and Susan Benesch)

PORT-AU-PRINCE.—Democracy scored a fragile victory Sunday as Haitians trooped to the polls under a blazing sun and a cloud of confusion to vote on all but 10 of the country's 2,205 elected offices.

Perhaps most important, the election was virtually free of the violence that marred previous ones.

Sunday's was the first and most complicated of three crucial electoral tests in the wake of the U.S.-led military intervention in September that restored President Jean-Bertrand Aristide to office after three years of exile.

The next test comes July 23, with a runoff for Senate and Chamber of Deputies candidates who did not win a majority in Sunday's balloting. All 83 seats in the lower house and 18 in the 27-seat Senate were contested.

Both Sunday's vote and the July 23 runoff are curtain-raisers for year-end presidential elections.

''We're voting for democracy to advance,'' pronounced a smiling Aristide after voting near his residence on the outskirts of Port-au-Prince.

Dressed in blue jeans and a white polo shirt with green trim, the diminutive Aristide, buried in a phalanx of security officials and aides, walked the half-mile from his home to the polling station at the St. John Paul II church and school complex.

Aristide emerged 15 minutes later, showing a crowd of journalists and admirers his thumb coated in indelible ink, a sign he had voted.

A far greater problem than the few scattered and mostly minor incidents of violence across the country, were the almost universal complaints of snafus at the 10,000 polling stations.

Many polling places opened late, some by several hours. In others, ballots and other voting materials were missing. In some cases, so were poll workers. Transportation was a problem, with all but official and public vehicles banned from the streets. The ban also applied to all commercial airline flights.

For the most part, Haitians waited patiently outside polling stations as electoral officials scurried to correct the deficiencies.

With about 80 percent of Haitians illiterate, many voters struggled to decipher a multitude of party symbols on the ballots. Independent candidates were identified with a Haitian flag. Voters also got help from election officials in marking their ballots and depositing them correctly.

Electoral officials estimated that about 90 percent of eligible Haitians—3.5 million—had registered to vote. There were no immediate figures available of how many actually voted, but turnout appeared to be heavy, although not equal to that of the December 1990 election that swept Aristide to office.

Results for the local, district and the first round of parliamentary elections are not expected for at least a week, because the ballots have to be counted by hand.

FOREIGN ASSESSMENT

The tentative assessment was that Sunday's vote probably met at least the minimum standards for a credible election. A final verdict is expected today, when up to 1,000 foreign observers offer their assessment. And it's likely that even they might not agree.

''There were the kind of administrative problems we anticipated, but Haitians as a whole voted without intimidation or fraud in the electoral process,'' said a Clinton administration official participating in the 20-member U.S. presidential delegation witnessing the vote.

''I have been in many African countries for elections and they are doing very well here,'' was the midmorning assessment of Sen. Jacques Goillet, member of a French parliamentary observer delegation.

POSITIVE SIDE

While the credibility of the election may be debated, on the clearly positive side there were no reports of major election day violence.

The most serious incidents of election-related violence occurred overnight Friday in

the northern areas of Limbe, Le Bourgne and Dondon. Sunday's vote was called off in all three places, with the expectation it would be rescheduled in conjunction with the July 23 runoff.

In Limbe, somebody threw a firebomb into the electoral offices, destroying thousands of ballots. In neighboring Dondon, election officials decided to shut down to prevent problems. And in Le Bourgne, a mob attacked the electoral offices, stealing seven boxes of election materials. They were later recovered but in unusable condition.

There seems to be little doubt the election violence was held to a minimum by 6,000 foreign troops—including 2,400 Americans—remaining here as part of a United Nations force. Along with about 1,000 international police monitors, they were deployed nationwide.

Florida Sen. Bob Graham, observing the vote, said he was ''pleased by what I have seen so far.''

Almost to a voter, Haitians in line in Cite Soleil, a Port-au-Prince slum, said they were voting for the candidates of the ticket known as The Table, who are favored by Aristide.

Mr. DODD. I want to commend my colleague for his efforts and for sharing his observations here. This was not perfect by any standards. Given what we have seen over the years here, this does offer at least some significant hope—that the comments you heard from young people about what they wish for, why they were going through the process of voting, is something that we can get behind and nourish and try to encourage in the coming years.

I thank my colleague for his efforts.

Mr. McCAIN. Madam President, while my friend from Florida is on the floor, International Republican Institute has similar preelection reports from Nicaragua, China, El Salvador, Slovenia, just to name a few. The National Democratic Institute has issued preelection reports in the course of their monitoring of elections.

For the Senator from Florida to somehow believe that this is an unusual or inappropriate measure is simply, I think, incorrect, in light of the fact that it is a normal, standard procedure for electoral observation teams to make these reports.

I will be glad to provide for the RECORD all those that the National Democratic Institute also completed.

Because this report was very critical in no means, in my view, invalidates it. I would like to point out I know that the Senator from Florida knows that Congressman GOSS, of all people, is highly qualified. He is a former member of the CIA—I think the only member of the other body that is a member of the CIA.

I would say to my friend from Florida, at no time, in 4 years of observing 48 elections, has the International Republican Institute or the National Democratic Institute, been challenged on the basis of party bias. If they did, if there was any of that, they would have no credibility.

While we are looking at newspapers, here is a picture at a counting station in downtown Port-au-Prince. ''Monique Georges reacts to the state of ballot boxes deposited by angry election workers who said they had not been paid.''

The Washington Post reports:

Parties and election observers across the political spectrum—from the government of President Jean-Bertrand Aristide—today criticized as chaotic and disorderly elections Sunday that were considered a key step in establishing democracy in this impoverished nation.

To be fair I should go on:

But most said the disarray did not invalidate the voting, and even the Republican observer team said the irregularities were not enough to prompt a cutoff of U.S. aid.

Nor am I seeking a cutoff of U.S. aid.

''The process is very badly organized, and we, the government, are not proud of it,'' said Jean-Claude Bajeaux, the Minister of Culture, in a radio interview. ''Instead of improving on the 1990 elections, we have done worse.''

Now, this is the Minister of Culture in Haiti.

Madam President, we are wasting the time of the Senate in a way, because the facts are going to come out on this election. These are the first initial observations made by qualified observers, and I think more and more evidence is pouring in that this election did not meet the minimum standards in order to judge an election as fair and equitable and that the people are allowed to select their leadership.

I just want to emphasize, Madam President, that this election was observed by unbiased observers. I will provide for the RECORD the names of those individuals who made the observations.

There being no objection, the ordered printed in the RECORD, as follows:

OBSERVATION DELEGATION

CHAIRMAN OF THE DELEGATION:

U.S. Representative Porter J. Goss: Congressman Goss (R–FL) is serving his fourth term in the House. He has a particular interest in Latin American policies and served as an election observer to the 1990 electoral process in Nicaragua. Congressman Goss is a member of the Select Committee on Intelligence, the House Ethics Committee, and the House Rules Committee.

DELEGATION (IN ALPHABETICAL ORDER)

Cleveland Benedict: Mr. Benedict represented the Second District of West Virginia in the U.S. House of Representatives from 1980–1982, and he has served as the state Commissioner of Agriculture, as well as a Deputy Assistant Secretary of the U.S. Department of Agriculture. He is the President of Ben Buck Farms in Lewisburg, West Virginia.

Jeff Brown: Mr. Brown is Director of Grassroots Development with the Republican Party of Virginia. Prior to joining the state Party, he served in Governor Allen's Administration as Director of the Commission on Citizen Empowerment and was with Empower America.

Malik M. Chaka: Mr. Chaka is the Director of Information for Free Angola Information Service in Washington, D.C., and editor of Angola Update, an internationally distributed monthly newspaper. As a Tanzanian-based free lance journalists in the 1970's, Mr. Chaka has observed the advance of democratic processes in southern Africa.

George Dalley: Mr. Dalley is a partner with the Washington, D.C. law firm of Holland and Knight. He is a former Counsel and Staff Director to Congressman Charles Rangel (D–NY) and was a Deputy Assistant Secretary of State in the Carter Administration.

Mary Dunea: Ms. Dunea is Assistant to Governor Jim Edgar of Illinois. She directs cultural and international initiatives for Governor Edgar and serves as his liaison with groups involved in developing international trade.

George A. Fauriol, Ph.D.: Dr. Fauriol is Director and Senior Fellow, American Programs with the Center for Strategic & International Studies in Washington, D.C. At CSIS, he directs the program in engaging policy makers in Canada, the United States, Mexico, Latin American and the Caribbean in pivotal issues of common concern, such as trade, democratization, and security matters.

Ronald Fuller: The owner of an advertising and public relations firm in Little Rock, Arkansas, Mr. Fuller serves as a consultant on governmental and media relations to businesses, trade associations, and political candidates. He served as a communications and political party trainer on an IRI mission to Latvia and Lithuania.

Rich Garon: Mr. Garon is Chief of Staff of the U.S. House of Representatives Committee on International Relations. He is a longtime assistant to Committee Chairman Ben Gilman (R–NY) and has extensive experience in developing foreign policy legislation.

Kevin T. Lamb: Mr. Lamb is a partner and chair of the creditors' rights, business restructuring, and bankruptcy practice group at Testa, Hurwitz & Thibeault in Boston, Massachusetts. Mr. Lamb represents major lending institutions and venture capital funds in corporate reorganization and workout arrangements.

Kirsten Madison: Ms. Madison is Senior Legislative Assistant to U.S. Representative Porter Goss (R-FL). She manages the Congressman's initiatives regarding U.S. policy toward Haiti, as well as has oversight responsibilities involving other foreign policy legislation.

Roger Noriega: Mr. Noriega is a professional staff member on the U.S. House of Representatives International Relations Committee, responsible for issues involving U.S. interests in Latin America, the Caribbean, and Canada. He has actively monitored the situation in Haiti since the 1991 coup and has visited Haiti twice in the last six months and met with President Aristide. Before joining the House committee, he served at the State Department, the Agency for International Development, and the Organization of American States.

Martin Poblete: Professor Poblete is the permanent adviser on Latin American Affairs at the Northeast Hispanic Catholic Center in New York. He is also Chairman of Columbia University Seminar on Latin America and a Professor of History at Rutgers University.

Steve Rademaker: Mr. Rademaker is Chief Counsel of the Committee on International Relations of the U.S. House of Representatives. Prior to joining the committee staff in 1993, he had served as General Counsel for the Peace Corps and Associate Counsel to the President and Deputy Legal Adviser to the National Security Council during the Bush Administration.

Therese M. Shaheen: Ms. Shaheen, who has wide-ranging experience working in Asia, the Middle East, and Europe, is President, Chief Operating Officer and Co-founder of U.S. Asia Commercial Development Corporation in Washington, D.C. U.S. Asia develops and manages commercial projects for American firms in Asia.

Tim Stadthaus: Mr. Stadthaus is Legislative Assistant and Assistant Press Secretary

to U.S. Representative William F. Goodling (R-PA). He monitors foreign relations matters and oversees related legislation initiated by Congressman Goodling, who is a member of the House International Relations Committee.

John Tierney Ph.D.: Dr. Tierney is a member of the faculty at Catholic University in Washington, D.C. and also teaches at the University of Virginia and Johns Hopkins. He has served as Director of the U.S. House of Representatives Caucus on National Defense, as a consult to the Heritage Foundation, and as a Special Assistant with the U.S. Arms Control and Disarmament Agency during the Reagan Administration.

Jacqueline Tillman: Ms. Tillman is Senior Staffer for National Security Affairs and Director of Issue Advocacy for Empower America in Washington, D.C. Before joining Empower America, she was Executive Vice President of the Cuban American National Foundation, Director of Latin America policy with the National Security Council during the Reagan Administration and an assistant to U.S. Ambassador to the United Nations Jeane Kirkpatrick.

Mr. McCAIN. People can honestly disagree on what they observed. But to allege that somehow agreement or disagreement with administration policy concerning Haiti would somehow affect one's view of this election, I think, does great disservice to the people what took their time and their effort.

The Senator from Florida certainly knows how unpleasant the conditions are down there. They may disagree with the Senator from Florida as to the veracity of the elections, but I cannot, without any evidence, accept any allegation that the observation of these elections and the conclusions that were reached by these observers were in any way colored by their view of United States policy toward Haiti.

I am sure that my friend from Florida would not intimate such a thing. I want to make the record clear and I want to thank the Senator from Florida for his many-year-long involvement in the issue of Haiti, for his strong advocacy for freedom and democracy in Haiti, and his continued knowledgeable and informative manner as far as the region is concerned. I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Madam President, I know the distinguished Senator from Florida, Senator GRAHAM, is about to offer an amendment.

It would be my intent when the ranking member returns, Senator SARBANES, to offer a unanimous-consent agreement, the nature of which is we would have 1 hour equally divided on Senator GRAHAM's amendment, and we then would proceed to Senator BOXER's amendment.

I see Senator SARBANES is here. I yield the floor to Senator GRAHAM so he can start and offer his amendment, and at some point in time he might break to propound the unanimous-consent agreement.

Mr. GRAHAM. Could I ask the Senator from New York a question? Your unanimous consent—are you going to provide some time in the morning prior to the vote for a brief statement for those who may not be able——

Mr. D'AMATO. It would be our intent to vote this evening, probably by about 8 o'clock.

Mr. GRAHAM. I am sorry. From earlier comments, I understood it was suggested otherwise.

Mr. D'AMATO. We had attempted to get an agreement to stack the votes, but there was an objection to stacking more than a certain number. It is my intent to dispose of the Senator's amendment prior to disposing of the Boxer amendment.

May I ask at this point unanimous consent that when the Senate considers the Graham amendment, there be 1 hour for debate, to be equally divided in the usual form, and no second-degree amendments be in order.

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

Mr. D'AMATO. Madam President, I further ask that following the conclusion or yielding back of the time on the Graham amendment, that the amendment be laid aside and Senator BOXER be recognized to offer an amendment regarding insider trading, on which there would be 90 minutes for debate to be equally divided in the usual form, and no second-degree amendments to be in order.

Mr. SARBANES. Madam President, I will have to object to that request.

The PRESIDING OFFICER. Does the Senator object? Objection is heard.

Mr. D'AMATO. Well, then, we proceed to the Graham amendment.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 1479

(Purpose: To provide for an early evaluation procedure in securities class actions)

Mr. GRAHAM. Madam President, before I offer my amendment, I would like to make a few comments relative to this legislation. When I approach a piece of legislation, I like to do so by asking some basic questions, the first of which is: What is the problem? What is it that we do not like about the status quo that has caused us to propose some alteration of the status quo?

In this case, that diagnosis has been very consistent, clear, and trumpeting, and it is that we have too many frivolous lawsuits that relate to securities fraud.

I cite as my evidence of that an ad which appeared on page A7 of today's Washington Post, under the headlines, ''Who Profits? 'A Coterie of Lawyers'.''

This ad was in support of S. 240, and it was placed by ''America Needs More Investors, Not More Lawsuits,'' under the sponsorship of American Business Conference and American Electronics Association.

What did the proponents of this legislation say was the reason that we have S. 240 before us this evening? Quoting from the ad:

Specialized securities lawyers win big bucks by filing meritless lawsuits against many of America's most promising companies. The securities lawyers profit handsomely, but Americans with money in stocks, pensions and mutual funds are the losers in the deal.

This is what editorial writers across the Nation are saying about securities lawsuit abuse:

And then the ad quotes a number of newspapers which have taken a position in support of this legislation. It happens that the first of those newspapers is from my State, the Tampa Tribune, June 25, 1995:

The situation now is that all investors are paying the costs of settling lawsuits that should never have been filed. . . . [T]he time has come to pull the legal leeches off the backs of corporations that have done no wrong.

That is from the Tampa Tribune.

The next is from the Rocky Mountain News:

. . . the nogoodniks suffer at the same rate as the straight-shooters. Meanwhile, who profits? A coterie of lawyers with stock charts and fill-in-the-blanks fraud complaints.

That is the January 18, 1995, Rocky Mountain News.

The Chicago Tribune of March 29 of this year:

. . . groundless lawsuits by shareholders alleging fraud . . . are often merely a way of extorting settlements from corporations whose stock prices have dropped.

Madam President, I ask unanimous consent the totality of the ad from today's Washington Post be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. GRAHAM. Madam President, that is the stated problem: Frivolous, meritless lawsuits. But what do we have? Is that the prescription that has come out in S. 240? Is it legislation which is targeted at eradicating the tumor of meritless lawsuits? Unfortunately not.

If I may quote from another newspaper, the Miami Herald of yesterday, which stated, under the headline, ''License to steal'':

Practically everyone in Washington, to some degree or other, has blamed ''frivolous or abusive lawsuits'' for sapping America's economic vigor. And judging from anecdotes, the complaint has some merit. But more often than not, the proposed cures turn out to be far more debilitating than the disease. A perfect illustration is a bill moving through Congress that supposedly protects the securities industry from ''frivolous'' suits by investors.

The bill may come to a Senate vote today. It would bar, among many other things, charges of fraud against those who make false projections of a company's likely performance. By granting ''safe harbor'' to all statements of a ''forward-looking'' nature, it essentially tells companies and brokers: Go ahead, lie about the future. As long as you're not misrepresenting the past, you can fleece investors in any way that your imagination allows.

Madam President, I ask unanimous consent the editorial from the June 26,

1995, Miami Herald also be printed in the RECORD immediately after my remarks.

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

(See exhibit 2.)

Mr. GRAHAM. What I think has happened, Madam President, is we had a goal to eliminate frivolous lawsuits which could have been hit easily with a .22 rifle. We have now used a howitzer, which has cratered in a large area of the legitimate rights of American investors when they are subjected to abusive and to fraudulent activities. We have created a situation in which it is going to be much more difficult to maintain any kind of suit, serious or frivolous, where fraud is alleged. We have shortened the statute of limitations. We have provided protection for those who assisted in the fraudulent behavior of the principals. We have created a circumstance of a conflict of interest by designating the largest investor in the company as the principal plaintiff in these types of cases. These are just some of the things that have happened, all under the pretext that we are going to be dealing with frivolous lawsuits.

I suggest that there are serious consequences of this type of legislation, and what it is likely to lead to for the American free enterprise system. It was only 100 years ago that we had a very predatory form of free enterprise in the United States. We had large companies using their power in an abusive way to squelch small competitors, to gain monopolistic economic control. We had extreme swings in our business cycle, in large part attributed to that predatory behavior. We had the growth of populism and other forms of political dissent, as farmers and workers felt as if they were being the targets of this predatory behavior.

The free enterprise system in America was in a very precarious condition. Free enterprise has flourished in America when people felt that the rules of free enterprise were fair and that everyone was going to be treated equally, that people could invest in firms—not without risk; that is the nature of the marketplace. But at least they were going to be treated with some discretion and some level of an equal playing field.

I am afraid that legislation such as S. 240—which is going to be seen as, and I believe will in fact result in, a tilting of the economic playing field toward those who would be inclined to wish to abuse it and to use it for their own fraudulent purposes—will undermine that essential confidence of the American people in their economic institutions.

So, with that, Madam President, I have an amendment that I would like to propose. It is an amendment which I will send to the desk which actually goes directly at the issue of frivolous lawsuits.

Madam President, I send the 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 Florida [Mr. GRAHAM] proposes an amendment numbered 1479.

Mr. GRAHAM. 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 104, after line 22, insert the following:

(c) EARLY EVALUATION PROCEDURES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

''(1) IN GENERAL.—In a private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

''(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

''(A) defendants shall not be required to answer or otherwise respond to any complaint;

''(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

''(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

''(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

''(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

''(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

''(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

''(4) EVALUATION BY THE MEDIATOR.—

''(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

''(i) clearly frivolous, such that it can only be further maintained in bad faith;

''(ii) clearly meritorious, such that it can only be further defended in bad faith; or

''(iii) described by neither clause (i) nor clause (ii).

''(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

''(5) MANDATORY SANCTIONS.—

''(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated by the mediator under paragraph (4)(A)(i), upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of rule 11(b) of the Federal Rules of Civil Procedure.

''(B) MANDATORY SANCTIONS.—If the court makes a finding under subparagraph (A) that a party or attorney violated any requirement of rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with rule 11 of the Federal Rules of Civil Procedure.

''(C) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), for purposes of subparagraph (B), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(I) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(II) the violation of rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(iii) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under clause (ii), the court shall award the sanctions that the court deems appropriate pursuant to rule 11 of the Federal Rules of Civil Procedure.

''(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

''(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.''.

(2) SECURITIES EXCHANGE ACT OF 1934—Section 21 of the Securities Act of 1933 (15 U.S.C. 78a) is amended by adding at the end the following new subsection:

''(l) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

''(1) IN GENERAL.—In any private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

''(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

''(A) defendants shall not be required to answer or otherwise respond to any complaint;

''(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

''(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

''(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

''(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

''(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

''(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

''(4) EVALUATION BY THE MEDIATOR.—

''(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

''(i) clearly frivolous, such that it can only be further maintained in bad faith;

''(ii) clearly meritorious, such that it can only be further defended in bad faith; or

''(iii) described by neither clause (i) nor clause (ii).

''(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

''(5) MANDATORY SANCTIONS.—

''(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(i) in which final judgment is entered against the plaintiff, the plaintiff or plaintiff's counsel shall be liable to the defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly frivolous when filed and was maintained in bad faith.

''(B) CLEARLY MERITORIOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(ii) in which final judgment is entered against the defendant, the defendant or defendant's counsel shall be liable to the plaintiff for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly meritorious and was defended in bad faith.

''(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

''(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.''.

On page 105, line 5, strike ''(j)'' and insert ''(i)''.

On page 106, line 25, strike ''(l)'' and insert ''(k)''.

On page 108, line 24, strike ''(k)'' and insert ''(j)''.

On page 109, line 8, strike ''(l)'' and insert ''(k)''.

On page 126, line 19, strike ''(m)'' and insert ''(l)''.

On page 127, line 6, strike ''(m)'' and insert ''(l)''.

Mr. GRAHAM. Madam President, the time I just used should be counted against the time which I was afforded to debate this matter.

Madam President, the amendment that I send to the desk I do not purport to be original.

It is in fact a version of what appeared in S. 240 as it was originally filed. It also draws heavily on language that was contained in the Bryan-Shelby bill, S. 667. What it attempts to do is to provide an early evaluation procedure for litigation filed either under the 1933 Securities Act, or the 1934 Securities Act. It would provide that on the motion of the parties, or by the motion of the court before whom the case has been filed, that there can be an independent mediator designated. That mediator would have the responsibility of reviewing all of the facts of the litigation. After that review, the mediator would submit a report. That report would contain a finding that the litigation was either one of three categories. It was either a clearly frivolous action; second, a clearly meritorious action; or, third, was neither.

If the parties in the face of that determination proceed with litigation, at the conclusion of the litigation, that report is submitted to the judge. And in the case under the 1934 act, for instance, where the report has found that this was a clearly frivolous action, and if the final judgment is entered against the plaintiff—that is, the plaintiff proceeded forward to full litigation in spite of the fact that there had been an early evaluation that this was a clearly frivolous action, and the plaintiff had in fact had the final judgment entered against the plaintiff—then the plaintiff or the plaintiff's counsel shall be liable to defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorney's fees and other expenses, if the court agrees based on the entire record that the action was clearly frivolous when filed and was maintained in bad faith.

Madam President, if, on the other hand, this report of the early evaluation found that this was a clearly meritorious action, and the defendant carried it through to final judgment, and final judgment was entered against the defendant, then the defendant, or the defendant's counsel, shall be liable to the plaintiff for the sanctions awarded by the court which may include reasonable attorney's fees and other expenses; if the court agrees based on the entire record that the action was clearly meritorious and was defended in bad faith.

Madam President, that is what we are trying to do here. We are trying to create some effective sanctions against people bringing frivolous lawsuits. We are attempting to set up a procedure that will facilitate the delineation and early determination of the frivolous from the nonfrivolous and meritorious cases. It is hoped with that early determination the parties against whom this report is entered will not pursue it further, or, in the case of the defendant, that they will settle the case without the necessity of prolonged and expensive litigation.

Is not that what we are here for? We have identified the problem as being frivolous lawsuits. Why do we not solve the problem of frivolous lawsuits and not allow that problem to become a Trojan horse into which we load a lot of other issues, of shortening statute of limitations, creating conflicts of interest by designating only the most affluent investor as the lead plaintiff, giving really quite unwarranted protection to persons who make projections about the future with knowledge that those projections are false, giving increased sanction and protection to aiders and abettors who have acted in a reckless manner that has resulted in investors of being defrauded? None of those things are relevant to the issue of frivolous lawsuits.

So, Madam President, I urge my colleagues to seriously consider this amendment which is submitted in an attempt to refocus our remedies on what has been general agreement to be the problem, which is frivolous lawsuits that do not advance the cause of justice that have the economic adverse effects that are recited by the proponents of S. 240.

So, Madam President, I will reserve the remainder of my time. But I urge a

favorable consideration of this amendment by my colleagues.

Thank you.

EXHIBIT 1

Who Profits? ''A Coterie of Lawyers''—Rocky Mountain News.

Specialized securities lawyers win big bucks by filing meritless lawsuits against many of America's most promising companies. The securities lawyers profit handsomely, but Americans with money in stocks, pensions and mutual funds are the losers in the deal.

This is what editorial writers across the nation are saying about securities lawsuit abuse:

''The situation now is that all investors are paying the costs of settling lawsuits that should never have been filed. . . . [T]he time has come to pull the legal leeches off the backs of corporations that have done no wrong.''—Tampa Tribune, June 25, 1995.

''. . . the nogoodniks suffer at the same rate as the straight-shooters. Meanwhile, who profits? A coterie of lawyers with stock charts and fill-in-the blanks fraud complaints.''—Rocky Mountain News, January 18, 1995.

''. . . groundless lawsuits by shareholders alleging fraud . . . are often merely a way of extorting settlements from corporations whose stock prices have dropped.''—Chicago Tribune, March 29, 1995.

''Enactment of either [the House or Senate] bill would remove a serious blot on the legal system, which is supposed to settle real disputes, not provide a protection racket for a few lawyers.''—Boston Sunday Herald, June 18, 1995.

''These frivolous lawsuits discredit the legal profession, distract companies from their main tasks, discourage or retard the development of new, cutting edge businesses and ultimately harm the interests of shareholders.''—The Hartford Courant, April 11, 1994.

''The contemporary class action has created a class of entrepreneurial lawyers. The first beagle to the court house with a tame plaintiff in tow often gets to represent the class, and collect a 33%–50% fee. . . Then the members of the class receive small compensation . . .''—Barron's, June 5, 1995.

''The chief target of the reform legislation is a small group of lawyers who have made a venal industry of filing groundless securities-fraud lawsuits. . .

''. . . the securities bill [S. 240] would go a long way toward curbing egregious abuse of the legal system. Such abuse is in effect a hidden tax that costs American jobs and discourages the entrepreneurial risk-taking that stimulates economic growth.''—The News Tribune (Tacoma, Washington), June 10, 1995.

Legislation introduced in the Senate (S. 240) by Republican Pete Domenici and Democrat Chris Dodd will give control back to shareholders and really protect investors.

EXHIBIT 2

[From the Miami Herald]

LICENSE TO STEAL

Practically everyone in Washington, to some degree or other, has blamed ''frivolous or abusive lawsuits'' for sapping America's economic vigor. And judging from anecdotes, the complaint has some merit. But more often than not, the proposed cures turn out to be far more debilitating than the disease. A perfect illustration is a bill moving through Congress that supposedly protects the securities industry from ''frivolous'' suits by investors.

The bill may come to a Senate vote today. It would bar, among many other things, charges of fraud against those who make false projections of a company's likely performance. By granting ''safe harbor'' to all statements of a ''forward-looking'' nature, it essentially tells companies and brokers: Go ahead, lie about the future. As long as you're not misrepresenting the past, you can fleece investors in any way that your imagination allows.

Technically, investors still could sue in cases of egregious deceit. But they'd have only one year to do so, and they'd have to show evidence, up front, that the fraud was deliberate. Not even the Securities and Exchange Commission can prove willfulness that quickly.

The problem is that companies make plenty of rosy projections in good faith. Sometimes, when the promises don't pan out, frustrated (or merely opportunistic) investors try to sue. How common is that? Experts disagree.

But the Senate bill offers a curious solution: To prevent some unknown number of unfair securities-fraud lawsuits, let's *outlaw huge categories of them.* The genuine, fair ones will just have to go unpunished.

So sorry you're swindled, old chap. Better luck next time.

This is licensed larceny, and it's unconscionable. Yet Florida Sen. Connie Mack, a member of the Banking Committee, has cosponsored and voted for the bill so far. In the time since the committee review, Mr. Mack may have had a chance to ponder its ill consequences. He'd do well to vote No today and help slay this beast for good.

Recent history is replete with colorful illustrations of deliberate, systematic fraud on small investors. Their savings were replenished, if at all, only by the courts or by the threat of litigation. It's a strange moment indeed, with the sores of the savings-and-loan fiasco still raw, for Congress essentially to declare open season for deceiving investors.

It prompts an ironic question: How does it help American investment to scare off potential investors with a promise that the law *won't aid them* if they're bilked? The point of solving the ''frivolous lawsuit'' problem was supposed to be to encourage more investment. By that standard, the Senate's ''Private Securities Litigation Reform Act'' amounts to self-strangulation.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, the distinguished Senator from Florida is correct that the amendment he is now submitting has been the subject of intense scrutiny. Indeed, it was considered in the initial draft of this legislation. One of the reasons this proposal was rejected and dropped from the initial legislation was because it requires—and will wind up costing—too much. Also, this provision would set up an entirely new bureaucracy, by setting up an early evaluation procedure for class action lawsuits.

Although early evaluation may be a laudable concept, this amendment will force parties into an early evaluation procedure. The procedure requires parties to voluntarily turn over documents or be subject to sanctions. At the end of the evaluation, if the parties do not settle or dismiss the action, they can be sanctioned if any further action is considered frivolous. I believe that parties should attempt to mediate their claims, if possible, but they should not be forced to mediate claims if they really want to seek a day in court.

This is the balance that was reached. This Senator has never attempted to keep people from having their day in court. This Senator stated that belief clearly for the record during debate on this provision and the loser pays provision when they were strongly urged by those in the private sector who sought relief. But I would not, and could not, support the losers-pays concept because, as laudable as that might sound, it would indeed infringe upon the basic rights of men to seek relief. It would just be too high a bar for those who have truly been aggrieved.

This amendment requires parties to submit to an early dispute resolution. If one of the parties, however, does not want this early procedure, then we have a very real problem. The early evaluation procedure would take place if each side agrees to it, or if either side wants it and the court acts upon such motion within 60 days of the filing the class action. I believe that this amendment goes too far in its attempt to resolve disputes. It actually sets up a standard where people would lose the ability to fight for their rights, whether they are the plaintiff or the defendant. I notice that Senator DODD is here and know that he has spent a great deal of time on this issue.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, let me first of all thank my colleague from Florida for giving me a call earlier today about what he was going to offer with this amendment.

Let me first of all, say that the spirit of this amendment, which I admit I like, in a way, has been offered as a part of the original bill alternative dispute resolution procedure to try to give litigants in securities matters an option of going a route rather than going into court to resolve their problems. We tried that on a number of bills. I go back 7 or 8 years ago in my efforts with then Senator Danforth of Missouri. We proposed some tort reform legislation that set up an alternative dispute resolution mechanism.

So there is a spirit to this amendment and I am attracted to that spirit. I say that at the outset. But let me also say that despite my attraction with the spirit of what is being offered, I see this as being a proposal which is going to complicate matters rather than help resolve them.

Under this amendment, as I understand it, any party that seeks a court order or an early evaluation—and if the court grants that order—an early evaluation might sound, and does sound very attractive, to Federal judges who are looking for a way to clear off their dockets, then you have the fishing process which can begin which I think runs counter to what we are trying to

achieve even under an alternative dispute resolution, a modest one as we have in the bill.

Even if the complaint, Madam President, is clearly a matter—let us for the sake of argument assume that is the case—which would be dismissed and the case ended, when a motion to dismiss is decided, the plaintiff would get complete discovery prior to any ruling on the motion to dismiss. Now, that raises the issue of discovery and discovery costs. Of course, these are some of the principal forces and factors that cause innocent defendants to settle their cases.

In testimony before our committee, in hearings on this matter—and I am quoting from page 14 of our committee report:

. . .discovery costs account for roughly 80 percent of the total litigation costs in securities fraud cases.

In many cases the discovery can work in determining the guilt of a party. So I am not arguing there should not be discovery, but here you are getting it completely even before you get to the process, even before the motion to dismiss.

One witness described the broad discovery requests requiring a company to produce over 1,500 boxes of documents at an expense of $1.4 million, referring to page 16 of our report.

What does all this mean, Madam President? Lawyers who can file meritless cases—and we have seen examples of that, cases that would be dismissed by the Court—will be able to circumvent the very important protection against unjustified claims that is provided by the motion to dismiss process.

Indeed, this amendment would expand attorneys' ability to coerce settlements, in my view to include a new category of cases—those that are by definition meritless and that would be dismissed by the court. Given all the evidence that these lawyers extract in settlements in unjustified cases, we cannot—in my view, should not—enact a provision that would expand their power to do so in meritless cases, and that would be the net effect were the amendment to be adopted.

So again, for one who is attracted very strongly to the alternative dispute resolution process, what you are getting here is something very different than that which raises the costs which provokes these kinds of settlements in meritless cases, and therefore, with all due respect to my good friend from Florida, I would urge the rejection of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Madam President, we have nothing further to say on this side, unless the Senator from Florida wishes to continue. Otherwise, we will put in a quorum call.

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

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

Mr. GRAHAM. I ask unanimous consent that the quorum call time be taken equally off both sides.

The PRESIDING OFFICER. Without objection, the time will be applied equally.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I suggest the absence of a quorum.

Mr. SARBANES. Will the Senator withhold on that?

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. How much time remains?

The PRESIDING OFFICER. The Senator from Florida has 14½ minutes; the Senator from New York has 22 minutes and 32 seconds.

Mr. SARBANES. I thank the Chair.

Will the Senator from Florida give me just 2 minutes?

Mr. GRAHAM. The Senator from Florida yields such time as the Senator from Maryland would choose to use.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I wish to say to the Senator from Florida that I think he has come up with a very imaginative proposal here. His proposal in fact really gets at the question of the frivolous suits. We have been hearing a lot of discussion here over the last couple of days about trying to get at frivolous suits.

When you look at the provisions that are being used in order to get at frivolous suits, you discover that they really encompass a great number of other things as well. As my colleague from Nevada, Senator BRYAN, said at one point during the debate, this is a Trojan horse riding beneath the pennant of the frivolous suit with all sorts of other menacing, dangerous things hidden in the Trojan horse.

I am interested that the proponents of this legislation are not responsive to the amendment of the Senator, which, of all the proposals I have seen, is the one that focuses on the frivolous suit and on the frivolous suit only, as I understand it.

I ask the Senator, is it, in fact, correct that the focus of the Senator's amendment is the frivolous suit and it does not go beyond that?

We have other things that are being done. People are being denied access to the courthouse. Aiders and abettors are being protected from any liability whatsoever. Joint and several liability is being done away with, all in the name of trying to get at the frivolous suit. It may have some implications for the frivolous suit, but the unfortunate thing is it also has very significant implications for the meritorious suit.

As I understand the Senator's amendment, it is not subject to that criticism. This is the frivolous suit only.

Mr. GRAHAM. The purpose, I say to the Senator, is the difference between using a laser beam to precisely remove a tumor as opposed to amputation to remove the entire limb. I fear that what we have done in this legislation, Madam President, is to amputate the ability of most investors to bring a serious case of securities fraud. Whether it is frivolous, competitive, or highly meritorious, we have eliminated for many individuals the ability to have access to court, to have their claims adjudicated in all types of cases.

The purpose of this amendment was to be that laser that would identify those cases which in fact are, to use the amendment's term, clearly frivolous actions, and to provide some very stiff sanctions against persons who are found to have filed a clearly frivolous action but persist. If they lose that clearly frivolous action, which assumedly they are likely to do, then they face the prospect of paying not only their attorneys and their costs; they have to pay the defendant's attorneys and costs.

Conversely, if a clearly meritorious action is filed and the defendant persists in litigation to defend against that clearly meritorious action and the defendant loses, then the defendant is placed in the position of being subject to the sanction of having to pay not only his own costs but also the costs of the plaintiff.

This is not an attempt to apply a broadly based English standard of loser pays. This is an attempt to achieve the very purpose of this legislation, which is to discourage frivolous lawsuits by making the economic consequences of filing a frivolous lawsuit so onerous.

I thank my colleague for having asked that clarifying question.

Mr. SARBANES. As I understand it, the amendment of the Senator is balanced. There has been a tremendous amount of focus about the frivolous lawsuit filed by plaintiffs, but there also can be a problem with defendants resisting what are otherwise meritorious claims. Is that not correct? How does the Senator address that?

Mr. GRAHAM. Yes, Madam President, there could be a frivolous defense as well as there can be a frivolous plaintiff's filing. And this amendment would provide balance. Exactly the same sanctions would be applied under the 1934 Securities Act to a frivolous action as would be applied to a clearly meritorious action. That is, if you are the defendant, and the evaluation is this is a clearly meritorious case, but you persist, litigate, and you lose, then you are subject to the sanction of having to pay the plaintiff's attorneys fees and court costs. So this is an attempt to create some strong economic incentives for people to settle and for people not to file a frivolous action, nor to persist in frivolous defenses.

Mr. SARBANES. I have to say to the Senator, having listened to this explanation, I have difficulty understanding why the proponents of this legislation have asserted that the purpose in trying to move the legislation is to avoid expensive litigation or preparation for litigation.

Let me ask the Senator one final question. Does your process come in ahead of an extensive discovery period, or how does it work? At what point does your process come into play?

Mr. GRAHAM. The expectation would be that this would be at the discretion of the parties or of the judge that this would be the first action initiated after the litigation has been filed.

Mr. SARBANES. I see. So it would involve potentially a lot of the costs that are associated with preparing for trial, let alone the costs connected with the trial?

Mr. GRAHAM. That is correct.

Mr. SARBANES. It is difficult for me to understand the people who are opposing this amendment on the assertion they are trying to get at the cost of frivolous suits, or as I understand it, opposing the Senator's amendment. I just have difficulty squaring that.

Mr. GRAHAM. It seems to me, Madam President, that this amendment is exactly consistent with what proponents of this legislation say the evil is that we are attempting to correct, and it would avoid the necessity of having to overreach in terms of a remedy to apply an excessive amount of medication of severely restricting access to courts by people with legitimate claims, which I fear this legislation will do. And even if a legitimate claim matures into a judgment, to then protect those persons against whom the judgment might be rendered by things like the aiders and abettors provision and the joint and several liability, particularly as it relates to small investors, et cetera. All of those types of things would be less necessary if we went straight at the problem cited, the frivolous lawsuit, and tried to eliminate as many of those lawsuits by effective sanctions as I believe this will be at the initial stages.

Mr. SARBANES. Then you would not be running the risk, the very substantial risk, as I perceive this legislation, that meritorious claims would be adversely affected by these other sweeping provisions that are in this legislation. Your provision by definition is so directed that the meritorious claim would pass through the screening process, as I understand it?

Mr. GRAHAM. The early evaluation would make a determination that the case was either clearly frivolous, clearly meritorious, or neither. And if you fell into that third category, then that ought to be the kind of open, civil due process that we associate with the American judicial system.

Mr. SARBANES. Well, I thank the Senator very much for his explanation and for his very constructive and I think imaginative proposal.

Mr. GRAHAM. Madam President, unless there is someone else who would like to speak on this amendment, I am prepared to make a short concluding statement and then if the opponents are prepared to yield back their time, I would be so prepared and we could proceed.

Madam President, we have before us consensus on one issue, and that is that there is a problem relative to frivolous lawsuits in the securities area. The quandary is how to eradicate or mitigate that problem without doing excessive damage to other rights of investors, without eliminating what has been one of the principal deterrents to fraudulent behavior within our free enterprise system, what has been one of the foundations of public confidence that they could invest in our capitalistic system and be treated fairly.

I believe this amendment goes directly at the problem that we have identified. It states that early on, after a case has been filed, there will be an independent evaluation by a judicially selected mediator as to whether this is a frivolous, meritorious, or other action. The case would then be in the hands of the litigants as to whether, in the face of that determination, they wish to proceed.

But if they proceeded with a frivolous case, and if they lost that frivolous case, then they would be subject to very serious sanctions of having to pay not only their bills, but also the attorney fees and costs of their opponent. I think that would be a significant factor in terms of deterring the prosecution of frivolous suits.

Frivolous defenses are sanctioned in exactly the same manner. So if a case is determined to be clearly meritorious, and yet the defendant proceeds and loses, that defendant will be subject to these sanctions. Madam President, I believe that comes as close to solving the problem we have identified and does so in a way that does not have unintended, adverse consequences on other aspects of investors' rights.

So I urge those who are proponents of S. 240 to see this as a supportive, friendly, positive contribution to achieve their objective. And I hope that they and my other colleagues will support this amendment, which I believe moves toward achieving the very purpose that led to the introduction of this legislation in the first instance.

Thank you, Madam President.

I yield the floor, and I am prepared to yield back the balance of my time.

Mr. D'AMATO. Madam President, I want to thank the Senator from Florida. I too yield back the balance of our time, and ask unanimous consent that this matter be set over for the purpose of giving Senator BOXER an opportunity to offer her amendment. She has indicated that she would take 40 minutes on her side and retain the balance of 5 minutes for tomorrow with the express intent that we will vote on her amendment first tomorrow after she makes her 5-minute statement. I reserve ourselves 2 minutes for tomorrow, and as much time as we need this evening. I do not intend to use more than 15 minutes at the most.

Mrs. BOXER. Reserving the right to object, and I do not want to object, when are we going to vote on the Graham amendment?

Mr. D'AMATO. It is my thought and intent that we will vote on Senator GRAHAM's amendment after your amendment. And Senator SPECTER has several amendments to offer. If we could stack them to accommodate some of our colleagues, certainly well before 9 o'clock. It is my intent to ask for unanimous consent that we proceed in that manner.

No matter, at least the Senator will have the opportunity of offering her amendment and starting to use some of her time.

(Mr. BURNS assumed the chair.)

Mrs. BOXER. I say to my friend, I am very willing. I would prefer to have my vote follow Senator GRAHAM's. I think it makes more sense.

Mr. D'AMATO. Would you like to vote on it this evening?

Mrs. BOXER. I am suggesting tomorrow morning.

Mr. D'AMATO. We will vote on Senator GRAHAM's amendment this evening.

Mrs. BOXER. I was not aware of that.

Mr. D'AMATO. That was my purpose, so you would have an opportunity.

Mr. SARBANES. If the manager will yield, as I understand the procedure now, the Graham amendment is being set aside so Senator BOXER can offer her amendment?

Mr. D'AMATO. That is correct. Possibly Senator SPECTER, as well.

Mr. SARBANES. Senator BOXER's amendment we will debate for 40 minutes. You will respond for, I think, not more than——

Mr. D'AMATO. Not more than 15 minutes.

Mr. SARBANES. Then we will move on to some other amendments?

Mr. D'AMATO. It is my hope we would take the three Specter amendments, at least two of those amendments, and dispose of them this evening, as well.

Mr. SARBANES. The Boxer amendment would go on over to the morning. Senator BOXER will have an opportunity to speak in the morning for 5 minutes.

Mr. D'AMATO. That is correct.

Mr. SARBANES. We intend to vote tonight on Senator GRAHAM and Senator SPECTER?

Mr. D'AMATO. That is correct.

Mr. SARBANES. All together, or Senator GRAHAM after Senator BOXER finishes her debate?

Mr. D'AMATO. Well, I would like to possibly stack them for the convenience of our Members so they do not have to keep coming back and forth this evening.

Mr. SARBANES. This evening.

Mr. D'AMATO. This evening.

Mr. SARBANES. So it would be the Graham amendment and Specter, some number of Specter.

Mr. D'AMATO. That is correct, either two or three.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, at the appropriate time, and if that appropriate time is now, I would like to 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. Is there objection? Without objection, it is so ordered. The Senator from California is recognized.

AMENDMENT NO. 1480

(Purpose: To make an amendment relating to the consequences of insider trading)

Mrs. BOXER. I yield myself 30 minutes at this time.

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1480.

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

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

The amendment is as follows:

At the appropriate place in title I, insert the following new section:

SEC. . CONSEQUENCES OF INSIDER TRADING.

(a) SECURITIES ACT OF 1933.—Section 13A of the Securities Act of 1933, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

''(h) CONSEQUENCES OF INSIDER TRADING.—

''(1) IN GENERAL.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

''(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

''(B) financially benefited from the forward-looking statement.

''(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

''(A) with respect to an issuer, equity securities of the issuer of any class having a total value of not less than $1,000,000; and

''(B) with respect to an officer or director of an issuer, holdings of that officer or director of any class of the equity securities of the issuer having a total value of not less than $50,000.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 37 of the Securities Exchange Act of 1934, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

''(h) CONSEQUENCES OF INSIDER TRADING.—

''(1) CONSEQUENCES OF INSIDER TRADING.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

''(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

''(B) financially benefited from the forward-looking statement.

''(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

''(A) with respect to an issuer, $1,000,000 worth of any class of the equity securities of the issuer; and

''(B) with respect to an officer or director of an issuer, $50,000 worth of the holdings of that person of any class of the equity securities of the issuer.''.

Amend the table of contents accordingly.

Mrs. BOXER. Mr. President, simply put, my amendment says that insider traders who financially benefit from false or misleading forward-looking statements shall not benefit from the safe harbor in S. 240. It could not be more direct. I am very hopeful colleagues will support me on this.

It is very clear that 48 colleagues are unhappy with the safe harbor as it is in S. 240. All we are doing here is saying, ''Well, you didn't change it, so at least let us not allow insiders who financially benefit in connection with a false and misleading statement they issue to get the benefit of the safe harbor.''

S. 240 has a safe harbor provision which basically gives insiders huge protection for false forward-looking statements, all statements, except those involving intentional fraud. In other words, there is a safe harbor for reckless fraud, knowing fraud and purposeful fraud. Let me repeat that. The S. 240 safe harbor provision, which gives insiders immunity for false forward-looking statements, involves reckless fraud, knowing fraud and purposeful fraud.

Senator SARBANES tried to change that standard. He offered two amendments. Those two amendments failed, although I would say the second one got 48 votes from both sides of the aisle. Obviously, people are troubled by the safe harbor which my friend from Maryland calls a pirate's cove. I call it a deep ocean—a deep ocean.

In the Boxer amendment, the insider trading has to appear on the records of the SEC, so it is no guesswork. You know that insider made his insider trades because it is registered with the SEC, and it would have to involve significant insiders—the company itself or its officers or directors. So it is very narrowly drawn.

Under my amendment, the insider trading would have to involve significant sums; in the case of a company, a million dollars in insider trading or more; in the case of an officer or director, insider trading would have to involve $50,000 or more.

Let us be clear, the Boxer amendment only covers those trading on inside information who also issue false forward-looking statements in connection with that insider trading and who financially benefit from that trading.

Make no mistake, unsuspecting investors are harmed quite directly by false or misleading forward-looking statements made in connection with insider trades. Why is that? Because small investors believe the statement. Buy the stock, push up the price, the insider then sells his stock at the higher price, pockets the profit, because of a false and misleading statement. The stock collapses. When the true news hits, the small investors are left holding losses.

I am going to show a chart which I showed last week, the Crazy Eddie story. Crazy Eddie was a business. This is real. This is not a figment of anyone's imagination. Let us hear what Crazy Eddie said. This is a forward-looking statement:

''We are confident that our market penetration can grow appreciably.''

''Growing evidence of consumer acceptance of the Crazy Eddie name augurs well for continuing growth outside of New York.''

Crazy Eddie dumps his stock, the top officer flees the country with millions, the CEO is convicted of fraud, and to any of my colleagues who say there is another provision that covers insider trading, that is only for the stockholders who actually bought Crazy Eddie's stock. It does not cover the class of other people who suffer because the stock plummeted. I think that is an important point, because every time I raise an amendment, the opposition stands up and says this is covered in another section. Wrong. Not for the class of shareholders, only the ones who buy Crazy Eddie's stock.

If he sells a million dollars worth of stock, those people who bought it, yes, they can pursue under another provision of law. The other $2 million worth of stock bought by the general public have very little chance here.

Let us go to the next chart.

T2 Medical, Inc. Here is another business. Take a look at this one's forward-looking statements. My colleagues want to encourage forward-looking statements. So do I, but not false ones. I want to encourage honest ones. Does that mean that some businesses may make a mistake? They may make a mistake, a true mistake. But look at these guys:

''T2 plans to lead the way through the 1990's.''

''We expect continued steady revenue and earnings growth.''

Just at the time of those statements, look what happens: The stock goes up; insiders sell 571,000 shares for 31 million bucks; the Wall Street Journal reports insurers reducing their payments by 15 to 50 percent; the stock plunges; then the company discloses a grand jury investigation; total insider sales of $31.6 million.

And look at the story here. Now the people at T2 Medical would get the safe harbor for forward-looking statements, the very same safe harbor that Senator SARBANES tried to tighten up. They would get the protection of that safe harbor.

It is an invitation to fraud. It is exactly what Chairman Levitt of the SEC

said would happen. He does not like the safe harbor. He said if you do this, by God, you crook, you cannot hide under that safe harbor. I hope my colleagues will embrace this amendment.

Look at this, it tells the story, I say to my friend. The statement is made:

''T2 plans to lead the way through the 1990's.''

''We expect continued steady revenue and earnings growth.''

The stock goes up, insiders sell, and the truth comes out. They disclose the grand jury investigation and bye, bye, baby, for all those poor snooks who bought it.

This individual and these insiders do not deserve the safe harbor in S. 240. If Senator SARBANES had been successful at changing the safe harbor, I would feel a lot better and I would not have offered this amendment. I told that to my friend. But we have the pirate's cove. Here are the pirates—Crazy Eddie and these people. These are just two examples. And for those who said Charles Keating never made forward-looking statements, I have a chart on that, too. So Crazy Eddie's top officer fled the country. The CEO was convicted of fraud. Investors were left with huge losses. That is the type of misbehavior this bill would encourage and reward. Why? It is not that anybody who writes this bill wants to help guys like this. But as a result of the safe harbor, these guys get the benefits. We say that they should not.

Now, I do not think we want to encourage this. These are not isolated examples. There is a great deal of insider trading. Am I picking out two examples because I am exaggerating here? No; let me show you where we are with insider trading. This is a story from Business Week, December 1994. ''Insider Trading: It's Back, But With a New Cast of Characters.'' They looked at 100 of the largest businesses, by the way, and found that one out of every three merger deals was proceeded by stock price runups.

Here is one from the Los Angeles Times. I want to say to my friends that this is a story from Saturday, June 24, 1995. I opened the paper when I was in L.A., and there it was. ''Insider Trading Probes Make a Comeback. Wall Street. SEC official notes more investigations than at any time since the takeover boom of the 1980's.''

What are we doing? We are giving these people a safe harbor. I do not think this is in the best interest of the country. How about reading this a little bit:

> A wave of mergers and acquisitions in the United States is reviving an unwanted headache for regulators: Insider trading.
>
> ''We have more insider trading investigations now than at any time since the takeover boom of the 1980's,'' said Thomas Newkirk, associate director of enforcement for the Securities and Exchange Commission.

No wonder the SEC has trouble with the safe harbor in this bill. These are the guys who have to go after these crooks. They do not want to make it harder to catch them.

I will put all of these in the RECORD at the appropriate time.

Now, here is a quote from Gene Marcial, a Business Week ''Inside Wall Street'' columnist. This is his book.

> Don't kid yourself: Very little has changed on Wall Street. Half a dozen years after the scandals of the 1980's, when any number of street veterans were charged with violations of securities laws and several high profile insiders were marched off to jail, insider trading and market manipulation—in most cases illegal—are still the most zealously desired play in the financial world.

He concludes and basically says, ''Sorry, but that's the way the game is played.''

Now, look, if the game is played that way, we should try to stop it. We should not make it easier.

Let us go to the next chart. Here is another one. New York Times, June 1995.

> Regulatory Alarms Ring on Wall Street. With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid-1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

They go on to say that it is a growth industry. We are going to give insider traders a safe harbor. They do not deserve it. I am worried about the good business people. I represent a lot of them and I am proud of them. They would not cheat anyone. They deserve to be supported, and they do not deserve frivolous lawsuits. This is about the bad guys.

So let us, in good faith, say we did not change the safe harbor, but let us make sure that the worst of the worst, these inside players who issue a false or misleading statement and then sell their stock and benefit, do not get the benefit of the safe harbor.

I say, if we do not do this, the incentives for insider trading and cashing in will be greater because, clearly, there is a nice, safe harbor for these people to hide in. I hope anyone who supports this bill would not want to encourage insider trading.

Again, my amendment focuses narrowly on only one type of notorious fraud, insider trading in conjunction with false or misleading forward-looking statements, and they have to increase the insider trader's profit. That is the only way they do not get the safe harbor. It has to be a false or misleading statement made in conjunction with their sale, and they have to make a profit. So we are not opening up a loophole for anybody good. We are closing a loophole for the bad. And that is very clear.

My friend from Connecticut—and he is my friend and we go back and forth on this bill—has said many times that confidence of the investors is the most important thing. I have news. You just wait. If we do not fix this bill and this safe harbor provision goes forward, and we do not at least take this Boxer amendment, when we have the first crisis in the marketplace, when a group of investors like those burned by Keating or any of the others, when they come to Washington and stand on the steps of the Capitol and say, ''What have you done? You are giving these people a safe harbor. Where is my safe harbor? Why can I not collect from these crooks?'' You know, that is when confidence in the investing public will plummet.

I tell you, with what I know about this bill—and my colleague said some claims would work. I worked on Wall Street at Hemphill, Noyes, & Co., Zuckerman & Smith, and J.R. Williston & Beane. I was proud of those days. I was one of the few women who had the license, passed the exam, was a registered representative. I had a very small—but important to me—practice. You can call it a practice. I had clients. They trusted me, and I will tell you, if I was in that business today, honestly knowing what I know about this bill and the fact that we did not pass the amendment offered by my friend from Maryland, I would really tell people to be very wary and to be very careful. I really would.

The small investor, the IRA owner, the 401(k) owner, is increasingly coming to believe there are two games in town, two securities markets, one for the insiders and one for the little investors. The small investor is increasingly coming to fear that little investors are being played for suckers. Gary Lynch, who oversaw the Securities and Exchange Commission's investigation of Ivan Boesky, Dennis Levine, and Michael Milken is quoted as saying, ''What is happening now is exactly what everyone predicted in the 1980's, that as memories dulled, insider trading would pick up again. The temptation would be too great.''

That is what this bill does—temptation in the form of a safe harbor, which my friend from Maryland calls the pirate's cove and I call an ocean. Insiders could well have a field day if this bill passes in its current form.

I talked about the loss of faith that people would feel, and I say that very seriously. We may not see securities markets as we know them today. They may not be the envy of the world, the engine of economic opportunity for ordinary Americans, because they will be rigged against the honest investor, who will stay out of the securities marketplace.

Now the bill supporters want to stop strike suits. So do I. They want to stop frivolous lawsuits. So do I. I have to say, I do not think anyone that backs S. 240 wants to help insiders who would issue a false and misleading statement, and pocket the stock. I know they do not.

I hope they look at this legislation with an open mind. I think it is very narrowly focused. It is crafted for the sole purpose of making sure the bill

does not shield and encourage insider trading. I think it is quite clear.

Let me say I do have a Charles Keating chart, and I want to just say some of the things that Charles Keating said in terms of his forward looking statements: ''Future prospects are outstanding.'' That's what he said. He tried to get people to buy the junk bonds. He said, ''We offer significant profit potential over the next 5 years.'' That is forward looking. ''Completion and sale of projects will generate huge gains.'' Thousands bought and lost money.

Senator BRYAN showed a chart. He showed what the impact would be if we adopt S. 240 the way it came to the floor. It would hurt those people.

I just want to say, and I will retain the balance of my time, we are very clear in what we are trying to do with S. 240. We are trying to make it a better bill.

Believe me, it would be easier for the ranking member and those members on the committee who had trouble with this bill to fold up our tents, because in this committee we could hardly get but a couple of votes.

We believed enough in these amendments that we are offering that we decided to take to the floor and try to explain them to our colleagues. As others have said, it is difficult to do that. It is a technical area of the law.

The bottom line is we do not want to give the Crazy Eddies—those who would make a false statement—a safe harbor, and then turn around when they make their money, the facts come out, the investors are left holding the bag. Why should those people get a safe harbor, I say to my friends.

I hope you will endorse the Boxer amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times article and a Los Angeles Times article.

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

[From the New York Times, June 9, 1995]

REGULATORY ALARMS RING ON WALL STREET

(By Susan Antilla)

With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

Regulatory alarm bells went off again earlier this week after I.B.M. disclosed its hostile $60-a-share offer for the Lotus Development Corporation. That bid pushed up the value of Lotus shares by 89 percent on Monday, the day it was announced, and caused regulators to begin looking into suspicious trading last week.

Other cases brought to light recently involved Lockheed's merger last year with Martin Marietta, another military contractor, and AT&T's acquisition of the NCR Corporation.

''It's a growth industry,'' said William McLucas, director of the division of enforcement at the Securities and Exchange Commission.''In terms of raw numbers, we have as many cases as we've had since the 1980's, when we were in the heyday of mergers and acquisition activity.''

Through the end of May, the National Association of Securities Dealers, which oversees the Nasdaq electronic trading market, had already referred 47 cases to the S.E.C. for investigation into possible insider trading, said James Cangiano, N.A.S.D.'s senior vice president for surveillance. If the pace of suspect trading continues at that rate, it would mean the N.A.S.D. would surpass the record 110 insider trading referrals it made to the S.E.C. in 1987, he added.

The same holds true for the New York Stock Exchange, where investigators have opened three times as many insider trading cases so far this year as they had by this date in 1994.

The Lotus case seems typical. In the days before the I.B.M. announcement, trading in both Lotus stock on Nasdaq and Lotus options, which are traded on the American Stock Exchange, was unusually heavy. ''I think you can presume we are looking at it,'' Mr. Cangiano said. And while the S.E.C. does not comment on pending investigations, Wall Street professionals say that the agency has undoubtedly already opened a case to investigate Lotus trading.

These days, those trading on insider information apparently do not come as frequently from the ranks of Wall Street's professionals as they did in the 1980's, regulators say. Those who take advantage of privileged information now tend to be corporate officers, directors, and their families, friends and lovers, according to executives at the nation's stock exchanges, and lawyers who represent defendants.

But the game—and the potential profits—are the same: get information about a proposed deal that might raise the shares of a publicly traded company before it is announced, and buy the stock ahead of the news. Better yet, buy the options, which cost less and tend to attract less regulatory scrutiny.

Then, after the public learns what the insiders knew ahead of time, it's time to get out with a quick profit.

The lure of profits from insider information regarding deals is just too much to resist for some players, the S.E.C.'s Mr. McLucas said. The potential rewards compared with the risks look better ''when people look at the premiums available in takeovers,'' he said. ''We're a few years removed from the Boesky insider trading cases, and people have short memories.'' Of the 1,400 unresolved cases in the S.E.C.'s current inventory, Mr. McLucas said, 20 percent involve insider trading.

The initial rounds of suspect trading of the last year or so differed from those of the 1980's in that they generally did not focus on big names in the securities business. ''While Wall Street learned some lessons of the 1980's, it's not completely clear that Main Street learned all of the lessons,'' said Harvey Pitt, the former S.E.C. lawyer who defended Mr. Boesky.

If Wall Street appears to be more honest, though, it is largely a function of increased surveillance by brokerage firms and by regulators, say defense lawyers and securities cops. ''We have not returned to the environment of the 1980's where so many defendants were investment bankers, brokerage firm employees and young lawyers,'' Mr. McLucas said. Still, he added, ''We're seeing people in those areas start to crop up, and I wouldn't be surprised to see more of them.''

Earlier this week, Frederick A. Moran, a money manager in Greenwich, Conn., said that he was the focus of an S.E.C. investigation. Regulators contend that he bought shares of Tele-Communications Inc., the big cable operator, in advance of the announcement that it planned to merge with Bell Atlantic. The S.E.C. is looking at Mr. Moran's purchases because his son is a securities analyst who was privy to information about the pending deal. Mr. Moran has said he will fight the charges.

Despite the higher numbers, regulators undoubtedly miss cases both big and small. But, in this newest round of insider trading investigations, it appears that the chances of being caught are higher than before. At the New York Stock Exchange, 100 employees work in market surveillance today, up from 76 in 1975. And white-collar criminals who are members of the Big Board face stiffer fines if they get caught. In 1988, the New York exchange removed the previous limit of $25,000 for each charge against a member, eliminating any cap on potential fines. At the same time, Congress enacted the Insider Trading Sanctions Act, which allows for triple damages to be paid when a trader is convicted on insider charges.

Moreover, the New York Stock Exchange and the Chicago Board Options Exchange, which routinely share information with each other and with the S.E.C. about suspect action in the markets, have beefed up their detection mechanisms substantially.

''When I first came her in 1981, the analysts drew genealogical trees of corporate officers and investment bankers and hung them on the wall'' to analyze who had privileged information about a pending deal, said Agnes Gautier, a vice president in the Big Board's market surveillance department. Today, by contrast, computer software programs spit out the dates, times and names behind the trades that look suspicious, she said, making what used to be an onerous task a fairly simple exercise.

Thus, the S.E.C. was able to quickly investigate and settle a case against a lawyer for Lockheed only eight months after the news that the military contractor and Martin Marietta would merge. The lawyer made $42,000 in illegal profits by buying Lockheed options, Mr. McLucas recalled.

Considering all this renewed attention to insider trading, shouldn't more people be wary of breaking the rules? ''We'd like to think so,'' Ms. Gautier said. ''But, I guess, as the defense lawyers say, 'Greed will overcome.' ''

[From the Los Angeles Times, June 24, 1995]

INSIDER-TRADING PROBES MAKES A COMEBACK

WALL STREET: SEC OFFICIAL NOTES MORE INVESTIGATIONS THAN AT ANY TIME SINCE THE TAKEOVER BOOM OF THE 1980'S

NEW YORK.—A wave of mergers and acquisitions in the United States is reviving an unwanted headache for regulators: insider trading.

''We have more insider-trading investigations now than at any time since the takeover boom in the 1980s,'' said Thomas Newkirk, associate director of enforcement for the Securities and Exchange Commission.

Several of this year's largest merger announcements have been preceded by unusual trading Thursday, shares of Scott Paper Co. jumped $2.50 to $46.875. Friday morning, the Wall Street Journal reported that Kimberly-Clark Corp. was negotiating to buy the company.

During the merger bonanza of the 1980s, insider trading was equated with greed on Wall Street as prosecutors won convictions against Ivan Boesky, Michael Milken and others. The alleged culprits of the 1990s tend to be more ordinary working folk.

In February, the SEC charged 17 people with civil violations of insider-trading laws

related to trading in shares of AT&T Corp. acquisition targets, including NCR Corp. and McCaw Cellular Communications Inc. Two were former AT&T employees. Charles Brumfield, former vice president in the human resources department, pleaded guilty in connection with the case.

Earlier this month, the SEC sued a Salomon Bros. Inc. analyst, Frederick Moran, and his father, a money manager in Greenwich Conn., for alleged insider trading in the failed merger of Tele-Communications Inc., the nation's largest cable systems operator, and Bell Atlantic Corp.

''We brought 45 cases in the last fiscal year and the caseload is running about the same this year,'' the SEC's Newkirk said.

Opportuunities are increasing for people to use advance knowledge of a merger to make illegal profits. About $178 billion in mergers have been announced since the beginning of the year, putting 1995 on course to exceed last year's $368 billion, according to Securities Data Co.

Regulators say they are looking at such transactions for any sign of trading picking up before the agreements were announced. That was the case for shares of Telular Corp., which said June 22 that it might seek a buyer for the company, and for Lotus Development Corp., which agreed to be bought by International Business Machines Corps.

On June 20, just before a New York state agency proposed a buy-out of Long Island Lighting Co. for $17.50 a share, the utility's stock jumped $1.50 to a seven-month high of $17.

One person who isn't surprised by the recent rise in insider-trading cases in Gary Lynch, who as chief of enforcement at the SEC during the 1980s was one of the main people responsible for bringing about the convictions of Boesky and Milken.

''What's happening now is exactly what everyone predicted back in the '80s: that with the number of high-profile cases brought, the incidence of insider trading would decline for a while, but as memories dulled, insider trading would pick up again,'' said Lynch. ''The temptation is too great for people to resist.''

Mrs. BOXER. I yield such time as he desires to my friend from Maryland.

Mr. SARBANES. How much time does the Senator have?

The PRESIDING OFFICER. Nineteen minutes and 41 seconds.

Mr. SARBANES. I will be very brief so the Senator can reserve the balance of her time.

I want to say the distinguished Senator from California has made a very strong, effective statement on behalf of her amendment.

Does the Senator agree with me that there are people who—corporate insiders—who would sometimes make fraudulent forward-looking statements, to run up the stock price so they can unload their stock price before it goes down? Is that not exactly what has been happening?

Mrs. BOXER. Exactly. And we showed the same in two examples. Here is one of the charts.

Mr. SARBANES. Could we see the other chart? That is Crazy Eddie's. The other chart, as I understand it, the Senator shows on the left where we begin, making the statements. That runs their stock price up. Then they start unloading their stock, having done that.

Is that correct?

Mrs. BOXER. That is exactly right.

Mr. SARBANES. What happens further along there? They get news, then revealed, that the insurance for this medical company is falling off, is that it?

Mrs. BOXER. That is correct. The clients say they are reducing their payments to the T2 Medical Inc. by 15 to 50 percent, and the company here discloses a grand jury investigation which they knew.

Mr. SARBANES. What happens further along?

Mrs. BOXER. It goes on down list.

They have unloaded at this point, $31 million or 571,000 shares of the stock at the high price, and now as this bad news comes out, we see the stock plummet, and essentially, the company here reports the SEC is investigating them.

That is as far as this chart goes. They are under investigation. These were bad apples. People got snookered in as this stock went up, left holding the bag as it goes down. Insiders knew all of this.

And we are saying they should not have the ability to get the safe harbor.

Mr. SARBANES. I want to commend the Senator for offering this amendment, for her very clear explanation of it.

I want to underscore one other point the Senator had which I think is extremely important. Members have taken the floor in the sense of a constructive way, trying to propose and get adopted amendments which we think should straighten out some of the problems with this legislation.

In fact, I am prepared to say if all of the amendments had been adopted I would have been prepared to be supportive of this legislation.

But what is happening here is that the bill contains provisions that are far in excess of dealing with frivolous suits. The provisions in this bill are going to cut off meritorious suits, and they will make honest, legitimate investors suffer as a consequence, as the Senator has so carefully outlined. I simply want to thank the Senator for her very strong statement.

Mr. President, we have had difficulty with respect to these amendments, although we have come increasingly close on some of these amendments. I think that is reflecting a growing sense within this body that there is something amiss with this legislation.

All is not right with this legislation. I think that is increasingly becoming clear. There has been an effort to portray it by the proponents in terms of the competing economic interests. So they engage in long denunciations in that regard.

The fact is, every, as it were, independent observer or outside group, has sounded warning bells about this legislation. Members need to understand that. The Securities and Exchange Commission, the North American Securities Administrators Association, the Government Finance Officers Association.

The distinguished Senator from California put into the RECORD a long list of organizations that had difficulty with this legislation. We were sounding the warnings about this legislation. The consumer groups all have joined in doing that.

I hope, as Members approach the end of the amendment process and consider the bill itself, they will come to realize that the burden of the consequences are going to fall on the supporters. If this legislation passes, those voting to support it will bear the heavy burden in terms of what the consequences are going to be.

There is no doubt in my mind that honest people will end up being defrauded and not have a remedy as a consequence of this legislation. The regulators have warned Members of that fact. Groups that have no vested economic interest in this legislation have warned Members of that fact. I just want to sound that warning to my colleagues.

Mr. D'AMATO. Mr. President, first of all, I want to thank the Senator from California for being so gracious and so accommodating in attempting to go forward in a manner—and I know she was not feeling up to par. Although she has made a brilliant case, and has presented her case with the eloquence of someone who believes in what they are saying, and she does believe very strongly, I am forced to oppose this amendment.

Let me say, this is not easy to oppose. Let me explain why I oppose this amendment, because this is a very complex issue. The fact of the matter is that insider trading is not given safe harbor protection and is absolutely covered and will continue to be covered by section 10(b) and rule 10b–5 of the securities laws. It prohibits the kind of fraudulent conduct that we consider to be insider trading. Fraudulent conduct and insider trading? The conduct that Senator BOXER seeks to prohibit is already prohibited in the securities law.

Let me tell you what the consequences this amendment would be. They would be devastating. For example, somebody who routinely takes stock options—officers, directors in the company—would lose safe harbor protection. This amendment would bring us back to the situation that lawyers could simply allege fraud to bring a lawsuit. This amendment opens the door for the same kinds of operations that this legislation seeks to stop. That is why I must oppose this bill, notwithstanding the fact this amendment seems to indicate that it prohibits insider trading. This amendment does not do that.

What this amendment does is strip away, the opportunity for someone to make a forward looking statement that might at some point in time prove to be inaccurate. Why should a firm have the door to litigation opened just because an executive engaged in any trades or exercised an options and made $50,000?

Tell me, if someone engages in legal insider trading should they be tarred and feathered? Should they be sued? However, should you have a right of action against illegal insider trading as prohibited by rule 10b–5? Absolutely. And that right of action does exist.

So I have to oppose the amendment. But again I commend my colleague for coming forward and certainly for the manner in which she has made this presentation tonight, in an attempt to accommodate so many of our colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am going to wait until my colleague from California is back at her desk, because I have some questions that the amendment raises, that I would legitimately like to get some answers to. I am trying to understand the implications of the amendment.

On page 2 of the amendment, as I read this, now—part of the difficulty is under the previous amendment——

The PRESIDING OFFICER. If the Senator will suspend, who controls the time?

Mr. DODD. The Senator from New York.

Mr. D'AMATO. Senator DODD is speaking on the time of the Senator from New York.

The PRESIDING OFFICER. I thank the Senator from New York.

Mr. DODD. Mr. President, one of the difficulties is trying to read and understand. The previous amendment, offered by the Senator from Florida, was a 12-page amendment. Trying to read through it and understand the implications in the space of a short amount of time is difficult.

Let me come to page 2 of this amendment. Starting on the bottom of page 1.

Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

(A) purchased or sold . . .

And so forth.

My concern is this, and correct me if I am wrong. It seems to me you would be confronted with a factual situation where you have a director who had nothing to do with the problems associated with the Crazy Eddie case or whatever else. I heard my colleague, and I agreed with her, give eloquent statements on the importance of stock options. It was on an issue not too many months ago involving the value of stock options. She talked about what a valuable tool this can be.

The mere action on the part of a director to either purchase or sell a stock that may or may not—let us assume did not have anything to do with what an officer of the company was doing regarding statements. Am I correct in assuming that director, then, if in fact you are able to prove the first point, assuming they met the other qualifications of $50,000, would be penalized under your amendment, were it to be enacted?

Mrs. BOXER. I say to my friend, we indicate in the amendment who insiders are. It is pretty boilerplate. Yes, it covers insiders, people who would have inside information. But only, and I underscore only, if in conjunction with the false or misleading statement they sold stock and made a profit, they would be covered.

Mr. DODD. What about the directors themselves? Not an officer, the director. Directors—one of the compensations for directors is we offer them stock options.

The members of the board of directors did not have anything to do with this; the officers of the companies did. Let us assume that is the situation, assuming everything else is the case and that director, who had no involvement whatsoever with the insider false statements, as I read this, that innocent director who then sold or bought stock innocently, outside of whatever else the officers may be doing, would then be subject to the penalties of this?

Mrs. BOXER. That is right. I say to my friend, we are using a pretty boilerplate definition of what an insider is. The insider is the company itself or any officer or director. But only if they sold their securities in connection with a false and misleading statement, we do not give them the safe harbor. We did not go out of our way to reach them. We are just saying you have to be an officer or director——

Mr. DODD. Even though the director had nothing to do with the false and misleading statements? We all know how important stock options are, and so forth. I want to know the implications.

Mrs. BOXER. All it says is they cannot benefit from the safe harbor and the lawsuit can go forward. If, in the course of the lawsuit, it turns out that this director is senile and did not know anything about it, or whatever the defense is, that is different. But we are saying as reasonable people that insiders—and we define that as the company, any officer or director.

I have to tell my colleague, if my friend from Connecticut does not view that as a fair definition of an insider, I want to know what is—someone who sits on the board of directors, someone who knows all the good news and bad news.

All we are saying is the case will have to go forward. But in fact, if there is insider trading in connection with a false or misleading statement, they do not get the safe harbor and the case goes forward. Does it mean they are convicted? Of course not.

Mr. DODD. I am not trying to be argumentative here.

Mr. D'AMATO. Will my colleague yield?

Mrs. BOXER. I am trying to answer my friend's questions. I am not being argumentative. I am being strong in my response.

The PRESIDING OFFICER. If the Senator will suspend, I will advise the Senators they may speak in third person through the Chair.

Mr. D'AMATO. Mr. President, I would like to propound a unanimous-consent request so we might give, to those of our colleagues who are off the Hill, an opportunity to get back and request that we vote up or down on the Graham amendment.

Have the yeas and nays been ordered on the Graham amendment?

The PRESIDING OFFICER. The Chair advises they have.

Mr. D'AMATO. Mr. President, I ask unanimous consent we be permitted to vote on the Graham amendment at 8 o'clock. In this way we will give opportunity to all our Members to get back and they would get a little extra notice. That would not interfere with any of the time my colleagues have.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. I am glad to yield to my colleague. Do I not still have the floor?

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. SARBANES. What is the time situation on the Boxer amendment?

The PRESIDING OFFICER. Senator BOXER has 13 minutes and 14 seconds; the other side has 5 minutes and 41 seconds.

Mr. SARBANES. The time would expire at 8 o'clock under the agreement and then vote at 8 on the Graham amendment.

Mr. D'AMATO. Then maybe we might be able to dispose of the other amendment by consent.

Mr. SARBANES. After the Graham amendment, the Bingaman amendment?

Mr. D'AMATO. Possibly before, or after. Certainly.

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

Mr. D'AMATO. I thank my colleagues.

Mr. DODD. Mr. President, I yield to my colleague from California who wants to make a request.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, I say to my friend. Mr. President, I ask for the yeas and nays on the Boxer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, if I can, let me just come back. The point I am trying to make here, and I say this with all due respect, no one wants to protect insider trading—obviously insider trading is an abhorrent exercise and practice.

My concern here is that the mere exercise of an option by, for the sake of discussion, an innocent director—there can be innocent directors here; not the assumption that they automatically then take away the safe harbor for the

entire company because there has been a sale or a purchase of an amount triggered by the amounts indicated in the amendment itself. I appreciate where my colleague from California wants to get. But my concern here is that she is reaching a legal conclusion about someone where the assertion has been made and the mere existence of that then takes away the safe harbor protections. I think that goes farther even for those who have strong reservations about safe harbor. I think that just strips away unnecessarily. That is just drawing a legal conclusion triggering a whole response to a safe harbor provision on the mere assumption that someone has engaged in an illegal activity.

As I read the amendment, that is how I see it being triggered. When you talk about any officer or any director who purchased or sold a material amount of equities and who financially benefited from the forward-looking statement in it, that is, to me, trying to put too much in this with a lot of assumptions made that I do not think are necessarily borne out by the actions. To assume there is inherently something illegal, that it is an assumption of an illegal act for someone to exercise an option, and that action becomes a presumption of guilt in this context, then stripping away safe harbor, I think, goes too far. That is how I read it and understand it.

I am going to yield the floor in a minute and give my colleague from California an opportunity to respond to how I read this. But that is my concern here. I think it is taking an abhorrent activity of insider trading and then using that vehicle as a way to try to jam it into the issue of the safe harbor.

My colleague from California and others have real problems with safe harbor. I understand that. But it seems to me that again we are taking a set of actions where there is not necessarily anything wrong with them, making a presumption about that, and then taking that activity and immediately stripping away the veil that protects the statements made in the forward-looking statements that are made in the context of predictions by companies, their direction, and thus triggered the safe harbor provisions. I for the life of me do not understand why we want to necessarily do that when I do not think those actions necessarily should trigger that kind of response.

So for those reasons, I object to the amendment. Again, I appreciate, I think, the direction they want to go in, but it seems to me to be overreaching in terms of how you deal with safe harbor. With that, I give my colleague a chance to respond to that.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

Mr. President, let me say to my friend, to say that I am overreaching in this amendment could not be farther off the mark, I have made this so narrow in scope. I have said, if Senator SARBANES' safe harbor provisions had passed, I would not have gone with this. But what I am saying is, why should we give such a good, nice, warm, and cozy safe harbor to crooks? It does not mean automatically that anyone is guilty of anything, I say to my friend. All we are saying is this is about getting a case brought forward and move forward. All we are saying is if an insider—I defy my friends, seriously, I do not understand how I could have been more fair in defining who an insider is other than to say the company, an officer or director. I did not say the secretary or anybody else. I am just hitting the top people. If they sell securities in connection with a false or misleading forward-looking statement—when my friend read my amendment, he left out the words ''false or misleading,''—then all we are saying is they do not get the benefit of the safe harbor. The case moves forward quicker. If they are innocent, this will take care of it.

My goodness. Let us not make small investors leap through hurdles when you have a situation such as this where clearly the insiders—by the way, there were a lot of insiders here: $31 million worth of stock. I do not think that the small investor who got caught in this downward plummet should have to leap through all sorts of hoops to get into court in this case.

I hope my friends who support S. 240 will support this. I think we drew it narrowly. I think we are fair. I just hope that we can get a good vote on this amendment.

Mr. SARBANES. Mr. President, I say to the Senator from California, the Senator from Connecticut says we are for it. If I could say, I am for legitimate safe harbor, I am not for excessive or overreaching safe harbor. That is what the whole debate has been about today.

I thought that the safe harbor issue should have been sent to the SEC the way the Senator from Connecticut proposed in his bill and that the SEC could then develop the safe harbor, taking into account all of these complications.

This body decided not to do that. So we then tried to have a different standard governing safe harbor. Again, the regulators are telling us that the standard in this bill is going to permit abuse. Under the standard in this bill, there will be abuses. The Senator from California is offering yet an even more limited amendment addressed to the insider traders. She has demonstrated in very graphic form the kind of practices that took place in two instances which she is trying to preclude and she has offered a remedy. For the life of me, I do not understand why this amendment is being resisted.

Mr. DODD. Will my colleague yield for the purpose of a question?

Mr. SARBANES. It is on the time of the Senator from California.

Mr. DODD. If you told me the officer or director who made the misleading statements, that would be one thing. You could have an outside director of a company that could live literally thousands of miles away who exercises an option, and it has nothing to do with the misleading statement. That is my point here. If the Senator said the director or officer makes the misleading statements, then I understand, I think, where the Senator is going. But I do not understand why you take an outsider——

Mrs. BOXER. Let me ask my friend on my own time. It is true, the director could have been in Paris. He could have a call from someone. ''Hey, Joe, tomorrow, the Wall Street Journal is giving us a bad report.''

Mr. DODD. That is different though.

Mrs. BOXER. Let me finish my point. We would not know that. The plaintiffs do not know that. If this man or woman is totally innocent, we are not taking away his or her right. We are just saying there is a smoking gun if a director unloads, by the way, a large amount, a material amount, makes a good profit, and, quess what, in conjunction with a forward-looking statement or a bad report coming out in the paper. It is worth it, we think, to allow that case to go forward. If the director is totally innocent, fine. All we are saying is they should not have the safe harbor of this particular bill as the good people should. And if, in fact, it turns out that they were far away, they are on their honeymoon, they did not take any calls, did not know anything about the fact that there was going to be a false statement, they are going to walk away. God, I hope we have faith.

Mr. DODD. The Senator has triggered a whole legal activity on the mere financial transaction. The Senator has then triggered a whole level of activity on safe harbor merely because she is assuming something that she has not been able to prove yet. But the mere fact that some director exercises an option, that then the whole safe harbor process collapses, the Senator has connected a lot of dots here on the basis of some assumptions. That, to me, is exactly what we are trying to avoid.

Mrs. BOXER. If this is what the Senator is trying to avoid, then this is, in my view, a terrible bill. In other words, if you are trying to avoid giving an insider a hard time if he dumps his stock and runs over——

Mr. DODD. The Senator has drawn a legal conclusion.

Mrs. BOXER. Not a bit. What we are saying is you will meet a certain threshold if these facts happen to come forward, a false and misleading statement in conjunction with insider sale. Look, I am not too naive about these insider trades because I have seen it happen. Business Week did a whole issue on insider trades. Let us bring that up. The Wall Street Journal has run stories on this. Everybody is saying it is coming back in vogue. That is not BARBARA BOXER. Those are people who are experts in the field. ''Insider

trades.'' ''It's back, but with a new cast of characters.'' All we are saying with this amendment, and I think this is important, all we are saying is it is an insider, and we have narrowly defined that.

I challenge anyone to write a better definition of an insider other than the company itself, the board of directors or the officers. If they pocket huge amounts of money in connection with a false and misleading statement, they should not benefit from the safe harbor. Now, the case goes forward. If they are away and they can prove it, fine. But we are changing the law radically here. We are going far beyond anything the Senator from Connecticut proposed doing in his original bill. We have a safe harbor that has caused 48 Senators in this Chamber to say we want to change it. We have a safe harbor in S. 240 that has the SEC saying they are very worried that there will be increases in fraud.

Now, I think as a Senator from the largest State in the Union, where a lot of this happens—we look to the Keating people, and a lot of it was California—I have an obligation to make this bill better.

I would far prefer to have the safe harbor that my friend from Maryland proposed. Instead, we have this other safe harbor that my friend from Connecticut embraces. And we are saying you are opening it up for everybody. How about closing it for some obvious abuses.

Mr. DODD. Will my colleague yield on that point?

Mrs. BOXER. I will.

Mr. DODD. Again, I am not arguing about the spirit of what the Senator is trying to do. And no one is here trying to defend insider trading. But at this juncture, when we have tried to get directors to buy stock—it is one of the things we have tried to do over the years in our committee, purchase stock and get involved—I would have to say today, if this amendment were adopted, the last thing you would want to do is become even a purchaser. Forget a seller; the amendment says even purchasing stock here. You are removed from the process. All of a sudden you are trying to buy. My advice to anyone in that category, if this amendment were to be adopted, would be to stay away from this. I would stay entirely away from this. It would have absolutely the countereffect as we try to get people to acquire this stock. You are subjecting yourself to some very dangerous situations.

Mrs. BOXER. Let me take my time because my friend is distorting what this amendment does. He is distorting what this amendment does. No honest director, no honest person has to fear about this amendment. Only the crooks. Only the crooks. And all we are saying is this is a problem. ''Insider-Trading Probes Make a Comeback,'' Saturday's edition of the L.A. Times.

I say to my friends in the Senate from both sides of the aisle, I think if you vote for this Boxer amendment, you will thank those of us who brought it forward because the handwriting is on the wall. They are saying it is back in vogue, insider trading is back in vogue. If it occurs in connection with a false or misleading statement, not a true statement but a false or misleading statement, we say why should we give the benefit of that safe harbor to those people? Let the case be brought forward. Let the officer or director make the point. But my goodness, to argue against this amendment, I just am rather stunned. I was hopeful that we could have an agreement on both sides. I thought we could from the beginning. I was hit with all kinds of arguments the first time I brought this up: well, it is covered in another section. If you bought the shares the insider sold, yes, you are covered in another section.

What about the general public? They are not covered. And yet those directors, those officers, who pocketed that money are protected by the safe harbor.

I have reiterated this on a number of occasions, and I do not feel the need to continue at this point; my energy level is running down. But I have to come back tomorrow and present this in 5 minutes. So I look forward to that conclusion tomorrow, and I hope a favorable vote. I know that my colleagues have been hanging on my every word and everything I read here. I know that they are sitting in their offices, and they are absolutely intrigued by this debate. I hope if they did watch all of it they will come down and vote yes on the Boxer amendment tomorrow after we reiterate this argument and get it down to 5 minutes tomorrow morning.

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

The PRESIDING OFFICER. The Chair advises the Senator from California she has 2 minutes.

Mrs. BOXER. I will save that time, Mr. President, in case something is stated here to which I feel I must retort. Otherwise, I will be happy to yield back.

Mr. D'AMATO. Mr. President, do we have any time remaining?

The PRESIDING OFFICER. The time remaining on the Senator's side of the aisle is 13 seconds.

Mr. D'AMATO. Well, Mr. President, I am prepared to yield back the remainder of our time. I yield the floor.

Mrs. BOXER. Mr. President, in the spirit of comity and good will across the party aisle, I will yield back my 2 minutes.

The PRESIDING OFFICER. All time is yielded back.

Mrs. BOXER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

VOTE ON AMENDMENT NO. 1479

The PRESIDING OFFICER. The hour is 8 o'clock. The question now is on agreeing to the amendment No. 1479 offered by the Senator from Florida [Mr. GRAHAM]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Indiana [Mr. LUGAR], and the Senator from Tennessee [Mr. THOMPSON] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 61, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—32

Akaka	Feingold	Levin
Biden	Graham	McCain
Bingaman	Harkin	Moynihan
Boxer	Hatfield	Nunn
Bradley	Heflin	Pell
Breaux	Hollings	Rockefeller
Bryan	Johnston	Sarbanes
Byrd	Kennedy	Shelby
Conrad	Kerrey	Simon
Daschle	Kohl	Wellstone
Dorgan	Lautenberg	

NAYS—61

Abraham	Ford	Moseley-Braun
Ashcroft	Frist	Murkowski
Baucus	Glenn	Murray
Bennett	Gorton	Nickles
Brown	Gramm	Packwood
Bumpers	Grams	Pressler
Burns	Grassley	Pryor
Campbell	Gregg	Reid
Coats	Hatch	Robb
Cochran	Hutchison	Roth
Cohen	Inhofe	Santorum
Coverdell	Kassebaum	Simpson
Craig	Kempthorne	Smith
D'Amato	Kerry	Snowe
DeWine	Kyl	Specter
Dodd	Leahy	Stevens
Dole	Lieberman	Thomas
Domenici	Lott	Thurmond
Exon	Mack	Warner
Faircloth	McConnell	
Feinstein	Mikulski	

ANSWERED ''PRESENT''—1

Bond

NOT VOTING—6

Chafee	Inouye	Lugar
Helms	Jeffords	Thompson

So the amendment (No. 1479) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, let me say that if we get this unanimous consent agreement, all those Members who have asked to have amendments considered will have them considered. All

of the votes on those amendments will take place tomorrow, or tonight by voice. So what I am saying is there will be no further rollcall votes. And all of the debate, with the exception of, I believe, 7 minutes for one Member, and the intervening times, will take place this evening. I am going to propound that request.

UNANIMOUS-CONSENT AGREEMENT

Mr. D'AMATO. Mr. President, I ask unanimous consent that the following amendments be the only remaining first degree amendments in order, other than the committee-reported substitute, that no second-degree amendments be in order and that all amendments must be offered and debated this evening: The Biden amendment; the Bingaman amendment; the D'Amato-Sarbanes managers amendment; the Boxer amendment, re: insider trading; the Specter amendment, re: fraudulent intent; the Specter amendment, re: rule 11B; the Specter amendment, re: stay of discovery.

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

Mr. D'AMATO. I further ask that when the Senate completes its business today, it stand in recess until 8:40 a.m., and at 8:45 a.m. the Senate proceed to vote on or in relation to the first Specter amendment, and that following the conclusion of that vote, there be 4 minutes for debate, to be equally divided on the second Specter amendment, to be followed by a vote on or in relation to the second Specter amendment.

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

Mr. D'AMATO. I further ask that following the vote on the second Specter amendment, there be 4 minutes for debate, to be equally divided, on the third Specter amendment, to be followed by a vote on or in relation to the Specter amendment.

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

Mr. D'AMATO. I further ask that following the vote on the third Specter amendment, there be 7 minutes for debate, to be divided under the previous order, to be followed by a vote on or in relation to the Boxer amendment.

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

Mr. D'AMATO. I further ask that following the disposition of the Boxer amendment, the committee substitute, as amended, be agreed to and S. 240 be advanced to third reading, and the Banking Committee be discharged from further consideration of H.R. 1058, the House companion bill, and the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 240, as amended, be inserted in lieu thereof, and H.R. 1058 be considered read the third time.

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

Mr. D'AMATO. I further ask unanimous consent that at that point there be 30 minutes for closing remarks, to be equally divided in the usual form, to be followed by a vote on H.R. 1058.

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

Mr. D'AMATO. Mr. President, I further ask unanimous consent that all of the votes after the first vote in the voting sequence be limited to 10 minutes each, except for final passage.

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

Mr. D'AMATO. Mr. President, there will be no further rollcall votes this evening, and the first vote tomorrow is at 8:45 a.m. The first amendment to be in order will be the Biden amendment, which will be kept under 5 minutes. Thereafter, the Bingaman amendment will follow, which will also be limited to 5 minutes, to be followed by Senator Specter's three amendments.

Mr. SARBANES. The first vote in the morning will be at 8:45. I remind my colleagues, that is a vote at 8:45.

The PRESIDING OFFICER. The first vote will be 8:45.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment be set aside so the Senator from Delaware can offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

AMENDMENT NO. 1481

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 1481.

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

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

The amendment is as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962", provided however that this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction becomes final.

Mr. BIDEN. Mr. President, I have been here a while. When I first got here 23 years ago, I learned a lesson from Russell Long.

I went up to him on a Finance Committee day and asked to have an amendment accepted, and he said yes. I proceeded to speak on it half an hour and say why it was a good amendment. And he said, "I changed my mind. Rollcall vote." I lost. He came later and he said, "When I accept an amendment, accept the amendment and sit down."

I will take 30 seconds to explain my amendment because it is about to be accepted. I thank my friend from Pennsylvania for allowing me to move ahead. He is always gracious to me and I appreciate it.

There is a carve-out in this legislation, carving out securities fraud from the application of the civil RICO statutes. I think that is a bad idea. But I will not debate that issue tonight.

I have an amendment that is before the body that says such a carve-out exists, except that it shall not apply if any participant in fraud is criminally convicted; then RICO can apply, and the statute does not begin to toll until the day of the conviction becomes final.

Keeping with the admonition of Russell Long, I have no further comment on the amendment.

Mr. D'AMATO. Mr. President, we have no objection. We accept that amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1481) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. SARBANES. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1482

(Purpose: To clarify the application of sanctions under rule 11 of the Federal Rules of Civil Procedure in private securities litigation)

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

The PRESIDING OFFICER. The pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. BRYAN, proposes an amendment numbered 1482.

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

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

The amendment is as follows:

On page 105, line 25, insert ", or the responsive pleading or motion" after "complaint".

On page 107, line 20, insert ", or the responsive pleading or motion" after "complaint".

Mr. BINGAMAN. Mr. President, I send this amendment on behalf of myself and Mr. BRYAN. It is a very simple amendment.

The present bill, as it is pending before the Senate, calls for a mandatory review by the court in any private action arising under the legislation. It says that the court shall establish a record with specific findings regarding compliance by each party, and each attorney representing any party with the requirements of rule 11 of the Federal Rules of Civil Procedure, prohibiting frivolous pleading or frivolous activity by counsel.

The difficulty is that later in the bill where it specifies presumption, that we call for on page 105 and 107 of the bill,

we only specify that the appropriate sanction apply to pleadings filed by the plaintiffs.

Our amendment would change that and make it more balanced, in that it would specify that the sanctions could apply either to pleadings filed by the plaintiff or to responsive pleadings or motions filed by defense.

I think this is acceptable to the managers of the bill. I think it is only reasonable that if we are going to have this provision in the bill—which is a provision, quite frankly, I do not agree with—I think that singling out these securities cases as the only cases in our court system where we require a mandatory review by the court, and the finding and imposition of specific findings, is a mistake. If we are going to have it, we should make it balanced between plaintiff and defendant.

I know the Senator from Nevada wishes to speak. I yield the floor.

Mr. BRYAN. Mr. President, first let me commend my colleague from New Mexico. I think his amendment is well-constructed. We have used the word often in the course of the debate—balanced. This is balanced. What is sauce for the goose is sauce for the gander.

Those lawyers, whether they be plaintiff's lawyers or defendant's lawyers who are involved in frivolous conduct, now feel the full effect of sanctioned rule 11 under the Federal Rules of Civil Procedure.

Much has been said about the frivolous nature of this lawsuit correction act. I must say this is one of the few amendments that actually deals with this issue. I am pleased to support my colleague and friend from New Mexico, and I am pleased that the managers have agreed to accept the amendment. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1482) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. D'AMATO. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I have sought recognition to offer three amendments which I think will provide some balance to the legislation that is now pending before the Senate.

I believe that there is a need for some modification of our securities acts, but I think it has to be very, very carefully crafted.

As I take a look at what is occurring in the courts, compared to what happens in our legislative process, I think that the very deliberative rule in the courts, case by case, with very, very careful analysis, has to take precedence over the procedures which we use in the Congress where hearings are attended, sometimes by only one or two Senators, and then provisions are added in markup very late in the process. Legislation does not receive the kind of very thoughtful encrustation that comes through common law development and interpretation of the securities acts.

I have represented both sides in securities litigation before coming to the U.S. Senate in the private practice of law. I would remind my colleagues that before we proceed to make such enormous changes by this legislation, we need to recall the importance of protecting investors, especially small investors, small unsophisticated investors, in some cases, who put a substantial part of their savings, perhaps all of their life savings, into securities, and how much is involved in the accretion of capital through corporations, through common stock, compared to what is the thrust of this legislation, really looking to curb some lawsuits which should not be brought, some frivolous lawsuits which ought not to have been filed, and perhaps some of the excesses in the plaintiffs' bar, as there may be excesses in any group.

What we are looking at is the value of shares traded in 1993 on the stock exchanges, the most recent year available for analysis. Mr. President, the $6.63 trillion traded on the stock exchanges in 1993 is more than half of the gross national product of the United States in 1963. The value of initial public offerings in 1993, was $57.444 billion.

If we take a look at the comparison as to how much is spent on attorney's fees, according to a 1990 article in the Class Action Reports, a review of some 334 securities class action cases decided between 1980 and 1990, a group of cases in which there was a recovery of $4.281 billion, only some 15.2 percent of that recovery went to fees and costs, a total of some $630 million.

In those cases, according to the court records, the attorneys for the plaintiffs spent 1,691,642 hours.

Statistics have already been presented on the floor of the Senate which show a decrease in securities litigation. I submit that it is very important to be able to continue to protect investors—especially small investors—from stock fraud.

We know that in the crash of the Depression, 1929 and thereafter, tremendous savings were lost at that time. These losses gave rise to the legislation in 1933 and 1934 to protect investors and the securities markets.

Without speaking at length on the subject, I would point to a few cases where there were very substantial losses to the public and in which private actions were brought to enforce the securities laws. For example, the ongoing Prudential Securities litigation, with over $1 billion in losses, perhaps as much as double that; the Michael Milken cases, where there were recoveries in the range of $1.3 billion, involving Drexel, Burnham & Lambert, recovered by the Federal Deposit Insurance Corporation under the securities laws; we all know the famous Charles Keating case, involving his former company, Lincoln Savings & Loan, involving some $262 million recovered and some $288 million lost; the $2 billion lost in the Washington Public Power Supply System case—mentioning only a few.

The concern that I have on the legislation as it is currently pending is that there is an imbalance which will discourage this very important litigation to protect the shareholders. I have supported the managers of the bill on a number of the amendments which have been filed, but I am going to submit a series of three amendments which, I submit, will make the bill more balanced.

The PRESIDING OFFICER. Without objection the pending amendment will be set aside.

AMENDMENT NO. 1483

(Purpose: To provide for sanctions for abusive litigation)

Mr. SPECTER. At this time, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1483.

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

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

The amendment is as follows:

Beginning on page 105, strike line 1 and all that follows through page 108, line 17, and insert the following:

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

''(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

''(2) include in the record findings of fact and conclusions of law to support such determination.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(*l*) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

''(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

''(2) include in the record findings of fact and conclusions of law to support such determination.''.

Mr. SPECTER. Mr. President, this amendment is designed to leave discretion with the trial judge in place of the very onerous provisions of the pending

bill which require a mandatory review by the court after each securities case is concluded and then a requirement that the court impose sanctions on a party if the court finds that the party violated any requirement of rule 11(b) with the presumption being that attorney's fees will be awarded to the losing party.

I submit that this is a very harsh rule which will have a profoundly chilling effect on litigation brought under the securities acts, and will in addition spawn an enormous amount of additional work for the Federal courts by causing what is called satellite litigation.

That means that in any case where the litigation is concluded under the securities acts, the judge will be compelled, under the mandatory review provision, to review all the pleadings filed in the case to determine whether rule 11 was violated, whether or not either party chooses to have that review made, and then will be compelled to impose the sanction with the presumption being payment of attorney's fees, which is really the British system, not the United States' system, where we have had open courts. This provision risks causing a tremendous imbalance between plaintiffs and defendants in these cases because the defendants are characteristically major corporations with much greater resources to defend, contrasted with the plaintiffs who do not have those resources, or their lawyers who bring the suits on their behalf.

I have surveyed the Federal bench, the judges in the U.S. district courts and in the courts of appeals, to see how the judges respond to changes in rule 11 to take away the discretion of the trial judges and have what is, in effect, micromanagement of the judiciary by the Congress of the United States. I have done this to try to get a sense as to what is going on in the courts. It has been some time since I practiced there.

I submit that the views of a few Senators, the authors of this bill and the Senators who are voting on this legislation, are a great deal more limited than the insights of the Federal judges who preside in the administration of these cases day in and day out. The procedures which are being followed in this legislation are not those customarily followed where the rules of civil procedure are formulated by the Federal courts under the Rules Enabling Act—the Supreme Court which has the authority to do so, and the delegation of that authority to committees where the judges work with it all the time, and representatives of the bar, as opposed to the Members of Congress, who have very, very limited experience in this field and, in this particular case, had this provision added very late in the process, late in May, a few days before there was final markup of the bill in the Banking Committee, which does not normally deal with issues of the Federal Rules of Civil Procedure.

Earlier in the consideration of this bill I made an effort to have these issues on procedure referred to the Judiciary Committee, on which I serve, which has the most experience of any committee in the Congress—certainly more than the Banking Committee, which has jurisdiction over this bill—because hearings were not held and consideration was not given to this rule 11 provision.

Among the responses which I received, some 164 responses from Federal judges, there was a general sense that the trial judges ought to have the discretion and were in the best position to make a determination as to whether sanctions ought to be imposed without having a mandate from the Congress, the micromanagement from the Congress, saying you must make this determination. Even though the winning party did not ask for it, even though there are not procedures for one party to say to the other, ''You are undertaking something which our side considers frivolous and, if you do not cease and desist, we will bring an action to impose sanctions,'' to have a chance to correct it.

A very lucid statement of the problem was made by a very distinguished judge for the Court of Appeals for the Third Circuit, Judge Edward R. Becker, who had this to say.

> The mandatory sanctions are a mistake and will only generate satellite litigation.

By satellite litigation, Judge Becker is referring to the situation where another lawsuit, another issue has to be litigated as to whether a rule 11 sanction should be instituted. Again, not at the request of the losing party. Judge Becker continues to this effect:

> The flexibility afforded by the current regime enables judges to use the threat of sanctions to manage cases effectively. Well-managed cases almost never result in sanctions. Moreover, the provisions for mandatory review, presumably without prompting by the parties, will impose a substantial burden on the courts and prove completely useless in the vast majority of cases. Requiring courts to impose sanctions without a motion of a party also places the judge in an inquisitorial role, which is foreign to our legal culture, which is based on the judge as a neutral arbiter model.

A very cogent reply was made by Judge James A. Parker, of the United States District Court for the District of New Mexico, who had this to say:

> As a member of the judiciary, I implore members of the legislative branch of government to follow the Rules Enabling Act procedures for amending rules of evidence and procedure that the courts must apply. Congress demonstrated great wisdom in passing the Rules Enabling Act which defines the appropriate roles of the legislative and judicial branches of government in adopting new rules or amending existing rules. Those who hold the strong and sincere belief that changes should be made to the current formulation of Rule 11 should present their views and proposals in accordance with the procedures set forth in the Rules Enabling Act.

Judge Parker further writes that ''Rule 11 * * * gives federal judges adequate authority to impose appropriate sanctions for conduct that violates Rule 11.''

Mr. President, a number of the judicial comments which I am about to read apply to my second amendment as well. That second amendment relates to a provision in the bill which requires that the court not allow discovery after a motion to dismiss is filed. On that particular line, the rule is that discovery may proceed unless the judge eliminates discovery. Under the pending legislation, there would be no discovery as a matter of mandate unless under very extraordinary circumstances, but the mandatory rule applies. And the comments of Judge Parker would apply to the second amendment as well, the second amendment which I propose to bring.

Mr. President, the statement by Judge Bill Wilson of the Eastern District of Arkansas, in a letter dated April 27, is to the same effect, as follows:

> Federal Rule . . . 11, as it now reads, gives a judge all he or she needs to handle improper conduct. And I think we should all keep in mind that we can't promulgate rules good enough to make a good judge out of a bad one.

On that point, Mr. President, I think it is fair and appropriate to note that we have a very able Federal judiciary which can administer justice if left to do so with appropriate discretion.

Judge Prentice H. Marshall of the Northern District of Illinois said this in a May 5 letter:

> Rule 11 . . . gives the judge greater flexibility in the imposition of sanctions; it affords the offending party the opportunity to correct his or her misdeed.

A letter from Martin F. Loughlin of the District of New Hampshire, dated May 2 reads:

> Federal Rule of Civil Procedure 11 is working well. It gives the judge adequate discretion to deal with frivolous litigation and untoward conduct by attorneys.

A letter from Federal Judge Miriam Goldman Cedarbaum from the Southern District of New York, dated May 10, 1995, says in part:

> I have found the general supervisory power of the court as well as 28 U.S.C., Section 1927, and Rule 11 adequate sources of judicial authority to discourage frivolous litigation.

A letter from Federal Judge J. Frederick Motz from the District of Maryland, dated May 9, 1995, referring to the mandatory rules said that they are:

> . . . counterproductive in that it increased judges' workloads and contributed to litigation cost and delay by requiring judges to impose sanctions whenever a Rule 11 violation was found. Satellite litigation in which one lawyer or party sought fees from another became commonplace.

Continuing to quote:

> I oppose any amendment to the Rule that would make imposition of sanctions mandatory.

A similar view was expressed by Judge Ilana Diamond Rovner of the Court of Appeals for the Seventh Circuit in a letter dated April 1995:

The current Rule 11 gives the District Court ample discretion to address frivolous litigation.

A letter from Senior Judge Floyd R. Gibson from the U.S. Court of Appeals for the Eighth Circuit, dated April 20, 1995:

I believe more discretion should be given to the district judge in the how and when to apply the sanctions under Rule 11(c) on sanctions.

Similarly, Judge Avern Cohn from the Eastern District of Michigan, dated May 5, 1995, says, in part:

I firmly believe that Congress involves itself too deeply in the procedural aspects of the litigation process.

A letter from Martin Feldman from the Eastern District of Louisiana, says, in part:

I believe that giving district courts more discretion in applying the Rule was good thinking.

And Judge Jimm Larry Hendren of the Western District of Arkansas, writes, in part:

I am not sure the Congress needs to pass any legislation. I think the courts, themselves, can handle this matter with the rules already in place and their inherent powers.

And a letter from Judge Leonard I. Garth, a distinguished member of the Court of Appeals for the Third Circuit, says:

In my opinion, abandoning mandatory sanctions and permitting district court judges to exercise their judicial discretion was a welcome measure.

A good many of these comments apply to the change in rule 11, which had been mandatory from 1983 to 1993. It would apply equally well to the kind of a rule which is in effect here.

The letter from Senior Judge William Schwarzer from San Francisco says that the sanctions ought to be discretionary.

Mr. President, I ask unanimous consent that these letters, which represent only a small sample of the responses I received supporting discretionary imposition of sanctions, appear in the RECORD at the conclusion of my statement, with the exception of the letter from Judge Becker.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, I now refer again to the letter from Judge Becker citing the draft of a rule from Circuit Judge Patrick Higginbotham, who is chairman of the Judicial Conference Advisory Committee on Civil Rules, which sets out the amendment which I have submitted, and it is to this effect: that the sanction for abusive litigation would arise in any private action when the abusive litigation practice is brought to the district court's attention by motion or otherwise. The court shall promptly decide with written findings of fact and conclusions of law whether to impose sanctions under rule 11, and upon the adjudication, the district court shall include the conclusions and shall impose the sanctions which the court in the court's discretion finds appropriate.

Mr. President, I submit to my colleagues that leaving the discretion to the judge really is the right way to handle these matters. These judges sit on these cases, know the cases, and have ample authority as a discretionary matter to impose the sanction. As one judge said, all these rules cannot make a bad judge do the right thing. But I think we can rely upon the discretion of the judges without tying their hands.

Mr. President, I would be glad to yield the floor at this time to argument by the managers if they would care to do so. We can then proceed to conclude the argument on this amendment.

EXHIBIT 1

UNITED STATES DISTRICT COURT,
DISTRICT OF NEW MEXICO,
Albuquerque, New Mexico, May 2, 1995.

Hon. ARLEN SPECTOR,
U.S. Senate, Committee on the Judiciary, Wsshington, DC.

DEAR SENATOR SPECTOR: Thank you for your letter of April 24, 1995 and the opportunity to express comments on issues involving Rule 11 of the Federal Rules of Civil Procedure.

For purposes of clarity, I have restated each question posed in your April 24, 1995 letter followed by my response.

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify ''loser pays'' and strengthening of FRCP 11?

Response: Rule 11, as amended effective December 1, 1993, gives federal judges adequate authority to impose appropriate sanctions for conduct that violates Rule 11. Rule 11(c) states that if Rule 11 has been violated ''the Court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.'' Rule 11(c)(2) describes the sanctions that may be imposed for a violation. These include directives of a non-monetary nature, an order to pay a penalty into Court, or an Order directing that an unsuccessful movant who has violated Rule 11 pay ''some or all the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.'' At this point there appears to be no need to change Rule 11, or to pass legislation, to introduce a more stringent ''loser pays'' sanction.

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

Response: In this judicial district, considerable satellite litigation developed under Rule 11 after the 1983 amendment. This required judges to devote significant time to resolving squabbles among counsel unrelated to the merits of the case. The 1993 amendment of Rule 11 has dramatically reduced the number of motions alleging Rule 11 violations. This I attribute directly to the ''safe harbor'' provision found in Rule 11(c)(1)(A). The ''safe harbor'' provision has forced lawyers to communicate and to resolve their disputes in most instances without the need for Court intervention. My personal opinion is that this feature of the 1993 amendment of Rule 11 strengthened instead of weakened Rule 11. It has made the lawyers talk to each other about claims or defenses perceived by their opponents to be frivolous and this has resulted in most disputes being resolved without extensive briefing and devotion of valuable court time. Removal of the ''safe harbor'' provision from Rule 11 would be extremely detrimental to the orderly functioning of the courts.

(3) What suggestions, if any, do you have in relation to this issue?

Response: As a member of the judiciary I implore members of the legislative branch of government to follow the Rules Enabling Act procedures for amending rules of evidence and procedure that the courts must apply. Congress demonstrated great wisdom in passing the Rules Enabling Act which defines the appropriate roles of the legislative and judicial branches of government in adopting new rules or amending existing rules. Those who hold a strong and sincere belief that changes should be made to the current formulation of Rule 11 should present their views and proposals in accordance with the procedures set forth in the Rules Enabling Act.

If you wish, I will be happy to provide additional information on this subject either orally or in writing.

Sincerely,

JAMES A. PARKER.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF ARKANSAS,
Little Rock, AR, April 27, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you very much for your letter of April 6, 1995.

In the year and a half that I have been on the bench I have had no problem with frivolous litigation. I have sanctioned two lawyers for engaging in what I thought to be inappropriate discovery procedures, but have had no experience with FRCP 11 as a trial judge.

I am strongly opposed to the ''loser pays'' proposal. I am told by my scholarly friends that this is a British rule. With all due respect for our kinfolks across the Atlantic, many of our ancestors got on a ship and came to the United States because they were not particularly fond of the justice system in Britain. In all seriousness, I do have a lot of respect for some aspects of the system in England, but, in my opinion, ours is much superior.

The ''loser pays'' will obviously slam the courthouse door shut in the face of deserving citizens who are not well heeled financially.

It appears to me that the 1993 Amendment to FRCP 11 was much needed. The rule, before these changes, tended to be too rigid, at least on the surface. It encouraged satellite litigation. FRCP 11, as it now reads, gives a judge all she or he needs to handle improper conduct. And I think we should all keep in mind that we can't promulgate rules good enough to make a good judge out of a bad one.

Finally, I would like to comment on the ''crisis'' claims that are being made about the case load in federal district courts. I quote from Judge G. Thomas Eisele: *Differing Visions—Differing Values: A Comment on Judge Parker's Reformation Model for Federal District Courts*, 46 SMU L. Rev. 1935 (1993):

. . . In 1985 the total case filings in all U.S. District Courts came to 299,164; in 1986, 282,074; in 1987, 268,023; in 1988, 269,174; in 1989, 263,896; in 1990, 251,113; in 1991, 241,420; and in 1992, 261,698. So in a period of seven years the total filings have fallen from 299,164 to 261,698. The number of civil filings per judgeship fell from 476 in 1985 to 379 in 1990—a period when the number of judgeships remained constant at 575. In 1991 the number of judgeships increased to 649 and the number of civil cases per judgeship fell to 320. For 1992 the figure is 350.

''We are frequently told that our criminal dockets are interfering with our civil dockets, and this has certainly been true in a few

of our federal districts. But the number of felony filings per judgeship only increased from forty-four in 1985 to fifty-eight in 1990. In 1992, that number fell to fifty-three. The total filings per judgeship, criminal and civil, have been lower than they were in 1991 (372) in only two years since 1975. And the weighted filings per judgeship have likewise fallen in the past five years from 461 in 1986 to 405 in 1992.

''So there is not much support for the oft-repeated assertions that 'federal court system has entered a period of crisis;' that our courts are 'on the verge of buckling under the strain;' that 'our courts are swamped and unmanageable'. . . . The actual figures and trends simply do not support such doomsday hyperbole.

''On the issue of delay we find, as always, that a few district courts are having considerable trouble moving their dockets, but overall we find the same median time from filing to disposition in civil cases (nine months) for each year from 1985 until 1992. And the period between issue and trial in 1992 (fourteen months) is the same as it was in 1985. A Rand Corporation study confirms that the rhetoric about unconscionable and escalating delays in processing and trying cases in the federal district court system is nothing more than myth. . . .''

In other words, the sky is not falling down.

Again, thank you very much for permitting me to comment on these questions.

Cordially,

WM. R. WILSON, JR.

U.S. DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS,
Chicago, Illinois, May 5, 1995.

Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: I respond to yours of April 19 inquiring about the need to strengthen Rule 11 of the Federal Rules of Civil Procedure.

1. In my 22 years on the federal trial bench I state unequivocally that there is not a significant problem with frivolous litigation in the federal courts warranting a ''loser pays'' sanction. I have encountered two or three repetitious/abusive plaintiffs. But their first complaints were not frivolous. They just had difficulty taking ''No'' for an answer.

Of course, in all litigation which is tried, somebody wins and somebody loses. But the losers are not frivolous complainers.

2. The 1993 amendment to Rule 11 of the Federal Rules of Civil Procedure did not ''weaken'' it. Quite the contrary: it made the Rule bilateral, i.e., it applies to unfounded denials as well as unfounded contentions; it gives the judge greater flexibility in the imposition of sanctions; it affords the offending party the opportunity to correct his or her misdeed. The rule should not revert to 1983.

3. I suggest that Rule 11 be left just the way it is. It is working well. The collateral litigation provoked by the 1983 version has diminished.

Respectfully yours,

PRENTICE H. MARSHALL.

UNITED STATES DISTRICT COURT,
DISTRICT OF NEW HAMPSHIRE,
Concord, NH, May 2, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge receipt of your letter dated April 24, 1995 with respect to the recently passed United States House of Representatives legislation providing for a form of ''loser pays.''

In response to question #1, I do not believe there is a significant problem with frivolous litigation in the Federal Courts to justify ''loser pays.''

With respect to question #2 FRCP 11 is working well. It gives the judge adequate discretion to deal with frivolous litigation and untoward conduct by attorneys.

Candidly, I hope that the Senate does not pass the ''loser pays'' legislation. I have one comment related to strengthening of FRCP 11. Although there may be and there is some justification for losers pay, I do not believe it is necessary. There are many cases where an indigent, well-intentioned litigant may be penalized by strict adherence to a rule that losers pay. I have been a New Hampshire Superior Court judge for sixteen years and a Federal Judge for an equal amount of time. While not strictly restricted to the Federal Courts, we are being inundated with paper, usually by the party who is well-off financially. This unfortunately sometimes puts pressure on the non-affluent litigant to settle or withdraw his or her claim.

Sincerely,

MARTIN F. LOUGHLIN.

U.S. DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK,
New York, NY, May 10, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter dated April 24 inquiring about frivolous litigation in the federal courts. I have been a federal trial judge for nine and one-half years in one of the busiest districts in the country. During that period, Fed.R.Civ.P. 11 has been both strengthened and weakened. I have not observed a significant problem that requires a legislative remedy.

The only noticeable effect of the weakening of FED.R.Civ.P. 11 has been a welcome diminution in the number of Rule 11 motions. With respect to ''loser pays,'' it is my strongly-held view that the founders of this Republic wisely chose to eliminate certain aspects of the English legal system as contrary to the egalitarian ideals of American democracy. Two of the most important of these reforms were the abolition of the distinction between barristers and solicitors and the elimination of the British practice of requiring the losing party in civil litigation to pay the lawyers fees of the winning party. Indeed, the system of having each party bear its own legal fees has come to be known as the American Rule. It is based on the belief that people of limited means would be deterred from suing on meritorious claims by the fear that if they were not successful, the costs would ruin them.

I have found the general supervisory power of the court as well as 38 U.S.C. §1927 and Rule 11 adequate sources of judicial authority to discourage frivolous litigation, and do not believe that the American Rule should be abolished.

Sincerely,

MIRIAM GOLDMAN CEDERBAUM.

UNITED STATES DISTRICT COURT,
DISTRICT OF MARYLAND,
Baltimore, Maryland, May 9, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of April 19, 1995, in which you solicit my views on a ''loser pays'' rule and the possible strengthening of FRCP 11.

There is, of course, a fair amount of frivolous litigation in the federal courts. However, the bulk of that litigation is conducted by impecunious litigants as to whom a ''loser pay'' rule would have no effect. Accordingly, I do not support the adoption of such a rule. I particularly oppose the rule in diversity cases since it would provide in such cases a significant incentive for attorneys to forum shop.

Similarly, I oppose any amendments to strengthen FRCP 11. I believe that as a general matter, Rule 11 is a valuable tool for judges to use, and I have occasionally imposed Rule 11 sanctions myself to punish or deter inappropriate behavior. However, I further believe that Rule 11, as it existed prior to the 1993 amendments, had a deleterious effect upon the professional relationships of members of the bar. Furthermore, I think that in its pre-1993 form the Rule was counterproductive in that it increased judges' workloads and contributed to litigation cost and delay by requiring judges to impose sanctions whenever a Rule 11 violation was found. Satellite litigation in which one lawyer or party sought fees from another became commonplace.

For these reasons I oppose any amendment to the Rule that would make imposition of sanctions mandatory; to a somewhat lesser extent, I also oppose elimination of the Rule's ''safe harbor'' provision provided in the 1993 amendments.

I hope that these comments are helpful to you. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

J. FREDERICK MOTZ,
United States District Judge.

U.S. COURT OF APPEALS
FOR THE SEVENTH CIRCUIT,
Chicago, IL, April 19, 1995.

Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter requesting my views on the ''loser pays'' and Rule 11 issues. I very much appreciate being given an opportunity to comment. My thoughts on the specific questions you pose are as follows:

(1) In my judgment, there is no significant problem with frivolous litigation in the federal courts such as would justify ''loser pays'' legislation or strengthening FRCP 11. The current Rule 11 gives the district court ample discretion to address frivolous litigation. If a given case is sufficiently frivolous, a court is not hampered from invoking Rule 11 to shift the entire cost of the case to the loser. Rule 11 also grants the district court discretion to impose more modest penalties or to refrain from a penalty, depending on what is appropriate in a given case.

(2) After the 1983 amendment, FRCP 11 created a cottage industry of satellite litigation which consumed an enormous amount of court time and did not succeed in improving the overall quality of litigation. The fact that penalties were mandatory if a violation was found simply raised the stakes of Rule 11 litigation and encouraged the filing of requests for sanctions, even if the breach was slight and the damage minimal. In many cases, it turned a dispute between the litigants into a dispute between the lawyers, and hampered or prevented altogether the pre-trial settlement of cases. The 1993 amendment has improved matters greatly by making sanctions discretionary. This permits much greater flexibility and has removed the incentive to file Rule 11 motions when the case for sanctions is weak.

(3) I strongly recommend that Congress leave Rule 11 as is and not adopt the ''loser pays'' rule. A ''loser pays'' provision will not add anything substantive to the district court's arsenal of tools to deal with frivolous litigation. It is likely merely to discourage litigants with limited resources to pursue their cases, particularly when the litigant seeks a change in the law. The ability to pursue such cases seems to me one of the fundamental protections of individual rights in

this country, and I believe if we want to reduce litigation, rather than disincentives for pursuing novel theories we ought to introduce incentives for settlement. ''Loser pays'' would act as a disincentive to settlement by introducing the question of fees and costs into settlement discussions. It would also generate an enormous amount of fees litigation. The net effect would thus be deleterious to individual liberties without significantly reducing the amount of litigation, and would in my judgment merely exacerbate the core problem—the amount of time that judges are increasingly required to devote to non-substantive matters.

Thank you again for inviting me to comment. I hope that my thoughts will be of aid to you in your deliberations, and I send, as always, warmest good wishes and my thanks for your many kindnesses through the years.

With best regards,

ILANA DIAMOND ROVNER.

U.S. COURT OF APPEALS,
EIGHTH CIRCUIT,
Kansas City, MO, April 20, 1995.

Re FRCP 11.

Hon. ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: In reply to your letter of April 6, positing inquiry on three issues related to FRCP 11, I would like to respond as follows:

1. There is a significant problem with frivolous litigation in the Federal Courts. I think a trial run with ''loser pays'' proposal would be in order provided the district judge would have the discretion to apply or not to apply such sanction in any given case.

2. I think FRCP 11 worked better after the 1983 Amendment; and, has some difficulty since the 1993 Amendment.

3. I believe more discretion should be given to the district judge in the how and when to apply the sanctions authorized under FRCP 11(c) on sanction. Also, some revisions of subsection (d) might be in order relating to discovery as there has been many abuses reported of extensive, unnecessary and costly discovery procedures which makes the whole legal system too expensive for many citizens to handle or even participate in the legal process.

I have been sitting with the Ninth Circuit in San Francisco since the receipt of your letter, hence my slight delay in reply.

Sincerely,

FLOYD R. GIBSON.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF MICHIGAN,
Detroit, MI, May 5, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for asking my views on pending ''loser pays'' legislation.

I firmly believe the Congress involves itself too deeply in the procedural aspects of the litigation process. Federal judges are capable of dealing with abusive lawyering. Legislation is not needed. I handle my docket just fine. I control abusive lawyering within the existing rules. Giving me more authority to deal with abusive lawyering is likely to make me more abusive.

Specifically,

1. There is no problem with frivolous litigation in the federal courts. FRCP 11 does not need to be strengthened and ''loser pays'' is not justified. We have gotten along very well for 220 years without much fee shifting and there is no need for it now.

2. FRCP 11 worked less well after the 1983 Amendment than it has since the 1993 Amendment. After the 1983 Amendment there were frequent occasions of overuse. That overuse no longer appears. Rarely is there a need for Rule 11 sanctions of any significant amount.

3. I suggest that Congress stay out of this area. What is pushing the Congress now is the better heeled part of society. More defendants win in court than plaintiffs. ''Loser pays'' and a stricter FRCP 11 would discourage otherwise potentially meritorious cases from coming to federal courts.

Lastly, published statistics show a 14% drop in the number of civil filings in federal courts between 1985 and 1994. Why all the excitement?

Sincerely yours,

AVERN COHN.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF LOUISIANA,
New Orleans, LA, May 1, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This is in response to your letter of April 19th, which I assume went to all members of the judiciary (unless our mutual good friend, Ed Becker, suggested that you write to me).

Let me say at the outset that after having been a lawyer who practiced principally in federal courts for some 26 years and a United States District Judge for nearly 12 years, I support some form of ''loser pay'' legislation.

There is indeed a problem with frivolous litigation in the Federal Courts which, in my view, justifies some form of ''loser pay'' rule. ''Loser pay'' legislation would serve as a deterrent to many lawsuits that ought not be filed, including suits by lawyers and pro se litigants. Moreover, ''loser pay'' legislation would also deter frivolous defenses in the early stages of the litigation. That, to me, is the main difference between ''loser pay'' and Rule 11.

I believe Rule 11 has worked after the 1983 Amendment, but its weakness is that Rule 11 addresses matters that might have occurred at the outset of litigation but that usually occur as an abuse of the adversary process in a later stage of the litigation. On the other hand, ''loser pay'' would serve as a deterrent from the very beginning of the litigation. I haven't had much involvement with Rule 11 since the 1993 Amendment, but I believe that giving district courts more discretion in applying the Rule was a good thing and I would not consider the 1993 Amendment to have been a weakening of the Rule.

As to specific suggestions, ''loser pay'' comes in many forms as you no doubt are aware. I don't have a specific model in mind, only a concept. I like the English rule but they have a much more sophisticated Legal Aid system. The question of whether or not pro se litigants should be dealt with the same way as lawyers and other litigants is a close call. I guess what I am saying is that there are several models of ''loser pay'' and your Committee would no doubt want to consider many of them and, perhaps, even a refinement of them that would accommodate the Federal system. But some form of ''loser pay'' is most appropriate now and I would be pleased to work with any group who was interested in drafting such legislation.

Thank you very much for writing me. You may also be interested to know that one of my present law clerks is Marc DuBois, whose father I understand is also a close friend of yours.

Sincerely,

MARTIN L.C. FELDMAN.

U.S. DISTRICT COURT,
WESTERN DISTRICT OF ARKANSAS,
Fort Smith, AR, April 20, 1995.

Re: Your Letter of April 6, 1995.

Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: With respect to your request for comment, I would make the following observations:

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify ''loser pays'' and strengthening of FRCP 11?

Response: I cannot speak for all federal courts but, with respect to those with which I am involved, the answer is ''no.''

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

Response: I did not commence my duties as a federal district judge until April 15, 1992. Accordingly, I don't feel qualified to make an appropriate comment on this issue.

(3) What suggestions, if any, do you have in relation to this issue?

Response: I am not sure the Congress needs to pass any legislation. I think courts, themselves, can handle this matter with the rules already in place and their inherent powers.

Respectfully,

JIMM LARRY HENDREN.

U.S. COURT OF APPEALS
FOR THE THIRD CIRCUIT,
Newark, NJ, April 24, 1995.

Hon. ARLEN SPECTER,
U.S. Senator, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Your letter of April 6th asks for my comments respecting congressional proposals to strengthen Rule 11 and to enact ''loser pays'' legislation. I am pleased to respond to your inquiries as best I can.

The 1983 amendment to Rule 11 generated a rash of Rule 11 motions, which themselves often generated responding Rule 11 motions. These motions were frequently groundless. According to a 1989 Federal Judicial Center (FJC) survey, approximately 31 percent of judges believed that many or most Rule 11 motions for sanctions are themselves frivolous. Federal Judicial Center, Rule 11: Final Report of the Advisory Committee on Civil Rules §2A at 7 (1990). Indeed, the post-1983 Rule 11 jurisprudence gave rise, in my opinion, to tangential ''satellite'' proceedings which, in many instances, not only delayed but appeared to dwarf the controversy on the merits.

I make special reference here to the practice of counsel who file a Rule 11 motion in an attempt to recover fees, which is met with a Rule 11 motion by adversary counsel, claiming that the initial Rule 11 motion was itself frivolous. According to the Judicial Center, the majority of judges (and I count myself among them) believe that the possibility of ''dueling'' Rule 11 motions can make litigation even more contentious if the threat of cost shifting materializes. *Id.* §2A at 10. Further, judicial time spent defining what is ''frivolous'' and resolving arguments over the appropriate fee award, allowable costs, and the like deprives judges of time which they could otherwise devote to the merits of other matters.

Additionally, about 65 percent of judges believe that frivolous litigation represents a small or very small problem, accounting for only 1–10 cases per judge in a year. *Id.* §2A at page 2–3. In combination, these statistics suggest to me that the 1983 version of Rule 11 itself may have contributed to needless proceedings in the courts.

The 1993 Amendment, of course, altered Rule 11 so that district court judges may exercise their discretion over whether to impose sanctions. Further, it explicitly provides for the option of penalties (fines) paid to the court in lieu of attorney's fees, and incorporates a 21 day ''safe harbor'' provision. Each provision reduces the likelihood that attorneys will fine Rule 11 motions to shift costs while still permitting judges to target violators with appropriate sanctions aimed at deterring future frivolous proceedings.

In my opinion, abandoning mandatory sanctions and permitting district court judges to exercises their judicial discretion was a welcome measure. Some frivolous litigation will always exist, and judges should have the power and discretion to address such behavior. After experience on the district court and more than twenty years examining district court records on appeal, I am confident that district court judges through the exercise of their discretion can control the evil that Rule 11 was originally promulgated to cure. This is the same power and discretion which we in the Courts of Appeal exercise over litigants through Federal Rule of Appellate Procedure 38.

I am also of the opinion that there has not been sufficient time since the 1993 Amendment has gone into effect to assess the institutional and judicial problems that may have arisen. I think that before further amendment to Rule 11 is sought, or further legislation in this area is contemplated, there should be a period for judicial maturation, study and evaluation.

In this regard, let me state a final concern that I have with the proposed congressional changes to the Federal Rules. The procedure for Rule amendments provided in the Rules Enabling Act—consideration by committees, the Judicial Conference, and the Supreme Court followed by submission to Congress—represents a prudent and conservative allocation of rulemaking authority between the judiciary and Congress. I am concerned that the initiation of rule changes by Congress without study and input from the judiciary, and without a developmental process involving the bench and bar, risks overlooking relevant considerations. Moreover, the ever-present separation of powers problems which lurk in the background of congressional attempts to fashion procedural rules for the Federal Courts suggests that Rules such as Rule 11 should be processed through traditional judicial channels before congressional action is taken.

As for my thoughts on the ''loser pays'' aspect of the Attorneys Accountability Act, I will be brief. It is clear to me that the primary results of such legislation can only be to (1) reduce the number of cases that go to trial, and (2) spur plaintiffs to take lower settlements than they would otherwise have accepted. However, this is just my opinion and it is not based on empirical data.

I note, for instance, that the Proposed Long Range Plan for the Federal Courts, in its March 1995 publication, recognizes that ''appropriate data are needed to assess the potential impact of fee and cost shifting on users of the Federal Courts.'' *Id.* at 61. The Plan rejects the ''English'' rule but recommends continuing a study of the problem of fee shifting to decrease frivolous or abusive litigational conduct. I share those views.

I am generally of the opinion that the American Rule is consonant with our tradition of liberal access to the courts. I have always taken great pride in the fact that in our country, plaintiffs with legitimate claims may have their ''day in court'' without fear of sanctions should their suits prove unsuccessful. I am also concerned that public interest groups and civil rights claimants may be discouraged from filing meritorious complaints due to fears that they will be assessed ''shifted'' fees in excess of their ability to pay.

You have asked what suggestions I have with respect to these issues. I would retain the 1993 Amendment to Rule 11 in its present form and revisit the effect of the Amendment at some future time, perhaps in another five years. Because Federal Rule of Civil Procedure 11 and Federal Rule of Appellate Procedure 38 give the courts power to sanction frivolous actions when necessary, my inclination is not to remove that discretion, but to encourage it.

I am similarly conservative as to ''loser pays.'' I note that even in Great Britain there has been recent criticism, both in the press and among scholars, of the English Rule. My experience tells me that ''each side pays'' has resulted in a just balance of interests. I am also a firm believer in the old adage. ''if it ain't broke, don't fix it.'' I therefore recommend against abandoning our present system until such time as studies of the two system reveal the desirability of change.

I am certain that you and your office have considered all of the matters that I have written about before receiving this note, but I did want to respond and explain to you why I entertain the views that I have advanced with respect to Rule 11 and ''loser pays'' legislation. Certainly, I would be pleased to respond to any inquires you may have.

Thank you writing to me in this regard.

Sincerely,

LEONARD I. GARTH.

San Francisco, CA, May 1, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This letter responds to yours of April 19 posing the following questions relating to legislation that would amend Rule 11 of the Federal Rules of Civil Procedure.

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify ''loser pays'' and strengthening of FRCP 11?

The short answer is that there is no significant problem with frivolous litigation in the federal courts. To the extent there is frivolous litigation, it consists mostly of cases brought by prisoners. Existing law adequately enables judges to dismiss those cases summarily with a minimum of work. And neither Rule 11 nor fee shifting would have any impact on prisoners filing cases.

More generally, it is a misconception to look at Rule 11 or fee shifting as a way to deter frivolous litigation. On the whole, Rule 11 has had a beneficial impact in making lawyers more careful about the pleadings they file, i.e. encouraging them to take a closer look to see whether a particular pleading is justified. Most frequently its application has been to motions and other procedural activities rather than to complaints or answers. But if it has been a deterrent at all, its impact has been mostly on persons who are risk averse-persons who may not want to take a chance that a borderline case will be found to be in violation of Rule 11 leading to possible sanctions. In this way, it functions not so much as a filter based on frivolity but as a gauge of risk averseness. I believe that it has functioned in this way in very few cases but the civil rights bar believes that it has deterred filing of some civil rights cases.

On the question of whether there is a justification for what you call a ''loser pays'' rule, in my view fee shifting has little to do with control of frivolous litigation. There are of course various ways in which to approach fee shifting. The so-called English rule is not practical for the United States for several reasons: (1) it impacts everyone, plaintiff and defendant alike, on the basis of risk averseness, not frivolity, i.e. perfectly non-frivolous cases are lost every day and it makes no sense to punish defendants or plaintiffs for losing a case; (2) a loser-pays rule, unless carefully drafted, would undermine contingent fee practice and over 100 federal fee-shifting statutes, and (3) to the extent it works in England, it is made possible by legal aid which pays attorneys fees for lower income litigants and exempts them from the rule.

A more constructive approach is to amend FRCP 68 to provide for fee-shifting offers of judgment but in a way that will make the rule serve as an incentive, not as a sanction. If you are interested in this, I refer you to the enclosed copies of an article I published on the subject and of a letter I wrote recently to Senator Hatch.

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

The Federal Judicial Center undertook a study of the operation of the 1983 amendment. It showed, among other things, that Rule 11 activity occurred only rarely (in 2 percent of the cases) and that sanctions were imposed in only about a quarter of the affected cases, that eighty percent of the judges thought that its overall effect was positive but also that it had a potential for causing satellite litigation and exacerbating relations among lawyers, and that the rule probably had a disparate impact on plaintiffs, particularly in civil rights cases. This is discussed in some detail in the enclosed article.

While I believe that on the whole the 1983 rule worked well, there is wide agreement among bench and bar that the 1993 amendment is an improvement and ought to be given a chance to operate before further changes are considered. The rule, as amended, will preserve the incentive for lawyers to use care in filing pleadings while minimizing costly and unproductive satellite litigation over sanctions by making sanctions discretionary (which in practical effect they are anyway), by providing a safe harbor, and by lessening the emphasis on the rule as a fee shifting device. The amendment will moderate what on occasion had become excessive reliance on the rule. The amendment now pending in Congress will inevitably result in more expense and delay by stimulating Rule 11 litigation without giving any assurance that the people who are prone to file frivolous cases will be deterred from doing so. I believe that the amendment will be counterproductive and self-defeating and therefore recommend that Congress leave the rule alone and observe its operation for a few years.

Sincerely,

WILLIAM W. SCHWARZER.

Mr. BENNETT. Mr. President, as I have said earlier in this debate, I am unburdened with the blessing of having been to law school, and as a consequence feel myself inadequate to respond to the learned legal arguments of one of the Senate's best lawyers. As a consequence, Mr. President, I will leave that argument to be made by the chairman of the committee at some future point. I have no response at this time.

Mr. SPECTER. Mr. President, I ask unanimous consent that the amendment be set aside so that I may proceed to offer my second amendment.

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

AMENDMENT NO. 1484

(Purpose: To provide for a stay of discovery in certain circumstances, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1484.

Beginning on page 108, strike line 24 and all that follows through page 109, line 4, and insert the following:

''(k) STAY OF DISCOVERY.—

''(1) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

''(A) would avoid waste, delay, duplication, or unnecessary expense; and

''(B) would not prejudice any plaintiff.

''(2) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

''(A) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

''(B) except as provided in subparagraphs (A) and (B), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.''.

On page 111, strike lines 1 through 7, and insert the following:

''(2) STAY OF DISCOVERY.—

''(A) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

''(i) would avoid waste, delay, duplication, or unnecessary expense; and

''(ii) would not prejudice any plaintiff.

''(B) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

''(i) notwithstanding any stay of discovery issued in accordance with subparagraph (A), the court may permit such discovery as may be necessary to permit a plaintiff to prepare an amended complaint in order to meet the pleading requirements of this section;

''(ii) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

''(iii) except as provided in clauses (i) and (ii), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.

Mr. SPECTER. Mr. President, this is the amendment which I referred to earlier dealing with a provision of the bill in its current form which prohibits any discovery after a motion to dismiss has been filed, except under very limited circumstances.

The general rule of Federal procedure is that discovery may proceed after a complaint has been filed and a motion to dismiss has been filed unless on application by the defendant the judge stays the discovery.

The current bill provides as follows:

In any private action arising under this title during the pendency of any motion to dismiss, all discovery proceedings shall be stayed unless the Court finds, upon the motion of any party, that a particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

It is more than a little surprising, Mr. President, to find securities litigation separated out from all of the other litigation in the Federal courts. And for those who may be watching this matter on C–SPAN, while this may be viewed as somewhat esoteric, somewhat hypertechnical, it will not be hypertechnical if you are a stockholder and the stock goes down and you find you have been misled and defrauded by people who have made misrepresentations.

What this means in common parlance, common English, is that a lawsuit is started. It is a class action started, and this private right of action has been developed in order to protect shareholders, especially small shareholders who band together in a class, and after the complaint is filed the plaintiffs' attorney seeks to find out the details as to what happened with the defendant; the plaintiff does not know all the details of the facts at the time of filing suit. The corporation or the officers may have made some very fine promises which sounded very good when the promises were made but no one can tell about the details of the facts unless you go into the records of that party because those facts are not generally known.

In lawsuits, discovery is permitted where one party seeks to take the deposition, that is, to ask the other party questions, or propounds interrogatories, that is, submits written questions, or makes a motion for the discovery of documents to take a look at records.

In discussing this issue with the proponents of the legislation, I was given a response—it is a little disappointing not to find somebody to argue against here. It is not easy to make an argument when there is nobody to disagree. Perhaps my distinguished colleague from Iowa wishes to disagree with me. My distinguished colleague from Utah chooses not to.

The response I got was that it changes the mindset of the litigation, and I would say that the trial judge who is sitting on the spot has ample discretion, if it is inappropriate discovery, to say the discovery is not going to go on, instead of having a mandatory change singling out this legislation from all other legislation.

Well, may I defer to my distinguished colleague from Utah, who I know, having warning in advance, now has had ample opportunity to muster the legal arguments, or am I to infer that the managers of the bill have fled the scene because there is nothing to be said in response to the overwhelming arguments I have presented?

Mr. BENNETT. I would not concede that there is nothing to be said in response to the overwhelming arguments.

Mr. SPECTER. Good. Will the Senator yield for a question or two?

Mr. BENNETT. I will concede that this Senator is not prepared to mount that response. I suggest, Mr. President, that the Senator proceed in his scholarly and learned way.

Mr. SPECTER. It is a little difficult to proceed, Mr. President, without opposition. But permit me at this time, Mr. President—and may I note ascension to power of my distinguished colleague from Pennsylvania, Senator SANTORUM.

Mr. President, in the absence of a reply, I would ask unanimous consent to proceed with the third amendment which I propose to offer.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, the pending amendment is set aside.

AMENDMENT NO. 1485

(Purpose: To clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation)

Mr. SPECTER. Mr. President, I now send a third amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1485:

On page 110, strike lines 12 through 19, and insert the following:

''(b) REQUIRED STATE OF MIND.—

''(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

''(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

''(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

''(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

Mr. SPECTER. Mr. President, I thank the clerk. I sense that the clerk was surprised I had not asked unanimous consent and permitted the clerk to read the amendment. But I did so just for a change of scene on C–SPAN2. Since there is nobody here to argue with me, at least let there be some break in the action. The formulation of the amendment by my distinguished chief counsel, Richard Hertling, was as clear and succinct as I could have articulated it.

Mr. President, this again involves a question which might be viewed as being esoteric and legalistic unless you are someone who has lost money in the stock market and seek to make a recovery, unless you are one of the people who has participated in the stock transactions in excess of $3.5 trillion or have been among those who have bought stock in the market, more than

$54 billion worth in 1993, the most recent year available for statistical summary. And what this amendment seeks to do, Mr. President, is to amplify the language of the bill which imposes a very difficult pleading burden on the plaintiff. Let me take just a moment or two to say what goes on in a lawsuit.

When somebody loses money because they bought stock where there has been a misrepresentation, and that person goes to a lawyer, they may have a relatively small amount of stock, say $1,000 worth, or $10,000 worth, or even $100,000 worth. That is not a sufficient sum to be able to carry forward litigation which is very, very costly on all sides, so class actions are authorized under the rules of civil procedure where many plaintiffs can join together and there is a sufficient sum so that the lawsuit can be brought forward.

Then the lawyer—and I have been on both sides, filing complaints and filing motions to dismiss—has to prepare a complaint, and the complaint involves allegations. An allegation is a statement of what the party represents happened. And then there is an answer filed by the defendant or the defendant may file what is called a motion to dismiss, if the defendant makes the representation that even assuming everything in the complaint is true, there is not a sufficient statement to constitute a claim for relief under the Federal rules, to warrant a recovery.

When these rules of civil procedure were formulated back in the 1930's, and I had the good fortune in law school to have the distinguished author of the Federal Rules of Civil Procedure, Charles E. Clark, the former dean of Yale Law School who was then a judge on the Court of Appeals for the Second Circuit and came to the law school to instruct us law students—there was done what was called notice pleading so that there did not have to be any elaborate statement as to what the case was about. It could be very simple. There was a case called Jabari versus Durning, if my recollection is correct, where a person just scribbled some notes on a piece of paper, went to the clerk's office and filed it.

And the effort was made at that time to have a notice pleading, contrasted with a common law pleading under Chitty where the averments had to be very, very specific. If he did not say it exactly right, you were thrown out of court. It was very complicated. And I can recall the early days practicing, going to the prothonotary in the Philadelphia Court of Common Pleas, which draws a smile from my learned colleague who is also a lawyer. There was no way that I could draw the complaint with sufficient specificity to satisfy the clerks, who would take some delight in rejecting legal papers filed by young lawyers. So at any rate, this bill seeks to have a very tough standard for pleading. And I think that it is a good point.

And what the draftsmen have done is gone to the Court of Appeals for the second circuit, and they have drafted a type of pleading requirement which was articulated by the chief judge of the court of appeals by the name of John Newman, who was a classmate of mine in law school and studied at the same one as the distinguished jurist, Charles Clark, the chief judge. And now Judge Newman is chief judge in his place. And this required state of mind provides that:

> In any private action arising under this title, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

Now, that is the toughest standard around. And that is fine. We ought to move away from notice pleading and really make the plaintiff state with specificity the state of mind. But when the Court of Appeals for the second circuit handed down this very tough rule, they went just a little farther and said what would give rise to an inference so that there would not be guessing on the part of the plaintiffs. And this is what Judge John Newman, who established this standard in the case of Beck versus Manufacturers Hanover Trust Co., said:

> These factual allegations must give rise to a ''strong inference'' that the defendants possessed the requisite fraudulent intent.
>
> A common method for establishing a strong inference of scienter is to allege facts showing a motive for committing fraud and a clear opportunity for doing so. Where motive is not apparent, it is still possible to plead scienter by identifying circumstances indicating conscious behavior by the defendant, though the strength of the circumstantial allegations must be correspondingly greater.

Now, what my amendment seeks to do, Mr. President, is to put into the statute the same things that Judge Newman was citing when he posed this very tough standard pleading. Judge Newman and the court said that the strong inference that the defendant acted with the required state of mind may be established either:

> (a) alleging facts to show the defendant had both motive and opportunity to commit fraud, or (b) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

Now, in the committee report, which accompanies this bill, the committee says this:

> The Committee does not adopt a new and untested pleading standard that would generate additional litigation. Instead, the committee chose a uniform standard modeled upon the pleading standard of the second circuit. Regarded as the most stringent pleading standard, the second circuit requires that the plaintiff plead facts that give rise to a ''strong inference'' of the defendant's fraudulent intent. The committee does not intend to codify the second circuit's caselaw interpreting this pleading standard, although courts may find this body of law instructive.

Now, I am a little bit at a loss—and I know that the distinguished Senator from Utah will have a response at this time, or Senator GRASSLEY will, or the Chair will—as to why the—I am just joking about that because there is nobody here to argue with me about this. And it may create some change in my agreeing to the unanimous consent for 2 minutes tomorrow to discuss this with the managers of the bill.

But the committee does say here that they are not adopting a new and untested pleading standard. They are correct. This is tested by the second circuit. But the second circuit in the whole series of cases has found that the way to make this determination is through these inferences which I have added in this amendment. And the committee does say accurately that this is the most stringent pleading standard around. And then the committee says that it does not intend to ''codify the second circuit's caselaw interpreting this pleading standard, although the courts may find this body of law instructive.''

Well, if we do not have it the way the second circuit says you plead it, but only saying this is instructive, then this bill allows courts to interpret this tougher pleading standard anyway they choose, and courts may impose some standards which go far beyond what the second circuit and Judge Newman had in mind in imposing this tough pleading standard. And it is one thing for the committee to say that they are not adopting a new and untested pleading standard, but it is only halfway if it does not put into the statute but leaves open the question of how you meet this standard.

I do wish I had the managers here to question them about precisely what they have in mind. And I am going to have to figure out some way, Mr. President, to raise this issue. Maybe I will offer this amendment in another form later so we can have some discussion and debate on it, because there is not really any explanation or any way to respond to or to understand what the committee has done here, because what they have done in essence is say the second circuit has a tough pleading standard; let us take it. But when the second circuit amplifies and says how you meet that standard, the committee says no, no, we are not going to adopt that.

What I am trying the do in this amendment is simply complete the picture and have in the statute this standard so that people know what they are to do on the pleading. Now, I know my colleague from Utah will have a comprehensive reply on this substantive issue.

Mr. BENNETT. Comprehensive is in the eye of the beholder, Mr. President.

Mr. SPECTER. If the Senator will yield for a question?

Can you give me in a beholder's eye what you are about to say is comprehensive?

Mr. BENNETT. I would say—

Mr. SPECTER. I think that question may be even understandable on C-SPAN2.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. The issue did come up. We did discuss it in the committee at some length. And even though I am not a lawyer, I think I did follow the conversation on this one. My understanding —which I think is what the Senator has said, but I will repeat it so that we have a common basis here—my understanding is that there was concern about different standards and different circumstances. And the committee decided they wanted to codify the standard from the second circuit. Now, the committee intentionally did not provide language to give guidance on exactly what evidence would be sufficient to prove facts giving rise to a strong inference of fraud. They felt that adopting the standard would be sufficient.

Obviously, the Senator from Pennsylvania disagrees with that decision. But the decision was intentional. This is not an inadvertent thing that the committee did. And they felt that with the second circuit standard being written into the bill, it was best to stop at that point and allow the courts then the latitude that would come beyond that point.

Beyond assuring the Senator that this was a deliberate decision within the committee by the drafters of the bill, both staff and members, I probably cannot give him any further enlightened knowledge on this particular subject.

Mr. SPECTER. Mr. President, I thank my distinguished colleague for that response.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. But I must say, I do not understand the logic of what the committee has done when they utilize the second circuit standard which they say is the most stringent standard, and the second circuit is given a road map as to how you meet it.

The legislation might not say this is the only way to meet it, but this is one of the ways to meet it so that when somebody is drafting a pleading, a party has knowledge and notice as to how to go about it. When the committee takes credit here for not adopting a new and untested pleading standard, I give them credit, because it is something which has already been tested. It is not new, but is incomplete if it does not have the second part of what the second circuit said as to how you meet the standard. It simply to me does not follow.

I shall not pursue it because I understand the distinguished Senator from Utah is not the draftsman.

Mr. President, that concludes the argument, and I do not think there is any point at this late hour in keeping the staff here if we are not going to have any reply. So, Mr. President, I yield the floor. If my colleagues are here and intend to make some reply, if they are on the premises, I will wait a reasonable period of time, but only that, in view of the lateness of the hour.

Mr. DORGAN. Mr. President, I rise today to discuss briefly my thoughts about the securities litigation reform bill, S. 240 sponsored by Senators DODD and DOMENICI that is being considered on the Senate floor.

No one disagrees with the goals of S. 240, which are to help pull the plug on frivolous and unmeritorious securities fraud lawsuits and to secure greater protections for those innocent victims in fraud litigation. But regrettably this bill, as it is currently drafted, will make it more difficult for innocent fraud victims to bring legitimate fraud cases. It also limits their ability to recover all of their losses from fraud perpetrators in those cases that they win. For these reasons, I intend to vote no.

Some of the provisions in the bill are long overdue. The bill would limit unreasonable attorney's fees in securities fraud cases. It also prohibits bonus payments and referral fees which may create an incentive to file frivolous cases. Moreover, it requires lawyers to provide all plaintiffs with more information about the nature of a proposed settlement in class action cases—including a statement about the reasons for settlement, about an investor's average share of the award and the amount of the attorney's fees and costs. I support all of these provisions.

But other provisions in the bill could effectively shield from liability those perpetrators who knowingly mislead or defraud investors. And if there is one thing that the investors of this country have a right to expect, it is that those who commit fraud or those who substantially assist in fraud get punished and that they are forced to return their ill-gotten gains to honest victims of their misdeeds.

In the 1980's, a flood of S&L executives openly flouted the law and the trust of their investors and depositors. Some of them lived like maharajahs while building monuments of worthless paper. This charade perpetrated by these swindlers contributed to a bailout of the industry that is costing the taxpayers of America as much as $500 billion to clean up. Innocent investors were bilked out of tens of billions of dollars and their ability to recover their losses has been limited.

Congress enacted tough legislation to ensure that this debacle will not happen again. I recall legislation that I offered, which passed Congress, prohibiting S&L's from investing in risky junk bonds and requiring them to divest the ones they already own. Some S&L's were actually selling worthless junk bonds to investors out of their lobbies. It never should have happened. But still many unwary investors lost a bundle on junk bonds offered by these deceptive fast-buck artists before Congress acted to stop this activity.

We ought to pass tough, reformed-minded securities legislation that stops the abusive legal cases that are filed to simply line the financial pockets of unscrupulous lawyers and professional plaintiffs. The companies that are the targets of such lawsuits are rightfully concerned about frivolous lawsuits. Meritless cases unnecessarily divert the much-needed resources and attention of firm personnel to defending these cases rather than allowing the companies to focus on product improvement and on their global competitors.

But I think that S. 240 as drafted goes too far toward immunizing those who are guilty of securities violations from liability. The provisions that shield these wrongdoers in securities fraud cases from liability are unfair to the innocent victims of fraud. And it sends the wrong message to our securities market that fraudulent behavior will be tolerated, if not sanctioned.

We must not insulate the white collar crowd who would exploit unwary investors for their own personal gains. Those responsible for the S&L scandal and those responsible for fraud in the future should pay. That's why I will vote against S. 240, unless it is substantially improved before the Senate votes on final passage.

Mr. HATFIELD. Mr. President, the Private Securities Litigation Reform Act of 1995, of which I am a cosponsor, is not about aiding perpetrators of fraud in the financial markets or hurting small investors. This legislation is about curtailing the abuses in this country's securities litigation system and empowering defrauded investors with greater control over the class action process. This legislation would restore fairness and integrity to our securities litigation system.

This legislation assists small investors by requiring lawyers to provide greater disclosure of settlement terms, including reasons why plaintiffs should accept a settlement. This is a common sense approach which is often lacking under the current system. This legislation also incorporates public auditor disclosure language. S. 240 requires that independent public accountants report to their client's management any illegal act found during the course of an audit. If the management of the company or the board of directors fail to notify the Securities and Exchange Committee of the illegal act, the auditor is required to inform the SEC or face civil penalties. This is needed reform which assists all investors who rely on accountants to act in an independent manner on their behalf.

I would like to close my statement on the Private Securities Litigation Reform Act of 1995 by highlighting some statistics from an article in today's issue of the Wall Street Journal. The article notes that the net legal costs of accounting firms has increased from 8 percent of their total revenue in 1990 to 12 percent of revenue in 1993. That is a 50 percent increase in net legal costs in just 3 years. In one of the cases cited in the article, it notes that an accounting firm spent $7 million defending itself in a case where the jury

ruled in the accounting firms favor. That is $7 million spent just to prove that the firm was innocent. As these statistics show, common sense should be reintroduced to our securities litigation system, and this legislation does just that. Common sense benefits all parties in the securities litigation system, especially investors, which is fundamental to this legislation.

Ms. MIKULSKI. Mr. President, I rise today to speak in support of the Securities Litigation Reform Act. I like this bill for three reasons: It stops the bounty hunters, it puts people who have lost money in charge, and it penalizes people who commit fraud.

Mr. President, we are finally moving on this issue. We've moved beyond discussing whether or not there is a problem—to discussing exactly what reforms are needed.

Here is what I think. First, let us stop the bounty hunters. This bill says that lawyers can't shop around for clients. I mean—a lawyer will not be able to pay a commission to someone else to find them a client.

I have heard of instances where lawyers seek out clients just so they can have cases to litigate.

Second, I think the people who lose the most money should have the most to say. By that I mean—with this bill the court will be able to pick one person—who has lost a lot of money in a class action suit—to be the leader. This way the system works for investors instead of against them.

Third, Mr. President, I am all for ending fraud and protecting businesses that are just trying to create jobs. This bill will not apply to people who knowingly cheat investors.

I have talked to several investors and I have heard from the people of Maryland on this issue. Accountants tell me that some attorneys pay stockbrokers, and others, in return for information about possible lawsuits and possible clients. That is unacceptable. Courts are for protecting the rights of people and promoting fairness, not for frivolous lawsuits.

Companies are hit with higher insurance costs, time in court and are generally distracted from the mission of creating jobs. Lawsuits mean that companies are reluctant to provide the kind of public information that can benefit investors.

In Maryland, high-technology companies are hit the most by this problem. That means these unnecessary lawsuits are costing Maryland citizens—lost jobs and lost opportunities.

Mr. President, this is not about protecting some ''savings and loan con artist'' as the ads say. This bill is about saving jobs and keeping the courthouse doors open to those who really need to get inside.

I support this bill because I believe it will create jobs. We needs investors. We need new companies. We need new jobs. But we will not have any new jobs if companies cannot invest or ask people to invest in their future.

Mr. President, this legislation is long overdue. I am pleased this day has come, and I am pleased that this reform has overwhelming bipartisan support.

It is time we look at liability issues and liability reform not on a partisan basis but on an American basis. It is in the best interest of business and it is in the best interest of the consumers. We can do both, because this bill does both.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 6 minutes as in morning business.

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

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 974 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

Mr. BENNETT. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1486

(Purpose: To make certain technical amendments, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. D'AMATO, for himself and Mr. SARBANES, proposes an amendment numbered 1486.

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

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

The amendment is as follows:

On page 84, line 11, strike '', if'' and insert ''in which''.

On page 111, beginning on line 2, strike ''during the pendency of any motion to dismiss,''.

On page 111, line 4, insert ''during the pendency of any motion to dismiss,'' after ''stayed''.

On page 114, line 13, strike ''has been,''.

On page 114, strike line 15 and insert the following: ''made—

''(i) was convicted of any felony or misdemeanor''.

On page 114, strike line 17 and insert the following: ''15(b)(4)(B); or

''(ii) has been made the subject of a ju-''.

On page 114, line 20, strike ''(i) prohibits'' and insert the following:

''(I) prohibits''.

On page 115, line 1, strike ''(ii) requires'' and insert the following:

''(II) requires''.

On page 115, line 4, strike ''(iii) determines'' and insert the following:

''(III) determines''.

On page 116, between lines 11 and 12, insert the following:

''(D) made in connection with an initial public offering;

On page 116, line 12, strike ''(D)'' and insert ''(E)''.

On page 116, line 17, strike ''(E)'' and insert ''(F)''.

On page 118, line 13, before the period insert ''that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation''.

On page 121, line 7, strike ''has been,''.

On page 121, strike line 9, and insert the following: ''made—

''(i) was convicted of any felony or misdemeanor''.

On page 121, strike line 11 and insert the following: ''15(b)(4)(B); or

''(ii) has been made the subject of a ju-''.

On page 121, line 14, strike ''(i) prohibits'' and insert the following:

''(I) prohibits''.

On page 121, line 16, strike ''(ii) requires'' and insert the following:

''(II) requires''.

On page 121, line 19, strike ''(iii) determines'' and insert the following:

''(III) determines''.

On page 122, between lines 20 and 21, insert the following:

''(D) made in connection with an initial public offering;

On page 122, line 21, strike ''(D)'' and insert ''(E)''.

On page 123, line 1, strike ''(E)'' and insert ''(F)''.

On page 124, line 21, insert before the period ''that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation''.

On page 128, line 25, strike ''the liability of'' and insert ''if''.

On page 128, line 25, strike ''offers or sells'' and insert ''offered or sold''.

On page 129, line 1, strike ''shall be limited to damages if that person''.

On page 129, line 9, strike ''and such portion or all of such amount'' and insert ''then such portion or amount, as the case may be,''.

On page 131, lines 19 and 20, strike ''that person's degree'' and insert ''the percentage''.

On page 131, line 20, insert ''of that person'' before the comma.

Mr. BENNETT. Mr. President, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1486) was agreed to.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the impression simply will not go away: The

existing $4.8 trillion Federal debt is a sort of grotesque parallel to the engerizer bunny that appears and appears and appears on television—the same way that the Federal debt keeps going and going and going—up, of course, always to the added burdens on the American taxpayers.

So many politicians talk a good game—and talk is the operative word—about reducing the Federal deficit and bringing the Federal debt under control.

In any event, Mr. President, as of yesterday, Monday, June 26, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,889,052,929,226.24 or $18,558.93 per man, woman, child on a per capita basis. Res ipsa loquitur.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1130. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''The District of Columbia Emergency Highway Relief Act''; to the Committee on Environment and Public Works.

EC–1131. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–1132. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference; to the Committee on the Judiciary.

EC–1133. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual actuarial report for calendar year 1995; to the Committee on Labor and Human Resources.

EC–1134. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Health, United States, 1994''; to the Committee on Labor and Human Resources.

EC–1135. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a proposal relative to authorized committees of presidential and vice presidential candidates; to the Committee on Rules and Administration.

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. MCCONNELL:

S. 968. A bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purchases; to the Committee on Finance.

By Mr. BRADLEY (for himself, Mrs. KASSEBAUM, and Mr. ROCKEFELLER):

S. 969. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON:

S. 970. A bill to authorize the Administrator of General Services to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COATS (for himself, Mr. HELMS, Mr. GREGG, and Mr. ASHCROFT):

S. 971. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. HARKIN, Mr. HOLLINGS, Mr. BINGAMAN, Mrs. BOXER, and Mr. AKAKA):

S. 972. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

By Mr. INOUYE:

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 974. A bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. Res. 142. A resolution to congratulate the New Jersey Devils for becoming the 1995 NHL champions and thus winning the Stanley Cup; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 968. A bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes; to the Committee on Finance.

THE BEAR PROTECTION ACT

Mr. MCCONNELL. Mr. President, I introduce the Bear Protection Act. This measure is aimed at controlling poaching of bears such as the American black bear which is found in Kentucky. It addresses several enforcement and jurisdictional loopholes that are caused by a patchwork of State laws. The current inconsistencies enable a wildly profitable underground black market for bear parts to flourish in the United States.

Mr. President, my bill would in no way affect legal hunting of bears. Hunters would still be allowed to keep trophies and furs of bears killed during legal hunts. This measure would only prohibit the sale or barter of the internal organs of the bear which are referred to as bear viscera.

This bill is made necessary because of the booming illegal trade in bear viscera. At least 18 Asian countries are known to participate in the illegal trade in bear parts. Bear viscera are also illegally sold and traded in large urban areas in the United States such as San Francisco, Seattle, Portland, and New York City. These cities serve as primary ports for export shipments of these goods.

Bear parts, such as gall bladders, are used in traditional Asian medicine to treat everything from diabetes to heart disease. Due to the increasing demand for bear viscera, the population of Asian black bears has been totally annihilated over the last few years. This has led poachers to turn to American bears to fill the increasing demand. I, for one, will not stand by and allow our own bear populations to be decimated by poachers.

Mr. President, it is estimated that Kentucky has only 50 to 100 black bears remaining in the wild. Black bears once roamed free across the Appalachian mountains, through the rolling hills of the bluegrass, all the way to the Mississippi river. Although we cannot restore the numbers we once had, we can insure that the remaining bears are not sold for profit to the highest bidder.

Poaching has become an astoundingly profitable enterprise. It is estimated that over 40,000 bears are poached in the United States every year. That equals the number that are taken by legal hunting.

Mr. President, the main reason behind these astounding numbers is greed. In South Korea, bear gall bladders are worth their weight in gold, and an average bear gall bladder can bring as high as $10,000 on the black market.

Currently, U.S. law enforcement officials have little power to address the poaching of bears and the sale of their parts in an effective manner. The Department of the Interior has neither the manpower nor the budget to test all bear parts sold legally in the United States. Without extensive testing, law

enforcement officials cannot determine if gall bladders or other parts have from threatened or endangered species. This problem perpetuates the poaching of endangered or threatened bears.

The Bear Protection Act will establish national guidelines for trade in bear parts, but it will not weaken any existing State laws that have been instituted to deal with this issue. My bill will also instruct the Secretary of the Interior and the U.S. Trade Representative to establish a dialog with the appropriate countries to coordinate efforts aimed at curtailing the international bear trade.

Mr. President, this measure is crafted narrowly enough to deal with the poaching of the American black bear for profit, while still ensuring the rights of American sportsmen. I urge my colleagues to join me in support of this much-needed legislation.

Mr. President, I ask unanimous consent that the full 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. 968

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 ''Bear Protection Act''.

SEC. 2. DEFINITION OF BEAR VISCERA.

In this Act, the term ''bear viscera'' means the body fluids or internal organs (including the gallbladder) of a species of bear.

SEC. 3. PROHIBITED ACTS.

The Secretary of the Interior shall prohibit—

(1) the import into the United States, or export from the United States, of bear viscera or products that contain or claim to contain bear viscera; and

(2) the sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, in interstate or foreign commerce, of bear viscera or products that contain or claim to contain bear viscera.

SEC. 4. REPORT BY SECRETARY OF THE INTERIOR.

Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Treasury, shall prepare and submit to Congress a report that describes—

(1) how to improve the effectiveness of the wildlife monitoring and inspection program of the Department of the Interior (including the computerized information system or any other system of the United States Fish and Wildlife Service or the United States Customs Service that records data) with respect to the importation or exportation of bear viscera and other bear and other wildlife body parts to and from the United States; and

(2) any plans of the United States Fish and Wildlife Service to monitor the illegal movement of, or commercial activity in, bear viscera or other bear body parts.

SEC. 5. DISCUSSIONS CONCERNING TRADE PRACTICES.

The United States Trade Representative and the Secretary of the Interior shall—

(1) discuss issues involving trade in bear viscera with the appropriate representatives of such countries trading with the United States as are determined jointly by the Secretary of Commerce and the Secretary of the Interior to be the leading importers, exporters, or consumers of bear viscera; and

(2) attempt to establish coordinated efforts with the countries to protect bears.

SEC. 6. RELATIONSHIP TO STATE LAW.

Nothing in this Act precludes the regulation under State law of the sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, of bear viscera or products that contain or claim to contain bear viscera, if the regulation—

(1) does not authorize any sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, of bear viscera or products that contain or claim to contain bear viscera, that is prohibited under this Act; and

(2) is consistent with the international obligations of the United States.●

By Mr. BRADLEY (for himself, Mrs. KASSEBAUM, and Mr. ROCKEFELLER):

S. 969. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Labor and Human Resources.

THE NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Mr. BRADLEY. Mr. President, I rise today with Senator KASSEBAUM, the distinguished chairwoman of the Labor and Human Resources Committee and Mr. ROCKEFELLER, to introduce legislation which seeks to ensure that newborn babies and their mothers receive adequate health care in the critical first few days following birth.

Mr. President, we all know that the first few days after birth are a critical and challenging time for both the infant and the mother. At this crucial stage in life, infants and their mothers truly need the support of health care providers. Yet, more and more families are finding their access to health providers at this time is being limited severely.

I say this because it is becoming common practice for health insurers to require that new mothers and their infants be discharged from the hospital 24 hours after an uncomplicated vaginal delivery, and 72 hours after a cesarean section. In some parts of the country, the hospital stay for a normal delivery is being reduced to 12 hours, and there is even talk of cutting it back to 6 hours. And in many cases, the mother and infant receive no professional follow-up care at home. The American Medical Association has dubbled these practices ''drive-through deliveries.''

Drive-through deliveries are not simply a matter of sending home mothers who are often exhausted and still in pain, and who may not have adequate social supports at home. They can also pose severe health risks for both the infant and the mother. National medical organizations, including the American Academy of Pediatrics, the American Medical Association, and the American College of Obstetricians and Gynecologists, have all stated that the trend toward shorter hospital stays is placing the health of many newborns and mothers at risk.

There are several reasons why they state this: First, numerous health problems faced by newborns, such as dehydration and jaundice, do not appear until after the first 24 hours of life. Since many of these illnesses can only be detected by health professionals, early hospital discharge can cause these conditions to go undetected, leading to brain damage, strokes, or even death.

Second, the mother can also develop many serious health problems, including pelvic infections, breast infections, and hemorrhaging.

Third, a 24-hour stay does not provide sufficient opportunity for the mother to be taught basic infant-care skills such as breastfeeding. This, combined with the fact that many mothers are simply too exhausted to care for their child 24 hours after delivery, often leads to newborns receiving inadequate care and nourishment during their crucial first few days of life.

Let me assure you that these concerns are not just theoretical. A range of anecdotal and scientific evidence indicates that these problems are real, and growing. A researcher at Dartmouth's medical school recently concluded that newborns discharged less than 2 days after birth are more likely to be readmitted for jaundice, malnutrition, and other problems. Physicians across the country have noted a resurgence in the number of jaundiced babies they are treating. And newspapers across the country in recent weeks have relayed devastating stories about how local mothers and infants have been affected by these policies.

Our bill seeks to counteract these negative effects of premature discharges by ensuring that newborns and mothers receive adequate care during those critical first days. It does this by requiring health insurers to allow new mothers and their infants to remain in the hospital for a minimum of 48 hours after a normal birth and 96 hours after a caesarean section. Shorter hospital stays are permitted provided that neither the mother nor the attending physician object, and that follow-up home health care is provided for the mother and infant.

To those who would argue that a 48-hour stay is longer than is medically necessary, I would like to point out that this is a significantly shorter time than medical experts recommend for uncomplicated deliveries. In their guidelines for caring for newborns and mothers, the American College of Obstetricians and Gynecologists [ACOG] and the American Academy of Pediatrics recommend stays of 48 hours for uncomplicated vaginal birth, and 96 hours following a caesarean birth—in addition to the day of delivery. ACOG has also pointed out that there is inadequate evidence to prove that early discharge is safe, and therefore that the recent trend toward shorter stays ''could be the equivalent of a large, uncontrolled, uninformed experiment'' on newborns and their mothers.

A 48-hour minimum stay is also consistent with steps being considered by some States. For example, our bill is very similar to one which recently was passed unanimously by the New Jersey Legislature, and which should soon be signed into law. Maryland has also recently passed a law dealing with early discharges, and similar measures are being considered in New York and California.

Mr. President, insurers may argue that they will pay for stays beyond 24 hours if there is a valid medical reason. However, many physicians have told me—off the record—that it is very difficult to convince insurers to grant an extension, no matter how valid the reason. They also state that the final decision is often made by someone with no experience in obstetrics. Finally, they state that many doctors are under financial pressures to avoid having patients stay beyond the 24-hour limit, so they are faced with a real quandary when a patient needs an extension. A recent report by Maryland's Department of Health and Mental Hygiene raises further concerns about what is considered a valid medical reason. This report found that among babies who were born prematurely, who were not fully developed, or who were diagnosed with a significant problem, about 22 percent were discharged from the hospital within 24 hours of birth. This study was based on data from 1992. I can only assume that the situation has gotten worse in the 3 years since.

Mr. President, there is no greater advocate for controlling health care costs than this Senator. And I am impressed by some health insurers' success in slowing health inflation by reducing unnecessary care. At the same time, I also recognize that there is a very fine line between eliminating unnecessary care and reducing access to care which truly is needed. And when we end up on the wrong side of that line—as I think is happening in the case of newborns and their mothers—I believe it is both appropriate and necessary for us to take steps to protect the health of the American public. Concerns about controlling costs are justified, but they must not be allowed to outweigh concerns about doing what is best for patients. And let us not forget, Mr. President, that discharging mothers and newborns early creates its own costs, the cost to insurers of treating patients for conditions which could have been prevented or lessened if caught earlier, and the costs to the individual and society when a child suffers brain damage or other permanent disabilities because they did not receive adequate early care.

Mr. President, America's newborns deserve a better welcome to the world than they are getting under the present system. Their mothers also deserve better. It is very important that health care costs be controlled, but the ultimate decision about health care must be based on medical factors, not financial ones.

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. 969

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 ''New Borns' and Mothers' Health Protection Act of 1995''.

SEC. 2. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.

(a) IN GENERAL.—A health plan that provides maternity benefits, including benefits for child birth, shall ensure that coverage is provided for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a caesarean section for a mother and her newly born child in a health care facility.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a), a health plan that provides coverage for post-delivery care provided to a mother and her newly born child in the home shall not be required to provide coverage of in-patient care under subsection (a) unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother.

(2) ATTENDING PHYSICIAN.—For purposes of paragraph (1), the term ''attending physician'' shall include the obstetrician, pediatrician, or other physician attending the mother or newly born child.

(c) PROHIBITION.—In implementing the requirements of this section, a health plan may not modify the terms and conditions of coverage based on the determination by an enrollee to request less than the minimum coverage required under subsection (a).

(d) NOTICE.—A health plan shall provide notice to each enrollee under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary of Health and Human Services, in consultation with the National Association of Insurance Commissioners. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the health plan and shall be transmitted—

(1) in the next mailing made by the plan to the employee;

(2) as part of the yearly informational packet sent to the enrollee; or

(3) not later than January 1, 1996;

whichever is earlier.

(e) HEALTH PLAN.—

(1) IN GENERAL.—As used in this Act, the term ''health plan'' means any plan or arrangement which provides, or pays the cost of, health benefits.

(2) EXCLUSIONS.—Such term does not include the following, or any combination thereof:

(A) Coverage only for accidental death or dismemberment.

(B) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(C) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act).

(D) Coverage issued as a supplement to liability insurance.

(E) Worker's compensation or similar insurance.

(F) Automobile medical-payment insurance.

(G) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(H) Such other plan or arrangement as the Secretary of Health and Human Services determines is not a health plan.

(3) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any subparagraph of paragraph (2) which provides for benefit payments, on a periodic basis, for—

(A) a specified disease or illness, or

(B) period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

SEC. 3. EFFECTIVE DATE.

The provisions of section 2 shall apply to all health plans offered, sold, issued, or renewed after the date of enactment of this Act.

● Mrs. KASSEBAUM. Mr. President, I join today with my colleague from New Jersey, Senator BRADLEY, in introducing the Newborns' and Mothers' Health Protection Act of 1995.

This legislation seeks to ensure that adequate care is provided to mothers and newborns in the critical first few days following birth. Modeled after legislation recently considered in Maryland and passed unanimously by the New Jersey Legislature, it requires health insurers to allow new mothers and their infants to remain in the hospital for a minimum of 48 hours after a normal birth, and 96 hours after a cesarean delivery. If the mother and the doctor agree, shorter hospital stays are permitted, provided that there is a follow-up visit.

''Guidelines for Perinatal Care'' issued by the American Academy of Pediatrics [AAP] and the American College of Obstetricians and Gynecologists [ACOG] state that in uncomplicated deliveries the postpartum hospital stay should range from 48 hours for vaginal births to 96 hours for cesarean sections, exclusive of the day of delivery.

However, as hospitalization costs continue to climb, it has become increasingly common for health insurers to require that new mothers and their babies be discharged from the hospital 24 hours after birth. In some parts of the country, hospital stays for a routine delivery can be as short as 12 hours.

The American Medical Association [AMA], ACOG, and the Academy of Pediatrics all have stated that the trend toward shorter hospital stays is placing the health of newborns and their mothers at risk.

Early hospital discharges have caused conditions such as jaundice—that do not appear until after the first 24 hours of life and which may lead to brain damage—to go undetected.

A 24-hour stay is often too short for new mothers to be taught basic infant care skills, such as breastfeeding. And many mothers are not physically capable of providing for a newborn's needs 24 hours after giving birth. This can lead to inadequate nourishment during a child's crucial first few days of life.

Mr. President, I must say that I have agreed to cosponsor this legislation

with some reservation. I generally view any effort to influence private contracting arrangements with great skepticism. However, I view this situation as limited and unique. What is at stake here is not merely an impediment to the traditional doctor-patient relationship, but instead the health and safety of millions of America's children.

My primary concern is that the most recent trend toward shorter hospital stays appears to be motivated primarily by financial considerations—instead of sound medicine.

In calling for a moratorium on shorter hospital stays last week, ACOG stated that:

> The routine imposition of a short and arbitrary time limit on hospital stays that does not take maternal and infant need into account could be equivalent to a large, uncontrolled, uninformed experiment that may potentially affect the health of American women and their babies.

Like ACOG, I fear that insurers may be acting prematurely, without sufficient information about the long-term health implications of shorter hospital stays. As more conclusive data becomes available, I would be open to revisiting this issue. Until then, I believe we should proceed with caution.

I strongly believe that decisions regarding early discharge must be individualized and should place primary emphasis on the health of a mother and her child. I believe that the legislation we are introducing today will help restore that perspective to this important decision.●

By Mr. COATS (for himself, Mr. GREGG, Mr. HELMS, and Mr. ASHCROFT):

S. 971. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basic of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Labor and Human Resources.

THE MEDICAL TRAINING NONDISCRIMINATION ACT OF 1995

● Mr. COATS. Mr. President, I introduce the Medical Training Nondiscrimination Act of 1995. This bill would prevent any State or Federal Government from discriminating against a health care provider because that provider does not perform induced abortions or train its ob-gyn residents to perform induced abortions.

It is, quite frankly, disturbing to me that this legislation is even necessary. I would venture that few of my colleagues could believe that our society is anywhere near to condoning a requirement that any person or any hospital be required to perform abortions or offer training in abortions.

Indeed, as it stands now, our proud tradition of tolerance toward those who abhor abortion and any participation in that act, has generally protected hospitals from having to provide or train abortions. In fact, only 12 percent of hospitals now require training in induced abortion. A third more do not offer any such training and the rest offer it only as an option. Of course, those programs still are required to train residents to manage medical and surgical complications of pregnancy. And that includes training procedures than might in the case save the life of the mother, as well as training D and C procedures involving preborn children that died as a result of a spontaneous abortion, miscarriage, or stillbirth.

But all this will change now that the Accreditation Council for Graduate Medical Education [ACGME] has voted to require all hospitals to train or arrange for training in induced abortion. The press has indicated that training in late-term, second-trimester abortions would be required. The ACGME has proposed to make exceptions only in the case of an institution that can formulate a cohesive, institutional objection based on religious or moral principles.

What is particularly shocking is that the Federal Government no only condones this compulsion but actually punishes those who do not submit. Here's how: Failure to do the abortion training could result in loss of accreditation by the ACGME. Loss of accreditation would result in loss of Federal funding. For example, Medicare will not reimburse the Part A costs of intern and resident services if the teaching program is not accredited. Further, ob-gyn residents in a program not accredited by the ACGME are ineligible for deferral of repayment on Federal Health Education Assistance Loans [HEAL]. The HEAL loan program is reauthorized in S. 555, now before the Senate.

Why the change in the standards? Internal correspondence with the ACGME panel suggests that the policy change was motivated by concern over the declining number of doctors willing to perform abortions and the need to destigmatize abortion providers. This concern over the stigmatization of abortion providers was dramatically characterized during the debate on the Foster nomination when one ''pro-choice'' Senator demanded an apology from another pro-life Senator who had ''defamed'' Dr. Foster by calling him an abortionist. Would an apology have been demanded if Dr. Foster had been called a heart surgeon or a podiatrist? No, there remains substantial negative stigma associated with being an abortion provider—stigma that might be eliminated if all obstetricians and gynecologists had to perform abortions as part of their residency training.

The Medical Training Nondiscrimination Act of 1995 would protect the civil rights of health care providers by preventing the Government from discriminating against any health care provider on the basis that it will not perform, train, or undergo training to perform an induced abortion. Discriminatory actions include denial of any benefit, assistance, or license, and the conditioning of such benefit, assistance, or license on the provider's compliance with accredition standards that require the performance, training, or arranging for training of induced abortions. The amendment applies only to State action and does not proscribe a private accrediting body from requiring abortion training.

Providers who choose to offer abortion training, and individuals who seek abortion training, may continue to do so. The amendment does not prevent any program from offering abortion training.

Providers will continue to train the management of complications of induced abortion as well as train to handle situation involving miscarriage and stillbirth or a threat to the life of the mother. The amendment requires no change in the practice of good obstetrics and gynecology.

This legislation has broad bipartisan support. On the House side Congressman HOEKSTRA, LAFALCE, VOLKMER, COBURN, and WELDON have introduced identical language in the House following hearings.

I urge my colleagues to join me and protect the rights of health providers against Federal and State government action that forces them to become involved in training or providing induced abortions against their will.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 971

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 ''Medical Training Non-discrimination Act of 1995''.

SEC. 2. ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

''ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

''SEC. 245. (a) IN GENERAL.—The Federal Government, and any State that receives Federal financial assistance; may not subject any health care entity to discrimination on the basis that—

''(1) the entity refuses to undergo training in the performance of induced abortions, to provide such training, to perform such abortions, or to provide referrals for such abortions;

''(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

''(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

''(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

''(1) IN GENERAL.—With respect to the State government involved, or the Federal Government, restrictions under subsection (a) include the restriction that, in granting a legal status to a health care entity (including a license or certificate), or in providing to the entity financial assistance, a service, or another benefit, the government may not require that the entity be an accredited postgraduate physician training program, or that the entity have completed or be attending such a program, if the applicable standards for accreditation of the program include the standard that the program must require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

''(2) RULE OF CONSTRUCTION.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

''(c) DEFINITIONS.—For purposes of this section:

''(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

''(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

''(3) The term 'postgraduate physician training program' includes a residency training program.''.●

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. HARKIN, Mr. HOLLINGS, Mr. BINGAMAN, Mrs. BOXER, and Mr. AKAKA):

S. 972. A bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practioners and clinical nurse specialists services; to the Committee on Finance.

THE MEDICAID NURSING INCENTIVE ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing the Medicaid Nursing Incentive Act of 1995, a bill to provide direct Medicaid reimbursement to nurse practitioners.

The ultimate goal of this proposal is to enhance the availability of cost-effective primary care to our Nation's most needy citizens.

Studies have documented the fact that millions of Americans each year do without the health care services they need, because physicians simply are not available to care for them. This problem plagues rural and urban areas alike, in parts of the country as diverse as south central Los Angeles and Lemmon, SD.

Medicaid beneficiaries are particularly vulnerable, since in recent years an increasing number of health professionals have chosen not to care for them or have been unwilling to locate in the inner city and rural communities where they live. Fortunately, there is an exception to this trend: Nurse practitioners frequently accept patients whom others will not treat and serve in areas where others refuse to work.

Studies have shown that nurse practitioners provide care that both patients and cost cutters can praise. Their advanced clinical training enables them to assume responsibility for up to 80 percent of the primary care services usually performed by physicians, many times at a lower cost and with a high level of patient satisfaction.

Congress has already recognized the expanding contributions of nurse practitioners. For more than a decade, CHAMPUS has provided direct payment to nurse practioners. In 1990, Congress mandated direct payment for nurse practitioner services under the Federal employee health benefit plan. Recent legislation has required direct Medicare reimbursement for nurse practitioners practicing in rural areas and direct Medicaid reimbursement for family nurse practitioners.

Mr. President, the ramifications of this issue extend beyond the Medicaid program and its beneficiaries; there is a broader lesson here that applies to our search for ways to make cost-effective, high-quality health care services available and accessible to all of our citizens.

One of the cornerstones of this kind of care is the expansion of primary and preventive care, delivered to individuals in convenient, familiar places where they live, work, and go to school. More than 2 million of our Nation's nurses currently provide care in these sites—in home health agencies, nursing homes, ambulatory care clinics, and schools.

In places like my home State of South Dakota, nurses are often the only health care professionals available in the small towns and rural counties across the State.

These nurses and other nonphysican health professionals play an important role in the delivery of care. And, this role will increase as we move from a system that focuses on the costly treatment of illness to one that emphasizes primary care and health promotion.

But, first we must revaluate outdated attitudes and break down barriers that prevent nurses from using the full range of their training and skills in caring for patients. In 1994, the Pew Health Professions Commission concluded that nurse practitioners are not being fully utilized to deliver primary care services and recommended eliminating fiscal discrimination by paying them directly for the services they provide. This step will help nurse practitioners provide the access to primary care that so many communities currently lack.

Mr. President, I hope my colleagues will support the measure I am introducing today, recognizing the important role that nurse practitioners and other nonphysician health professionals can play in our health care delivery system and the increasing contribution they can make in the future. I ask unanimous consent that the full 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. 972

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

SECTION 1. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Section 1905(a)(21) of the Social Security Act (42 U.S.C. 1396d(a)(21)) is amended to read as follows:

''(21) services furnished by a certified nurse practitioner (as defined by the Secretary) or clinical nurse specialist (as defined in subsection (t)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;''

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(t) The term 'clinical nurse specialist' means an individual who—

''(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

''(2) holds a master's degree in a defined area of clinical nursing from an accredited educational institution.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1996.

● Mr. AKAKA. Mr. President, I am pleased to join Senator DASCHLE as a cosponsor of the Medicaid Nursing Incentive Act of 1995. This legislation would provide direct Medicaid reimbursement to nurse practitioners and clinical nurse specialists for services they provide within their scope of practice, regardless of whether these services are performed under the supervision of a physician.

With the current shortage of primary health care services in our Nation, millions of Americans are without essential health services. Medicaid recipients are particularly vulnerable.

By allowing direct Medicaid reimbursement to nurse practitioners and clinical nurse specialists, I believe that this legislation will not only improve access to much needed health care services, but will strengthen our health care delivery system. A number of recent studies have documented the important roles that nurse practitioners and clinical nurse specialists play in providing cost-effective, quality health care services. For example, a December 1986 study by the Office of Technology Assessment detailed the significant contributions nurse practitioners have made in reducing health care costs, improving the quality of care, and increasing the accessibility of services.

I urge my colleagues to support this legislation. It will enhance access to

cost-effective, quality care for individuals with limited access to health care services.●

By Mr. INOUYE:

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

THE RESIDENTIAL GROUND RENTS ACT OF 1995

Mr. INOUYE. Mr. President, I rise today to speak on an issue of great importance to Hawaii's leasehold homeowners. In fiscal year 1992, at my request, the Congress appropriated $400,000 to study the feasibility of reforming the Internal Revenue Code to address ground lease rent payments and to determine what role, if any, the Federal Government should play in encouraging lease to fee conversions. The nationwide study was conducted by the Hawaii Real Estate and Research Center.

The legislation I am introducing today is based on the recommendations of this study. The bill would: First, provide a mortgage interest deduction for residential leasehold properties by allowing the nonredeemable ground lease rents to be claimed as an interest deduction; and, second, include a tax credit for up to $5,000 for certain transaction costs on the transfer of certain residential leasehold land for a 5-year period, ending on December 31, 1999. Transaction costs include closing costs, attorneys' fees, surveys, and appraisals, and telephone, office, and travel expenses.

In most private home ownership situations in this country, a homeowner owns both the building and land. Under a leasehold arrangement a homeowner owns the building—single-family home, condominium, or cooperative apartment—on leased land. The research conducted under the leasehold study shows that residential leaseholds are not uncommon in other parts of the United States and elsewhere in the world. Residential leaseholds exist in places such as Baltimore, MD, Irvine, CA, native American lands in Palm Springs, CA, Fairhope, AL, Pearl River Basin, MS, and New York, NY.

The study further indicates that there are few States that regulate residential leaseholds. Of those that do, the most common requirement applies only to condominium or time share units and is one requiring adequate disclosure of the lease terms. For the most part, States are unaware of any leasehold problems in their jurisdictions. However, residential leaseholds have proven to be problematic for the State of Hawaii.

The formation of Hawaii's land tenure system can be traced back to 1778 when British Capt. James Cook made his first contact with the Hawaiian civilization. Leasing was the preferred system to maintain control and retain a portfolio asset value. Residential leaseholds were first developed on the Island of Oahu after World War II. Population increases created a demand for housing and other types of real estate development. Federal income tax policy encouraged the retention of land to avoid payment of large capital gains taxes.

Hawaii's land tenure system is now anomalous to the rest of the United States because of the concentration of land in the hands of government, large charitable trusts, large agriculturally-based companies and owners of small parcels or urban properties.

High land prices and high renegotiated rents continue to create instability in Hawaii's residential leasehold system. In 1967, the Hawaii State legislature enacted a land reform act which did not become effective until the U.S. Supreme Court issued its 1984 decision, Hawaii Housing Authority versus Midkiff. The act and the Supreme Court decision basically divided the market into a ''single-family home market in which leaseholds were subject to mandatory conversion, and a leasehold condominium market which did not come within the scope of the law.''

Mandatory conversions on the single-family home market occurred from 1979 to 1982, and 1986 to 1990. As of 1992, there are approximately 4,600 single-family homes remaining in residential leaseholds. However, resolution over condominium leasehold reform remains uncertain. In 1990, the Honolulu City Council enacted legislation that would cap lease rent increases. The law was challenged in Federal district court as to its validity and eventually ruled as unconstitutional because the formula it used to arrive at permitted lease rent was irrational.

In 1991, due to the State legislature's unwillingness to address the leasehold problems, the Honolulu City Council again enacted a mandatory leasehold conversion law for leasehold condominiums (Ordinance 01–95). The law is currently being challenged in the Federal courts as to its constitutionality. Another bill which linked lease rent increases with the Consumer Price Index and the level of disposable income available to condominium owners was also considered. This bill, similar to the one enacted in 1990, was found to be unconstitutional.

The uncertainty in the residential leasehold market continues to create emotional distress for the leasehold residents of Hawaii. Voluntary conversion has helped to ease the situation and substantially reduce the stock of leasehold residential units in Hawaii. Yet, voluntary conversion is not enough to resolve the residential leasehold problems.

My legislation will help reduce the economic hardship due to the uncertainty in Hawaii's residential leasehold system. The leasehold study contains an analysis of the tax revenue effects of this legislation by allowing individual tax deductions for residential ground rent. The analysis suggests that there is potential revenues to the Federal Government if this legislation is enacted into law.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 973

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

SECTION 1. MORTGAGE INTEREST DEDUCTION FOR QUALIFIED NON-REDEEMABLE GROUND RENTS.

(a) IN GENERAL.—Section 163(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) GROUND RENTS.—For purposes of this subtitle, any annual or periodic rental under a redeemable ground rent (excluding amounts in redemption thereof) or a qualified non-redeemable ground rent shall be treated as interest on an indebtedness secured by a mortgage.''

(b) TREATMENT OF QUALIFIED NON-REDEEMABLE GROUND RENTS.—

(1) IN GENERAL.—Subsections (a), (b), and (d) of section 1055 of the Internal Revenue Code of 1986 (relating to redeemable ground rents) are amended by inserting ''or qualified non-redeemable'' after ''redeemable'' each place it appears.

(2) DEFINITION.—Section 1055 of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) QUALIFIED NON-REDEEMABLE GROUND RENT.—For purposes of this subtitle, the term 'qualified non-redeemable ground rent' means a ground rent with respect to which—

''(1) there is a lease of land which is for a term in excess of 15 years,

''(2) no portion of any payment is allocable to the use of any property other than the land surface,

''(3) the lessor's interest in the land is primarily a security interest to protect the rental payments to which the lessor is entitled under the lease, and

''(4) the leased property must be used as the taxpayer's principal residence (within the meaning of section 1034).''

(3) CONFORMING AMENDMENTS.—

(A) The heading for section 1055 of such Code is amended by striking ''redeemable''.

(B) The item relating to section 1055 in the table of sections for part IV of subchapter O of chapter 1 of subtitle A of such Code is amended by striking ''Redeemable ground'' and inserting ''Ground''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, with respect to taxable years ending after such date.

SEC. 2. CREDIT FOR TRANSACTION COSTS ON THE TRANSFER OF LAND SUBJECT TO CERTAIN GROUND RENTS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by inserting after section 30 the following new section:

''SEC. 30A. CREDIT FOR TRANSACTION COSTS.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the transaction costs relating to any sale or exchange of land subject to ground rents with respect to which immediately after and for at least 1 year prior to such sale or exchange—

''(A) the transferee is the lessee who owns a dwelling unit on the land being transferred, and

''(B) the transferor is the lessor.

''(2) CREDIT ALLOWED TO BOTH TRANSFEROR AND TRANSFEREE.—The credit allowed under paragraph (1) shall be allowed to both the transferor and the transferee.

''(b) LIMITATIONS.—

''(1) LIMITATION PER DWELLING UNIT.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the lesser of—

''(A) $5,000 per dwelling unit, or

''(B) 10 percent of the sale price of the land.

''(2) LIMITATION BASED ON TAXABLE INCOME.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the sum of—

''(A) 20 percent of the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, 29, and 30, plus

''(B) the alternative minimum tax imposed by section 55.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) TRANSACTION COSTS.—

''(A) IN GENERAL.—The term 'transaction costs' means any expenditure directly associated with a transaction, the purpose of which is to convey to the lessee, by the lessor, land subject to ground rents.

''(B) SPECIFIC EXPENDITURES.—Such term includes closing costs, attorney fees, surveys and appraisals, and telephone, office, and travel expenses incurred in negotiations with respect to such transaction.

''(C) LOST RENTS NOT INCLUDED.—Such term does not include lost rents due to the premature termination of an existing lease.

''(2) DWELLING UNIT.—A dwelling unit shall include any structure or portion of any structure which serves as the principal residence (within the meaning of section 1034) for the lessee.

''(3) REDUCTION IN BASIS.—The basis of property acquired in a transaction to which this section applies shall be reduced by the amount of credit allowed under subsection (a).

''(4) ELECTION.—This section shall apply to any taxpayer for the taxable year only if such taxpayer elects to have this section so apply.

''(d) CARRYOVER OF CREDIT.—

''(1) CARRYOVER PERIOD.—If the credit allowed to the taxpayer under subsection (a) for any taxable year exceeds the amount of the limitation imposed by subsection (b)(2) for such taxable year (hereafter in this subsection referred to as the 'unused credit year'), such excess shall be a carryover to each of the 5 succeeding taxable years.

''(2) AMOUNT CARRIED TO EACH YEAR.—

''(A) ENTIRE AMOUNT CARRIED TO FIRST YEAR.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 5 taxable years to which (by reason of paragraph (1)) such credit may be carried.

''(B) AMOUNT CARRIED TO OTHER 4 YEARS.—The amount of unused credit for the unused credit year shall be carried to each of the remaining 4 taxable years to the extent that such unused credit may not be taken into account for a prior taxable year because of the limitation imposed by subsection (b)(2).

''(e) TERMINATION.—This section shall not apply to any transaction cost paid or incurred in taxable years beginning after December 31, 1999.''

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by inserting after the item relating to section 30 the following new item:

''Sec. 30A. Credit for transaction costs on the transfer of land subject to certain ground rents.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 1994.

By Mr. GRASSLEY:

S. 974. A bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes; to the Committee on the Judiciary.

THE ANTI-ELECTRONIC RACKETEERING ACT

Mr. GRASSLEY. Mr. President, I rise this evening to introduce the Anti-electronic Racketeering Act of 1995. This bill makes important changes to RICO and criminalizes deliberately using computer technology to engage in criminal activity. I believe this bill is a reasonable, measured and strong response to a growing problem. According to the computer emergency and response team at Carnegie-Mellon University, during 1994, about 40,000 computer users were attacked. Virus hacker, the FBI's national computer crime squad has investigated over 200 cases since 1991. So, computer crime is clearly on the rise.

Mr. President, I suppose that some of this is just natural. Whenever man develops a new technology, that technology will be abused by some. And that is why I have introduced this bill. I believe we need to seriously reconsider the Federal Criminal Code with an eye toward modernizing existing statutes and creating new ones. In other words, Mr. President, Elliot Ness needs to meet the Internet.

Mr. President, I sit on the Board of the Office of Technology Assessment. That Office has clearly indicated that organized crime has entered cyberspace in a big way. International drug cartels use computers to launder drug money and terrorists like the Oklahoma City bombers use computers to conspire to commit crimes.

Computer fraud accounts for the loss of millions of dollars per year. And often times, there is little that can be done about this because the computer used to commit the crimes is located overseas. So, under my bill, overseas computer users who employ their computers to commit fraud in the United States would be fully subject to the Federal criminal laws. Also under my bill, Mr. President, the wire fraud statute which has been successfully used by prosecutors for many users, will be amended to make fraudulent schemes which use computers a crime.

It is not enough to simply modernize the Criminal Code. We also have to reconsider many of the difficult procedural burdens that prosecutors must overcome. For instance, in the typical case, prosecutors must identify a location in order to get a wiretapping order. But in cyberspace, it is often impossible to determine the location. And so my bill corrects that so that if prosecutors cannot, with the exercise of effort, give the court a location, then those prosecutors can still get a wiretapping order. And for law enforcers—both State and Federal—who have seized a computer which contains both contraband or evidence and purely private material, I have created a good-faith standard so that law enforcers are not shackled by undue restrictions but will also be punished for bad faith.

Mr. President, this brave new world of electronic communications and global computer networks holds much promise. But like almost anything, there is the potential for abuse and harm. That is why I urge my colleagues to support this bill and that is why I urge industry to support this bill.

On a final note, I would say that we should not be too scared of technology. After all, we are still just people and right is still right and wrong is still wrong. Some things change and some things do not. All that my bill does is say you can't use computers to steal, to threaten others or conceal criminal conduct.

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. 974

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 ''Anti-Electronic Racketeering Act of 1995''.

SEC. 2. PROHIBITED ACTIVITIES.

(a) DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) by striking ''1343 (relating to wire fraud)'' and inserting ''1343 (relating to wire and computer fraud)'';

(2) by striking ''that title'' and inserting ''this title'';

(3) by striking ''or (E)'' and inserting ''(E)''; and

(4) by inserting before the semicolon the following: ''or (F) any act that is indictable under section 1030, 1030A, or 1962(d)(2)''.

(b) USE OF COMPUTER TO FACILITATE RACKETEERING ENTERPRISE.—Section 1962 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d) It shall be unlawful for any person—

''(1) to use any computer or computer network in furtherance of a racketeering activity (as defined in section 1961(1)); or

''(2) to damage or threaten to damage electronically or digitally stored data.''.

(c) CRIMINAL PENALTIES.—Section 1963(b) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(3) electronically or digitally stored data.''.

(d) CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by striking ''his property or business''.

(e) USE AS EVIDENCE OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS.—Section 2515 of title 18, United States Code, is amended by inserting before the period at the end the following: '', unless the authority in possession of the intercepted communication attempted in good faith to comply with this chapter. If the United States or any State of the United States, or subdivision thereof, possesses a communication intercepted by a nongovernmental actor, without the knowledge of the United States, that State, or that subdivision, the communication may be introduced into evidence''.

(f) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (n);

(2) by striking the period at the end of paragraph (*o*) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(p) any violation of section 1962 of title 18.''.

(g) PROCEDURES FOR INTERCEPTION.—Section 2518(4)(b) of title 18, United States Code, is amended by inserting before the semicolon the following: ''to the extent feasible''.

(h) COMPUTER CRIMES.—

(1) NEW PROHIBITED ACTIVITIES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1030A. Racketeering-related crimes involving computers

''(a) It shall be unlawful—

''(1) to use a computer or computer network to transfer unlicensed computer software, regardless of whether the transfer is performed for economic consideration;

''(2) to distribute computer software that encodes or encrypts electronic or digital communications to computer networks that the person distributing the software knows or reasonably should know, is accessible to foreign nationals and foreign governments, regardless of whether such software has been designated as nonexportable; and

''(3) to use a computer or computer network to transmit a communication intended to conceal or hide the origin of money or other assets, tangible or intangible, that were derived from racketeering activity; and

''(4) to operate a computer or computer network primarily to facilitate racketeering activity or primarily to engage in conduct prohibited by Federal or State law.

''(b) For purposes of this section, each act of distributing software is considered a separate predicate act. Each instance in which nonexportable software is accessed by a foreign government, an agent of a foreign government, a foreign national, or an agent of a foreign national, shall be considered as a separate predicate act.

''(c) It shall be an affirmative defense to prosecution under this section that the software at issue used a universal decoding device or program that was provided to the Department of Justice prior to the distribution.''.

(2) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 47, United States Code, is amended by adding at the end the following new item:

''1030A. Racketeering-related crimes involving computers.''.

(3) JURISDICTION AND VENUE.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(g)(1)(A) Any act prohibited by this section that is committed using any computer, computer facility, or computer network that is physically located within the territorial jurisdiction of the United States shall be deemed to have been committed within the territorial jurisdiction of the United States.

''(B) Any action taken in furtherance of an act described in subparagraph (A) shall be deemed to have been committed in the territorial jurisdiction of the United States.

''(2) In any prosecution under this section involving acts deemed to be committed within the territorial jurisdiction of the United States under this subsection, venue shall be proper where the computer, computer facility, or computer network was physically situated at the time at least one of the wrongful acts was committed.''.

(i) WIRE AND COMPUTER FRAUD.—Section 1343 of title 18, United States Code, is amended by striking ''or television communication'' and inserting ''television communication, or computer network or facility''.

(j) PRIVACY PROTECTION ACT.—Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(3) there is reason to believe that the immediate seizure of such materials is necessary to prevent the destruction or altercation of such documents.''; and

(2) in subsection (b)—

(A) by striking ''or'' at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(5) in the case of electronically stored data, the seizure is incidental to an otherwise valid seizure, and the government officer or employee—

''(A) was not aware that work product material was among the data seized;

''(B) upon actual discovery of the existence of work product materials, the government officer or employee took reasonable steps to protect the privacy interests recognized by this section, including—

''(i) using utility software to seek and identify electronically stored data that may be commingled or combined with non-work product material; and

''(ii) upon actual identification of such material, taking reasonable steps to protect the privacy of the material, including seeking a search warrant.''.

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 267

At the request of Mr. STEVENS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 267, a bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 327

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 436

At the request of Mr. CAMPBELL, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 892

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 892, a bill to amend section 1464 of title 18, United States Code, to punish transmission by computer of indecent material to minors.

S. 955

At the request of Mr. HATCH, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 959

At the request of Mr. HATCH, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 959, a bill to amend the Internal

Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 142—TO CONGRATULATE THE NEW JERSEY DEVILS

Mr. LAUTENBERG (for himself and Mr. BRADLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 142

Whereas on October 5, 1982, the New Jersey Devils played their first National Hockey League game in New Jersey, embarking on a quest for the Stanley Cup which was satisfied 13 years later;

Whereas the Devils epitomize New Jersey pride with their heart, stamina, and drive and thus have become a part of New Jersey culture;

Whereas the New Jersey Devils won 10 games on the road during the Stanley Cup playoffs, thus demolishing the previous record;

Whereas the Devils have implemented an ingenious system known as the ''trap'' that was designed by head coach Jacques Lemaire which constantly stifled and frustrated their opponents;

Whereas Conn Smythe trophy winner Claude Lemieux led the league with 13 playoff goals, three of which were game-winners, and goalie Martin Brodeur led the league with a 1.67 goals-against average during the playoffs;

Whereas the New Jersey hockey fans are the best fans in the nation and deserve commendation for helping build the team into championship caliber and for supporting the Devils during their drive for the Stanley Cup;

Whereas the New Jersey Devils during the playoffs beat Boston, Pittsburgh, Philadelphia and in the finals swept the heavily favored Detroit Red Wings in four games giving the state of New Jersey its first-ever championship for a major league team officially bearing the state's name: Now, therefore, be it

Resolved, That the Senate congratulates the New Jersey Devils for their outstanding discipline, determination, emotion, and ingenuity, in winning the 1995 NHL Stanley Cup.

AMENDMENTS SUBMITTED ON JUNE 26, 1995

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

BRYAN AMENDMENT NO. 1474

Mr. BRYAN proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 127, strike line 20 and all that follows through page 128, line 15, and insert the following:

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(n) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (b) and (d), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 20 of the securities exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by adding at the end the following new subsection:

''(e) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of paragraphs (1) and (3) of section 21(d), or an action by a self-regulatory organization, or an express or implied private right of action arising under this title, any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision and shall be liable to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.''; and

(2) by striking the section heading and inserting the following:

''SEC. 20. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID OR ABET VIOLATIONS.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 42 of the Investment Company Act of 1940 (15 U.S.C. 81a–41) is amended by adding at the end the following new subsection:

''(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of duty owed by such person.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 209(d) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9) is amended)

(1) in subsection (d)—

(A) by striking ''or that any person has aided, abetted, counseled, commanded, induced, or procured, is aiding, abetting, counseling, commanding, inducing, or procuring, or is about to aid, abet, counsel, command, induce, or procure such a violation,''; and

(B) by striking ''or in aiding, abetting, counseling, commanding, inducing, or procuring any such act or practice''; and

(2) by adding at the end the following new subsection:

''(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of duty owed by such person.''.

BOXER (AND BINGAMAN) AMENDMENT NO. 1475

Mrs. BOXER (for herself and Mr. BINGAMAN) proposed an amendment to the bill, S. 240, supra; as follows:

On page 98, strike line 3, and all that follows through page 100, line 22, and insert the following:

''(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

''(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

''(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

''(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.''

On page 102, strike line 3, and all that follows through page 104, line 22, and insert the following:

''(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

''(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

''(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

''(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.''.

AMENDMENTS SUBMITTED ON JUNE 27, 1995

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

D'AMATO AMENDMENT NO. 1476

Mr. D'AMATO proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 121, line 1, delete the word ''expectation,''.

SARBANES (AND LAUTENBERG) AMENDMENT NO. 1477

Mr. SARBANES (for himself and Mr. LAUTENBERG) proposed an amendment to the bill S. 240, supra; as follows:

Beginning on page 112, strike line 1 and all that follows through page 126, line 14, and insert the following:

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) CONSIDERATION OF REGULATORY OR LEGISLATIVE CHANGES.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending rules and regulations of the Commission, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) COMMISSION CONSIDERATIONS.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 73a et seq.) is amended by inserting after section 13 the following new section:

''SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) IN GENERAL.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until the court has ruled on the motion.

''(b) SUMMARY JUDGMENT MOTIONS.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that a forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

''(c) DILATORY CONDUCT; DUPLICATIVE DISCOVERY.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

''(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

''(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or to any other party to the action.''.

SARBANES (AND LAUTENBERG) AMENDMENT NO. 1478

Mr. SARBANES (for himself and Mr. LAUTENBERG) proposed an amendment to the bill S. 240, supra; as follows:

On page 114, strike lines 7 and 8, and insert the following:

''(1) made with the actual knowledge that it was false or misleading;

On page 121, strike lines 1 and 2, and insert the following:

''(1) made with the actual knowledge that it was false or misleading;

GRAHAM AMENDMENT NO. 1479

Mr. GRAHAM proposed an amendment to the bill S. 240, supra; as follows:

On page 104, after line 22, insert the following:

(c) EARLY EVALUATION PROCEDURES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

''(1) IN GENERAL.—In a private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

''(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

''(A) defendants shall not be required to answer or otherwise respond to any complaint;

''(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

''(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

''(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

''(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

''(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

''(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

''(4) EVALUATION BY THE MEDIATOR.—

''(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

''(i) clearly frivolous, such that it can only be further maintained in bad faith;

''(ii) clearly meritorious, such that it can only be further defended in bad faith; or

''(iii) described by neither clause (i) nor clause (ii).

''(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

''(5) MANDATORY SANCTIONS.—

''(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated by the mediator under paragraph (4)(A)(i), upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of rule 11(b) of the Federal Rules of Civil Procedure.

''(B) MANDATORY SANCTIONS.—If the court makes a finding under subparagraph (A) that a party or attorney violated any requirement of rule 11(b) of the Federal Rules of

Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with rule 11 of the Federal Rules of Civil Procedure.

''(C) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), for purposes of subparagraph (B), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

''(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

''(I) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

''(II) the violation of rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

''(iii) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under clause (ii), the court shall award the sanctions that the court deems appropriate pursuant to rule 11 of the Federal Rules of Civil Procedure.

''(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

''(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.''.

(2) SECURITIES EXCHANGE ACT OF 1934—Section 21 of the Securities Act of 1933 (15 U.S.C. 78a) is amended by adding at the end the following new subsection:

''(l) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

''(1) IN GENERAL.—In any private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

''(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

''(A) defendants shall not be required to answer or otherwise respond to any complaint;

''(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

''(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

''(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

''(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

''(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

''(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

''(4) EVALUATION BY THE MEDIATOR.—

''(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

''(i) clearly frivolous, such that it can only be further maintained in bad faith;

''(ii) clearly meritorious, such that it can only be further defended in bad faith; or

''(iii) described by neither clause (i) nor clause (ii).

''(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

''(5) MANDATORY SANCTIONS.—

''(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(i) in which final judgment is entered against the plaintiff, the plaintiff or plaintiff's counsel shall be liable to the defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly frivolous when filed and was maintained in bad faith.

''(B) CLEARLY MERITORIOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(ii) in which final judgment is entered against the defendant, the defendant or defendant's counsel shall be liable to the plaintiff for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly meritorious and was defended in bad faith.

''(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

''(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.''.

On page 105, line 5, strike ''(j)'' and insert ''(i)''.

On page 106, line 25, strike ''(l)'' and insert ''(k)''.

On page 108, line 24, strike ''(k)'' and insert ''(j)''.

On page 109, line 8, strike ''(l)'' and insert ''(k)''.

On page 126, line 19, strike ''(m)'' and insert ''(l)''.

On page 127, line 6, strike ''(m)'' and insert ''(l)''.

BOXER AMENDMENT NO. 1480

Mrs. BOXER proposed an amendment to the bill S. 240, supra; as follows:

At the appropriate place in title I, insert the following new section:

SEC. . CONSEQUENCES OF INSIDER TRADING.

(a) SECURITIES ACT OF 1933.—Section 13A of the Securities Act of 1933, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

''(h) CONSEQUENCES OF INSIDER TRADING.—

''(1) IN GENERAL.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

''(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

''(B) financially benefited from the forward-looking statement.

''(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

''(A) with respect to an issuer, equity securities of the issuer of any class having a total value of not less than $1,000,000; and

''(B) with respect to an officer or director of an issuer, holdings of that officer or director of any class of the equity securities of the issuer having a total value of not less than $50,000.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 37 of the Securities Exchange Act of 1934, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

''(h) CONSEQUENCES OF INSIDER TRADING.—

''(1) CONSEQUENCES OF INSIDER TRADING.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

''(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

''(B) financially benefited from the forward-looking statement.

''(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

''(A) with respect to an issuer, $1,000,000 worth of any class of the equity securities of the issuer; and

''(B) with respect to an officer or director of an issuer, $50,000 worth of the holdings of that person of any class of the equity securities of the issuer.''.

Amend the table of contents accordingly.

BIDEN AMENDMENT NO. 1481

Mr. BIDEN proposed an amendment to the bill S. 240, supra; as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period '', except that no person may rely upon

conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962'', provided however that this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction because final.

BINGAMAN (AND BRYAN) AMENDMENT NO. 1482

Mr. BINGAMAN (for himself and Mr. BRYAN) proposed an amendment to the bill S. 240, supra; as follows:

On page 105, line 25, insert '', or the responsive pleading or motion'' after ''complaint''.

On page 107, line 20, insert '', or the responsive pleading or motion'' after ''complaint''.

SPECTER AMENDMENT NOS. 1483–1485

Mr. SPECTER proposed three amendments to the bill S. 240, supra; as follows:

AMENDMENT NO. 1483

Beginning on page 105, strike line 1 and all that follows through page 108, line 17, and insert the following:

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

''(j) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

''(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

''(2) include in the record findings of fact and conclusions of law to support such determination.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

''(l) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

''(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

''(2) include in the record findings of fact and conclusions of law to support such determination.''.

AMENDMENT NO. 1484

Beginning on page 108, strike line 24 and all that follows through page 109, line 4, and insert the following:

''(k) STAY OF DISCOVERY.—

''(1) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

''(A) would avoid waste, delay, duplication, or unnecessary expense; and

''(B) would not prejudice any plaintiff.

''(2) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

''(A) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

''(B) except as provided in subparagraphs (A) and (B), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.''.

On page 111, strike lines 1 through 7, and insert the following:

''(2) STAY OF DISCOVERY.—

''(A) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

''(i) would avoid waste, delay, duplication, or unnecessary expense; and

''(ii) would not prejudice any plaintiff.

''(B) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

''(i) notwithstanding any stay of discovery issued in accordance with subparagraph (A), the court may permit such discovery as may be necessary to permit a plaintiff to prepare an amended complaint in order to meet the pleading requirements of this section;

''(ii) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

''(iii) except as provided in clauses (i) and (ii), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.''.

AMENDMENT NO. 1485

On page 110, strike lines 12 through 19, and insert the following:

''(b) REQUIRED STATE OF MIND.—

''(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the requested state of mind.

''(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

''(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

''(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.''.

D'AMATO (AND SARBANES) AMENDMENT NO. 1486

Mr. BENNETT (for Mr. D'AMATO for himself and Mr. SARBANES) proposed an amendment to the bill S. 240, supra; as follows:

On page 84, line 11, strike '', if'' and insert ''in which''.

On page 111, beginning on line 2, strike ''during the pendency of any motion to dismiss,''.

On page 111, line 4, insert ''during the pendency of any motion to dismiss,'' after ''stayed''.

On page 114, line 13, strike ''has been,''.

On page 114, strike line 15 and insert the following: ''made—

''(i) was convicted of any felony or misdemeanor''.

On page 114, strike line 17 and insert the following: ''15(b)(4)(B); or

''(ii) has been made the subject of a ju-''.

On page 114, line 20, strike ''(i) prohibits'' and insert the following:

''(I) prohibits''.

On page 115, line 1, strike ''(ii) requires'' and insert the following:

''(II) requires''.

On page 115, line 4, strike ''(iii) determines'' and insert the following:

''(III) determines''.

On page 116, between lines 11 and 12, insert the following:

''(D) made in connection with an initial public offering;

On page 116, line 12, strike ''(D)'' and insert ''(E)''.

On page 116, line 17, strike ''(E)'' and insert ''(F)''.

On page 118, line 13, before the period insert ''that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation''.

On page 121, line 7, strike ''has been,''.

On page 121, strike line 9, and insert the following: ''made—

''(i) was convicted of any felony or misdemeanor''.

On page 121, strike line 11 and insert the following: ''15(b)(4)(B); or

''(ii) has been made the subject of a ju-''.

On page 121, line 14, strike ''(i) prohibits'' and insert the following:

''(I) prohibits''.

On page 121, line 16, strike ''(ii) requires'' and insert the following:

''(II) requires''.

On page 121, line 19, strike ''(iii) determines'' and insert the following:

''(III) determines''.

On page 122, between lines 20 and 21, insert the following:

''(D) made in connection with an initial public offering;

On page 122, line 21, strike ''(D)'' and insert ''(E)''.

On page 123, line 1, strike ''(E)'' and insert ''(F)''.

On page 124, line 21, insert before the period ''that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation''.

On page 128, line 25, strike ''the liability of'' and insert ''if''.

On page 128, line 25, strike ''offers or sells'' and insert ''offered or sold''.

On page 129, line 1, strike ''shall be limited to damages if that person''.

On page 129, line 9, strike ''and such portion or all of such amount'' and insert ''then such portion or amount, as the case may be,''.

On page 131, lines 19 and 20, strike ''that person's degree'' and insert ''the percentage''.

On page 131, line 20, insert ''of that person'' before the comma.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Wednesday, June 28, 1995, beginning at 9:45 a.m., in room 485 of the Russell Senate Office Building on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BENNETT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet Tuesday, June 27, at 9:30 a.m., to conduct an oversight hearing on proposals to supplement the legal framework for private property interests, with primary emphasis on the operation of Federal environmental laws.

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

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 27, 1995, at 9:30 a.m., to hold a hearing on Department of Justice oversight.

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

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 27, 1995, at 2:15 p.m., to hold a hearing on judicial nominees.

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

SPECIAL COMMITTEE ON AGING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, June 27, at 9:30 a.m., to hold a hearing to discuss neurological diseases.

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

SUBCOMMITTEE ON AIRLAND FORCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Tuesday, June 27, 1995, at 2:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

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

SUBCOMMITTEE ON READINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Readiness be authorized to meet on Tuesday, June 27, 1995, at 9:00 a.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

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

SUBCOMMITTEE ON SEAPOWER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet on Tuesday, June 27, 1995, at 4:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be permitted to meet on Tuesday, June 27, 1995, beginning at 10:00 a.m., in room SD–215, to conduct a hearing on the solvency of the Social Security Trust Funds.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet on Tuesday, June 27, 1995, at 6:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

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

ADDITIONAL STATEMENTS

THE U.N. CHARTER—50 YEARS OF EXPERIENCE

● Mr. DODD. Mr. President, yesterday, June 26, 1995, marked the 50-year anniversary of the signing of the U.N. Charter. To commemorate the event, President Clinton traveled to San Francisco to participate in ceremonies at the very site where representatives of some 50 nations first gathered to hammer out that historic document.

Mr. President, I believed that President Clinton spoke for all of us yesterday when he said:

> Today we honor the men and women who gave shape to the United Nations. We celebrate 50 years of achievement. We commit ourselves to real reforms. We reject the siren song of the new isolationists. We set a clear agenda worthy of the visions of our founders. The measure of our generation will be whether we give up because we cannot achieve a perfect world or strive on to build a better world.

In recalling that historic day, President Clinton reminded listeners as well that, ''The 50 nations who came here * * * to lift the world from the ashes of war * * * included giants of diplomacy and untested leaders of infant nations. They were separated by tradition, race and language, sharing only a vision of a better safer future.'' It was that shared vision, in the final analysis, that made it possible to set aside differences, grievances and suspicions. It was that shared vision that empowered conference participants to craft a charter that President Truman described as, ''a declaration of great faith by the nations of the Earth—faith that war is not inevitable, faith that peace can be maintained.'' I believe that all freedom loving peoples of the world continue to share that same faith and vision today.

Much has transpired since that day, in 1945, when the 50 founding nations of the United Nations pledged their faith and cooperation in this new world organization. Today, the U.N. family has grown nearly fourfold to 184 member states. Many of the old threats to peace have receded only to be replaced by new and more intractable ones. And, despite the many criticisms leveled against the United Nations, member states have largely heeded the words expressed by President Truman, in speaking about the charter that had just been signed, ''You have created a great instrument for peace and security and human progress in the world. The world must now use it''.

Much has been accomplished by the United Nations during its first 50 years. Even its severest critics have to acknowledge that during the cold war, the United Nations served to mitigate the ideological conflict between East and West that threatened the world with nuclear chaos. It also smoothed the path for new nation states seeking to break with old, outdated colonial empires.

The United Nation's various affiliate agencies have served to make the world a better place to live. The world health organization, to mention but one, has been a major player in the world-wide campaign to eradicate smallpox, measles, polio, and other dreaded but preventable diseases. The accomplishments of the United Nations have been recognized and honored by the world community. On four separate occasions, U.N. activities and agencies have been recipients of Nobel peace prizes—the blue helmet peacekeepers, the U.N. Children's Fund, the U.N. Office of High Commissioner for Refugees.

Clearly the world is a different place than it was 50 years age. The acts of aggression and threats to peace once posed by the East/West conflict have been replaced by a growing number of equally bedeviling ethnic rivalries, civil wars and humanitarian calamities throughout the globe. The demands on the United Nations for policing these conflicts, for marshaling humanitarian aid, for dispensing economic and social services in response to these events, have grown geometrically—and so too have the financial costs associated with them.

Some of the criticism leveled against the United Nations have been unfair. In the final analysis, the United Nations is only as strong and decisive as its membership. In the final analysis it can only continue to undertake activities that its membership is willing and able to support, both financially and politically.

However, the United Nations and U.N. management must share some of the responsibility for the criticisms that have arisen. Some of the more problematic endeavors clearly fall in the peacekeeping arena—Bosnia, Somalia, and others. Organizationally and managerially there have been problems, as well, throughout the U.N. system. Historically, internal financial controls and safeguards have been inadequate and ineffective in ensuring that members' contributions have been

judiciously spent, with U.N. procurement fairly allocated among contributors.

There is clearly consensus within the U.N. membership that reforms should and must be undertaken. The United Nations has already made progress in implementing some of these reforms. Still more will have to occur in order to strengthen its capacity to address the challenges of the coming decade. Despite its shortcomings and problems, however, I continue to believe, Mr. President, that President Truman's fundamental conclusion about the United Nations some 50 years ago remains true today: ''The charter of the United Nations which you have signed is a solid structure upon which we can build a better world.'' We must endeavor to do just that—build a better and safer world for our children and grandchildren. A vibrant and effective United Nations can help us to accomplish that goal.

Mr. President, I ask that the full text of President Clinton's remarks yesterday in San Francisco be printed in the RECORD.

The remarks follow:

REMARKS BY THE PRESIDENT

Thank you very much. Secretary Christopher, Mr. Secretary General, Ambassador Albright, Bishop Tutu. My good friend, Maya Angelou, thank you for your magnificent poem. (Applause.) Delegates to the Charter Conference, distinguished members of the Diplomatic Corps, the President of Poland, members of Congress, honored guests, Mayor Jordan, Mr. Shorenstein, people of San Francisco, and friends of the United Nations:

The 800 delegates from 50 nations who came here 50 years ago to lift the world from the ashes of war and bring life to the dreams of peacemakers included both giants of diplomacy and untested leaders of infant nations. They were separated by tradition, race and language, sharing only a vision of a better, safer future. On this day 50 years ago, the dreams President Roosevelt did not live to see of a democratic organization of the world was launched.

The Charter the delegate signed reflected the harsh lessons of their experience; the experience of the '30s, in which the world watched and reacted too slowly to fascist aggression, bringing millions sacrificed on the battlefields and millions more murdered in the death chambers.

Those who had gone through this and the second world war knew that celebrating victory was not enough; that merely punishing the enemy was self-defeating; that instead the world needed an effective and permanent system to promote peace and freedom for everyone. Some of those who worked at that historic conference are still here today, including our own Senator Claiborne Pell, who to this very day, every day, carries a copy of the U.N. Charter in his pocket. (Applause.)

I would last like to ask all of the delegates to the original conference who are here today to rise and be recognized. Would you please stand? (Applause.)

San Francisco gave the world renewed confidence and hope for the future. On that day President Truman said, ''This is proof that nations, like men, can state their differences, can face them, and than can find common ground on which to stand.'' Five decades later, we see how very much the world has changed. The Cold War has given way to freedom and cooperation. On this very day, a Russian spacecraft and an American spacecraft are preparing to link in orbit some 240 miles above the Earth. From Jericho to Belfast, ancient enemies are searching together for peace. On every continent nations are struggling to embrace democracy, freedom and prosperity. New technologies move people and ideas around the world, creating vast new reservoirs of opportunity.

Yet we know that these new forces of integration also carry within them the seeds of disintegration and destruction. New technologies and greater openness make all our borders more vulnerable to terrorists, to dangerous weapons, to drug traffickers. Newly-independent nations offer rip targets for international terminals and nuclear smugglers. Fluid capital markets make it easier for nations to build up their economies, but also make it much easier for one nation's troubles first to be exaggerated, then to spread to other nations.

Today, to be sure, we face no Hitler, no Stalin, but we do have enemies—enemies who share their contempt for human life and human dignity and the rule of law; enemies who put lethal technology to lethal use, who seek personal gains in age-old conflicts and new divisions.

Our generation's enemies are the terrorists and their outlaw nation sponsors—people who kill children or turn them into orphans; people who target innocent people in order to prevent peace; people who attack peacemakers, as our friend President Mubarak was attacked just a few hours ago; people who in the name of nationalism slaughter those of different faiths or tribes, and drive their survivors from their own homelands.

Their reach is increased by technology. Their communication is abetted by global media. Their actions reveal the age-old lack of conscience, scruples and morality which have characterized the forces of destruction throughout history.

Today, the threat to our security is not in an enemy silo, but in the briefcase or the car bomb of a terrorist. Our enemies are also international criminals and drug traffickers who threaten the stability of new democracies and the future of our children. Our enemies are the force of natural destruction—encroaching deserts that threaten the Earth's balance, famines that test the human spirit, deadly new diseases that endanger whole societies.

So, my friends, in this increasingly interdependent world, we have more common opportunities and more common enemies than ever before. It is, therefore, in our interest to face them together as partners, sharing the burdens and costs, and increasing our chances of success.

Just months before his death, President Roosevelt said, ''We have learned that we cannot live alone at peace, that our own well-being is dependent on the well-being of other nations far away.'' Today, more than ever, those words ring true. Yet some here in our own country, where the United Nations was founded, dismissed Roosevelt's wisdom. Some of them acknowledge that the United States must play a strong role overseas, but refuse to supply the nonmilitary resources our nation needs to carry on its responsibilities. Others believe that outside our border America should only act alone.

Well, of course, the United States must be prepared to act alone when necessary, but we dare not ignore the benefits that coalitions bring to this nation. We dare not reject decades of bipartisan wisdom. We dare not reject decades of bipartisan support for international cooperation. Those who would do so, these new isolationists, dismiss 50 years of hard evidence.

In those years we've seen the United Nations compile a remarkable record of progress that advances our nation's interest and, indeed, the interest of people everywhere. From President Truman in Korea to President Bush in the Persian Gulf, America has built United Nations' military coalitions to contain aggressors. U.N. forces also often pick up where United States' troops have taken the lead.

As the Secretary of State said, we saw it just yesterday, when Haiti held parliamentary and local elections with the help of U.N. personnel. We saw the U.N. work in partnership with the United States and the people of Haiti, as they labor to create a democracy. And they have now been given a second chance to renew that promise.

On every continent the United Nations has played a vital role in making people more free and more secure. For decades, the U.N. fought to isolate South Africa, as that regime perpetuated apartheid. Last year, under the watchful eyes of U.N. observers, millions of South Africans who had been disenfranchised for life cast their first votes for freedom.

In Namibia, Mozambique, and soon we hope in Angola, the United Nations is helping people to bury decades of civil strife and turn their energies into building new democratic nations. In Cambodia, where a brutal regime left more than one million dead in the Killing Fields, the U.N. helped hundreds of thousands of refugees return to their native land, and stood watch over democratic elections that brought 90 percent of the people to the polls. In El Salvador, the U.N. brokered an end to 12 years of bloody civil war, and stayed on to help reform the army and bring justice to the citizens and open the doors of democracy.

From the Persian Gulf to the Caribbean, U.N. economic and political sanctions have proved to be a valuable means short of military action to isolate regimes and to make aggressors and terrorists pay at least a price for their actions: In Iraq, to help stop that nation from developing weapons of mass destruction, or threatening its neighbors again. In the Balkans, to isolate aggressors; in North Africa, to pressure Libya to turn over for trial those indicted in the bombing of Pan Am flight 103.

The record of the United Nations includes a proud battle for child survival, and against human suffering and disease of all kinds. Every year UNICEF oral vaccines save the lives of three million children. Last year alone the World Food Program, using the contributions of many governments including our own, fed 57 million hungry people. The World Health Organization has eliminated smallpox from the face of the Earth, and is making great strides in its campaign to eliminate polio by the year 2000. It has helped to contain fatal diseases like the Ebola virus that could have threatened an entire continent.

To millions around the world, the United Nations is not what we see on our news programs at night. Instead it's the meal that keeps a child from going to bed hungry, the knowledge that helps a farmer coax strong crops from hard land, the shelter that keeps a family together when they're displaced by war or natural disasters.

In the last 50 years, these remarkable stories have been too obscured, and the capacity of the United Nations to act too limited by the Cold War. As colonial rule broke down, differences between developing and industrialized nations and regional rivalries added new tensions to the United Nations so that too often there was too much invective and too little debate in the general assembly.

But now the end of the Cold War, the strong trend toward democratic ideals among all nations, the emergence of so many problems that can best be met by collective

action, all these things enable the United Nations at this 50-year point finally to fulfill the promise of its founders.

But if we want the U.N. to do so, we must face the fact that for all its successes and all its possibilities, it does not work as well as it should. The United Nations must be reformed. In this age of relentless change, successful governments and corporations are constantly reducing their bureaucracies, setting clearer priorities, focusing on targeted results.

In the United States we have eliminated hundreds of programs, thousands of regulations. We're reducing our government to its smallest size since President Kennedy served here, while increasing our efforts in areas most critical to our future. The U.N. must take similar steps.

Over the years it has grown too bloated, too often encouraging duplication, and spending resources on meetings rather than results. As its board of directors, all of us—we, the member states—must create a U.N. that is more flexible, that operates more rapidly, that wastes less and produces more, and most importantly, that inspires confidence among our governments and our people.

In the last few years we have seen some good reforms—a new oversight office to hold down costs, a new system to review personnel, a start toward modernization and privatization. But we must do more.

The United Nations supports the proposal of the President of the General Assembly, Mr. Essyi, who spoke so eloquently here earlier this morning, to prepare a blueprint for renewing the U.N. and to approve it before the 50th General Assembly finishes its work next fall.

We must consider major structural changes. The United Nations simply does not need a separate agency with its own acronym, stationery and bureaucracy for every problem. The new U.N. must peel off what doesn't work and get behind what will.

We must also realize, in particular, the limits to peacekeeping and not ask the Blue Helmets to undertake missions they cannot be expected to handle. Peacekeeping can only succeed when the parties to a conflict understand they cannot profit from war. We have too often asked our peacekeepers to work miracles while denying them the military and political support required, and the modern command-and-control systems they need to do their job as safely and effectively as possible. Today's U.N. must be ready to handle tomorrow's challenges. Those of us who most respect the U.N. must lead the charge of reform.

Not all the critics of today's United Nations are isolationists. Many are supporters who gladly would pay for the U.N.'s essential work if they were convinced their money was being well-spent. But I pledge to all of you, as we work together to improve the United Nations, I will continue to work to see that the United States takes the lead in paying its fair share of our common load. (Applause.)

Meanwhile, we must all remember that the United Nations is a reflection of the world it represents. Therefore, it will remain far from perfect. It will not be able to solve all problems. But even those it cannot solve, it may well be able to limit in terms of the scope and reach of the problem, and it may well be able to limit the loss of human life until the time for solution comes.

So just as withdrawing from the world is impossible, turning our backs on the U.N. is no solution. It would be shortsighted and self-destructive. It would strengthen the forces of global disintegration. It would threaten the security, the interest and the values of the American people. So I say especially to the opponents of the United Nations here in the United States, turning our back on the U.N. and going it alone will lead to far more economic, political and military burdens on our people in the future and would ignore the lessons of our own history. (Applause.)

Instead, on this 50th anniversary of the charter signing, let us renew our vow to live together as good neighbors. And let us agree on a new United Nations agenda to increase confidence and ensure support for the United Nations, and to advance peace and prosperity for the next 50 years.

First and foremost, the U.N. must strengthen its efforts to isolate states and people who traffic in terror, and support those who continue to take risks for peace in the face of violence. The bombing in Oklahoma City, the deadly gas attack in Tokyo, the struggles to establish peace in the Middle East and in Northern Ireland—all of these things remind us that we must stand against terror and support those who move away from it. Recent discoveries of laboratories working to produce biological weapons for terrorists demonstrate the dangerous link between terrorism and the weapons of mass destruction.

In 1937, President Roosevelt called for a quarantine against aggressions, to keep the infection of fascism from seeping into the bloodstream of humanity. Today, we should quarantine the terrorists, the terrorist groups, and the nations that support terrorism. (Applause.)

Where nations and groups honestly seek to reform, to change, to move away from the killing of innocents, we should support them. But when they are unrepentant in the delivery of death, we should stand tall against them (Applause.) My friends, there is no easy way around the hard question: If nations and groups are not willing to move away from the delivery of death, we should put aside short-term profits for the people in our countries to stop, stop their conduct. (Applause.)

Second, the U.N. must continue our efforts to stem the proliferation of weapons of mass destruction. There are some things nations can do on their own. The U.S. and Russia today are destroying our nuclear arsenals rapidly. (Applause.) But the U.N. must also play a role. We were honored to help secure an indefinite extension of the Nuclear Non-Proliferation Treaty under U.N. auspices. (Applause.)

We rely on U.N. agencies to monitor nations bent on acquiring nuclear capabilities. We must work together on the Chemical Weapons Convention. We must strengthen our common efforts to fight biological weapons. We must do everything we can to limit the spread of fissile materials. We must work on conventional weapons like the land mines that are the curse of children the world over. (Applause.) And we must complete a comprehensive nuclear test ban treaty. (Applause.)

Third, we must support through the United Nations the fight against manmade and natural forces of disintegration, from crime syndicates and drug cartels, to new diseases and disappearing forests. These enemies are elusive; they cross borders at will. Nations can and must oppose them alone. But we know, and the Cairo Conference reaffirmed, that the most effective opposition requires strong international cooperation and mutual support.

Fourth, we must reaffirm our commitment to strengthen U.N. peacekeeping as an important tool for deterring, containing and ending violent conflict. The U.N. can never be an absolute guarantor of peace, but it can reduce human suffering and advance the odds of peace.

Fifth—you may clap for that—(applause.) Fifth, we must continue what is too often the least noticed of the U.N.'s missions; its unmatched efforts on the front lines of the battle for child survival and against disease and human suffering.

And finally, let us vote to make the United Nations an increasing strong voice for the protection of fundamental human dignity and human rights. After all, they were at the core of the founding of this great organization. (Applause.)

Today we honor the men and women who gave shape to the United Nations. We celebrate 50 years of achievement. We commit ourselves to real reforms. We reject the siren song of the new isolationists. We set a clear agenda worthy of the vision of our founders. The measure of our generation will be whether we give up because we cannot achieve a perfect world or strive on to build a better world.

Fifty years ago today, President Truman reminded the delegates that history had not ended with Hitler's defeat. He said, it is easier to remove tyrants and destroy concentration camps than it is to kill the ideas which give them birth. Victory on the battlefield was essential, but it is not good enough for a lasting, good peace. (Applause.)

Today we know that history has not ended with the Cold War. We know, and we have learned from painful evidence, that as long as there are people on the face of the Earth, imperfection and evil will be a part of human nature; there will be killing, cruelty, self-destructive abuse of our natural environment, denial of the problems that face us all. But we also know that here today, in this historic chamber, the challenge of building a good and lasting peace is in our hands and success is within our reach.

Let us not forget that each child saved, each refugee housed, each disease prevented, each barrier to justice brought down, each sword turned into a ploughshare, brings us closer to the vision of our founders—closer to peace, closer to freedom, closer to dignity. (Applause.)

So my fellow citizens of the world, let us not lose heart. Let us gain renewed strength and energy and vigor from the progress which has been made and the opportunities which are plainly before us. Let us say no to isolation, yes to reform; yes to a brave, ambitious new agenda; most of all, yes to the dream of the United Nations.

Thank you.●

TRIBUTE TO GEN. GORDON R. SULLIVAN, USA, ON HIS RETIREMENT

● Mr. NUNN. Mr. President, as the U.S. Army undergoes a change in its top military leadership, I would like to recognize the outstanding service of the Army's 32d Chief of Staff, Gen. Gordon R. Sullivan. Throughout his tenure as the Army Chief of Staff, General Sullivan has worked closely with the Congress and we have found his professional military advice invaluable. He is retiring from the Army after more than 35 years of service to our Nation.

General Sullivan has had the unenviable task of leading the Army through its largest downsizing in 50 years, while simultaneously preparing the Army for the new challenges of the next century. As a testament to the success of his efforts, General Sullivan is leaving an Army that is trained, disciplined, and proud. His focus on taking care of soldiers and their families, on education, and on promoting both

realistic field exercises and increasing the use of simulation has made the Army ready for what the 21st century may bring. General Sullivan has put forth a vision of the Army for the 21st century that will be both the guidepost for years to come. He can take great pride in both the Army's past accomplishments and future preparedness. General Sullivan has essentially led the Army into the 21st century.

Throughout his career, General Sullivan has distinguished himself in numerous command and staff positions with U.S. forces stationed both overseas and in the Continental United States. In Asia, he served a tour of duty in Korea and two tours of duty in Vietnam. In Europe, his assignments included 3d Armored Division's Chief of Staff and the VII Corps operations officer. From July 1985 to March 1987 General Sullivan served on the NATO staff as the Deputy Chief of Staff for Support of Central Army Group in Germany.

General Sullivan's stateside assignments included serving as the assistant commandant of the Armor School at Fort Knox, KY, and deputy commandant of the Command and General Staff College at Fort Leavenworth, KS. In addition, he served as the commanding general of the 1st Infantry Division, ''The Big Red One,'' at Fort Riley, KS. Since June 1991, General Sullivan has served in his present assignment as the U.S. Army Chief of Staff.

Mr. President, I ask my colleagues to join me in thanking General Sullivan for his honorable service to the people and Army of the United States. We wish him and his family Godspeed and all the best in the future.●

TRIBUTE TO THE NEW JERSEY DEVILS

● Mr. BRADLEY. Mr. President, I rise today with great pleasure to congratulate New Jersey's very own Devils. As you may know, the New Jersey Devils have defeated the Detroit Red Wings to become the Stanley Cup Champions of the National Hockey League. This past Saturday night at the Meadowlands Arena in East Rutherford, NJ, the Devils concluded their courageous quest for the Stanley Cup with a 5 to 2 victory to sweep the four-game series.

The New Jersey Devils may not have superstar players like Detroit. However, it is clear that through their classic gritty team play and a foundation of discipline, unity, and hard work, they overcame all adversity to achieve their ultimate goal. After last year's heart-breaking exit from the playoffs at the hands of the New York Rangers, this year's team forged through the playoffs with a vengeance to complete their mission.

New Jersey's key players came through in the playoffs to inspire their team with clutch performances. Although it was forward Claude Lemieux who took the Conn Smythe Trophy as the Most Valuable Player throughout the Stanley Cup playoffs, there were a host of other heroes without whom the Devils would never have made it as far as they did. Captain and defenseman Scott Stevens, who shut down the opposition's superstars, goaltender Martin Brodeur, the second-year phenom who has emerged as one of the best goaltenders in the NHL, and native New Jerseyan Jim Dowd from Brick, who scored a clutch goal to win game two, are just a few examples.

The Devils played ultimate team hockey in winning the Stanley Cup. Their now infamous neutral-zone trap defensive system put the Red Wings in a stranglehold tighter than any octopi their fans could throw onto the ice.

In closing, Mr. President, I would like to once again offer congratulations to our Devils. Success in the professional sports arena, like many other endeavors, requires a great deal of dedication, hard work, and courage. And that is our New Jersey Devils. I am very proud to have them represent our State.●

THE DEATH OF FORMER CHIEF JUSTICE BURGER

● Mr. MOYNIHAN. Mr. President, yesterday's newspapers reported that former Chief Justice Warren E. Burger died on Sunday here in Washington. He was 87 years old.

Twenty-six years ago, President Nixon nominated Warren Burger to be Chief Justice with the hope of reversing the activism of the Warren Court. Yet history was not entirely cooperative: Chief Justice Burger presided over a 17-year period in which many of the era's most profound controversies had to be decided by the High Court. A number of those issues, including school busing to achieve desegregation: Swann versus Charlotte-Mecklenburg Board of Education, 1971; the separation of church and state as applicable to government aid to parochial schools, Lemon versus Kurtzman, 1971; and Executive privilege, United States versus Nixon, 1974, were decided in opinions written by Chief Justice Burger himself.

The Chief was somehow able to take all of this and more in stride. He relished his additional statutory duties as chancellor of the Board of Regents of the Smithsonian Institution, and as chairman of the board of trustees of the National Gallery of Art. Although my service as a regent of the Smithsonian Institution began just after Chief Justice Burger's tenure as chancellor ended in 1986, I did have the exhilarating honor, in September of 1985, to be presented the Joseph Henry Award by then-Chancellor Burger on one memorable evening at the Hirshhorn Museum and Sculpture Garden.

Following his retirement from the Court in 1986, Chief Justice Burger devoted himself on a full-time basis to his work as Chairman of the Commission on the Bicentennial of the U.S. Constitution, to which President Reagan had appointed him the previous year. Characteristically, the Chief threw himself into that effort with the great energy and enthusiasm he applied to all of his pursuits. I recall corresponding with him about the Commission's progress and his many ideas for increasing public appreciation for the Constitution in its bicentennial year. Among its good works, the Commission produced the excellent pocket-sized Constitutions that are available in Senate offices. I have taken to carrying a copy with me, and I know the distinguished Senator from West Virginia has as well.

In his Foreword to the pocket Constitution, Chief Justice Burger wrote that our constitutional system:

> [D]oes not always provide tidy results; it depends on a clash of views in debate and on bargain and compromise. For 200 years this Constitution's ordered liberty has unleashed the energies and talents of people to create a good life.

Warren Burger created just such a good life through his own indomitable energies and talents. He came from humble roots in St. Paul, MN, attended college and law school at night, and ultimately rose to become Chief Justice of the United States.

Chief Justice Burger was a distinguished jurist and a patriot in the finest sense of the word. He was also a wonderful husband and father and, although it is not much in fashion to say so today, he was a gentleman. He was my friend for more than a quarter century, and he will be greatly missed.

Mr. President, I ask that the obituary by Linda Greenhouse from the New York Times of June 26th be printed in the RECORD.

The obituary follows:

[From the New York Times, June 26, 1995]

WARREN E. BURGER IS DEAD AT 87; WAS CHIEF JUSTICE FOR 17 YEARS

(By Linda Greenhouse)

Washington, June 25—Warren E. Burger, who retired in 1986 after 17 years as the 15th Chief Justice of the United States, died here today at age 87. The cause was congestive heart failure, a spokeswoman for the Supreme Court said.

An energetic court administrator, Chief Justice Burger was in some respects a transitional figure despite his long tenure. He presided over a Court that, while it grew steadily more conservative with subsequent appointments, nonetheless remained strongly influenced by the legacy of his liberal predecessor, Chief Justice Earl Warren. The constitutional right to abortion and the validity of busing as a remedy for school segregation were both established during Chief Justice Burger's tenure, and with his support.

The country knew Chief Justice Burger as a symbol before it knew much about him as a man or a judge.

He was President Richard M. Nixon's first Supreme Court nominee, and Mr. Nixon had campaigned on a pledge to find ''strict constructionists'' and ''practitioners of judicial restraint'' who would turn back the activist tide that the Court had built under Chief Justice Warren, its leader since 1953.

The nomination on May 21, 1969, immediately made Mr. Burger, a white-haired, 61-year-old Federal appeals court judge, lightening rod for those who welcomed as well as

those who feared the end of an era of judicial activism.

It was a central contradiction of Mr. Burger's tenure as Chief Justice that long after he became one of the most visible and, in many ways, innovative Chief Justices in history he remained, for many people, the symbol of retrenchment that Mr. Nixon had presented to the public on nominating him.

In fact, the Supreme Court in the Burger years was in its way as activist as the Court that preceded it, creating new constitutional doctrine in areas like the right to privacy, due process and sexual equality that the Warren Court had only hinted at.

''All in all,'' one Supreme Court scholar, A. E. Dick Howard, wrote in the Wilson Quarterly in 1981, ''the Court is today more of a center for the resolution of social issues than it has ever been before.''

While there were some substantial changes of emphasis, the Burger Court—a label liberals tended to apply like an epithet—overruled no major decisions from the Warren era.

It was a further incongruity that despite Chief Justice Burger's high visibility and the evident relish with which he used his office to expound his views on everything from legal education to prison management, scholars and Supreme Court commentators continued to question the degree to which he actually led the institution over which he so energetically presided.

His important opinions for the Court included the decision that validated busing as a tool for school desegregation, the one that struck down the ''legislative veto'' used by Congress for 50 years to block executive branch actions, and the one that spurred President Nixon's resignation in 1974 by forcing him to turn over White House tape recordings for use in the Watergate investigations. Yet Chief Justice Burger was just as often in dissent on major decisions. In that, he differed from Chief Justice Warren, who voted with the majority in nearly all important cases.

Those seeking to identify the sources of intellectual leadership on the Court usually pointed to William H. Rehnquist, another Nixon appointee to whom Chief Justice Burger assigned many important opinions, and to William J. Brennan Jr., the Court's most senior and, with Thurgood Marshall, most liberal member.

As the senior Associate Justice, Justice Brennan had the right to assign the opinion in any case in which he was in the majority and the Chief Justice was in dissent, and he often exercised that prerogative by assigning major opinions to himself, particularly in the area of individual rights.

As the years passed, Chief Justice Burger seemed to assign himself the opinions in relatively straightforward and uncontroversial cases, avoiding those in which the Court was deeply split and in which it would have required considerable effort to marshal or hold a fragile majority. As a result, his personal imprint on the Court's jurisprudence was not always readily identifiable.

AN INNOVATOR IN ADMINISTRATION

But his imprint was distinct in the area to which he gave his most sustained attention, judicial administration.

Mr. Burger liked to say that he took his title seriously. He was Chief Justice of the United States, not just of the Supreme Court, and he took as his mandate the stewardship of the entire judicial system, state as well as Federal.

An array of institutions were created under his aegis, including the National Center for State Courts, the Institute for Court Management and the National Institute of Corrections. The common purpose of those organizations was to improve the education and training of participants in nearly all phases of the judicial process, whether judges, court clerks or prison guards.

The Chief Justice turned the small Federal Judicial Center, for which he served by statute as chairman of the board, into a major center for research and publishing about the courts.

He believed that judges could be helped to be more efficient if professional management techniques were imported to the courts, from clerks' offices to judges' chambers. The Institute for Court Management set up a six-month program for training court managers and administrators.

The Supreme Court itself became one of the first fully computerized courts in the country; in 1981, the Justices all received computer terminals on which to compose their opinions.

The Chief Justice campaigned tirelessly for better pay for judges, better education for lawyers and help for the Court's evergrowing caseload. From his earliest years in office, he warned that the Federal courts and the Supreme Court in particular were becoming dangerously overworked.

In 1983, he asked Congress to create an appellate panel that could relieve some of the Supreme Court's caseload by resolving conflicting opinions among the Federal appeals courts.

MANY ADMIRERS, BUT DETRACTORS AS WELL

Judges and others interested in these long-ignored administrative issues responded with gratitude. One of the Chief Justice's warmest admirers on the Federal bench was Frank M. Johnson Jr., a Federal appeals court judge from Alabama who won praise from civil rights advocates for his orders on prison issues and other rulings.

''Warren Burger has redefined the nature of his office,'' Judge Johnson wrote in the early 1980's. ''He has concentrated his energy not simply on exploring the subtleties of constitutional doctrine but on reforming the mechanics of American justice. More than any of his 14 predecessors, he has invested the prestige of the Chief Justiceship in efforts to make the American judicial system function more efficiently. He has used his position not as an excuse to withdraw from public affairs but as an opportunity to furnish public leadership.''

But the priority that Chief Justice Burger assigned to administration also had its detractors, who complained that he trivialized his office by emphasizing the mechanics of justice at the expense of its substance.

Occasionally, too, his enthusiastic lobbying was seen as overbearing by those at whom it was directed. In 1978, for example, he became deeply involved in the effort in Congress to overhaul the bankruptcy system.

One Democratic Senator, Dennis DeConcini of Arizona, whose subcommittee had jurisdiction over the bill, complained publicly that a ''very, very irate and rude'' Chief Justice had telephoned him to object to a legislative development and ''not only lobbied but pressured and attempted to be intimidating.''

The Chief Justice could also be rather intimidating from the bench, particularly when a relatively inexperienced lawyer was arguing a position with which Mr. Burger disagreed. While Chief Justice Warren's favorite question from the bench was, ''Yes, but was it fair?'' Chief Justice Burger often asked: ''Yes, but why is this case in the courts? Isn't this a matter for the Legislature to address?''

WORKING TO LIMIT THE JUDICIARY'S SCOPE

Chief Justice Burger believed in a limited role for the courts and reserved some of his sharpest criticism for those who looked to them to resolve social and political problems that, in his view, were not the province of judges. ''If we get the notion that courts can cure all injustices, we're barking up the wrong tree,'' he liked to say.

A speech he gave while he was still a judge on the Court of Appeals for the District of Columbia provided a useful summary of the view he held throughout his career: ''That courts encounter some problems for which they can supply no solution is not invariably an occasion for regret or concern. This is an essential limitation in a system of divided power.''

Some of the more important decisions while he was Chief Justice were those that limited litigants' access to Federal court by using the doctrines of standing, mootness and deference to state courts.

He seemed to regard suits for small monetary stakes as a waste of judges' time, and many of his speeches complained about the disproportionate cost to the system of trying the lawsuits brought by prisoners or consumers over modest losses of money or property.

His questioning of one lawyer, who argued in 1982 on behalf of 168,000 consumers, each with a claim for $7.98 against the Gillette Company, was the talk of the Court for weeks, ''What is the economic justification for this kind of lawsuit in the Federal courts under any circumstances?'' the Chief Justice demanded.

''We are in state court, judge, in this case,'' the lawyer, Robert S. Atkins, replied.

''In state or Federal court?'' the Chief Justice persisted.

''The problem,'' Mr. Atkins said, ''is that if you cheat people a little bit but do it a lot, you can go free——''

The Chief Justice interrupted to interrogate him about the proportion of the recovery that would go for legal fees.

INVITING ATTENTION, SOME OF THE TIME

Chief Justice Burger's effort to police the moral character of lawyers who sought to become eligible to argue before the Court rankled some of the other Justices and in 1982 provided a rare public glimpse of internal disagreements over the Chief Justice's administrative approach.

He singled out several applicants by name and accused them of seeking membership in the Supreme Court bar to ''launder'' tarnished credentials. But he failed to persuade a majority of the Court to block the admissions and provoked one Justice, John Paul Stevens, to write that the Court should grant applicants with questionable credentials a ''fair hearing'' before publicly labeling them as unworthy.

There were contradictory strains in Chief Justice Burger's attitude toward the public, including the press. At times he seemed to welcome and even invite public attention. He took pride in having made the Supreme Court a more attractive place for tourists to visit, transforming the cold marble ground floor into an area for historical exhibits.

Yet he alone of all the Justice refused, when announcing one of his opinion from the bench, to provide tourists and lawyers in the audience with a brief oral description of the case and the decision.

The other Justices either read aloud from a memorandum explaining the case or gave a more casual oral account. When the Chief Justice's turn came, he would simply announce that in a case with a particular name, the judgement of the lower court was affirmed, or reversed. When asked why he refused to join the others in explaining his opinions, he once said, ''It's a waste of time.''

He was adamant about preserving the secrecy of the Court's internal operations,

even to the extent of refusing to make public the names of his four law clerks. A law firm recruiter or other member of the public who called the Court's public information office seeking a list of the current law clerks would receive the names of all the clerks except the Chief Justice's.

He mailed copies of his speeches to hundreds of journalists around the country and would telephone particular columnists to make sure his message was clear.

DEFINING THE LIMITS OF SPEECH AND PRESS

Occasionally, usually in connection with his annual ''State of the Judiciary'' address to the American Bar Association, a tradition that he inaugurated, he would invite journalists for informal ''deep background'' briefings, sessions that were often relaxed and informative.

But he seemed to hold much of the press corps in low repute. Asked by a lawyer at a Smithsonian Institution symposium what he thought of the reporters who covered the Court, he replied, as he often did: ''I admire those who do a good job, and I have sympathy for the rest, who are in the majority.''

His special scorn was reserved for television, which he regarded as an intrusive annoyance. He once knocked a television camera out of the hand of a network cameraman who followed him into an elevator. He vowed that he would never allow oral arguments at the Supreme Court to be televised.

Yet he wrote the opinion for the Court in the 1981 case Chandler v. Florida, holding that a state could permit a criminal trial to be televised, even over the defendant's objection, without depriving the defendant of the constitutional right to a fair trial.

Chief Justice Burger wrote several of the Court's most important opinions interpreting the free speech and free press guarantees of the First Amendment.

His opinion in a 1976 case, Nebraska Press v. Stuart, effectively prohibited judges from ordering the press not to publish information in its possession about the crime, a confession or the like. The opinion said that judges could take less drastic steps to protect criminal defendants from negative pretrial publicity, like sequestering the jury or changing the site of the trial.

A 1973 opinion by the Chief Justice ended roughly 15 years of turmoil over the legal definition of obscenity by changing the focus to local communities, rather than the entire country.

That opinion, in Miller v. California, said obscene materials were ''works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way and which, taken as a whole, do not have serious literary, artistic, political or scientific value.'' The Chief Justice added that it was up to local juries applying ''contemporary community standards'' to decide whether a particular work fit that definition.

''It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas or New York City,'' he wrote. ''People in different states vary in their tastes and attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity.''

RELIGION, RIGHTS AND VETO POWER

Chief Justice Burger was also one of the Court's most prolific writers on another aspect of the First Amendment, the clause prohibiting an establishment of an official national religion. In a 1971 opinion, Lemon v. Kurtzman, he set forth the test for deciding whether a given law or government program that conferred some benefit on religion nonetheless passed muster under the First Amendment.

''First,'' he wrote, ''the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster an excessive government entanglement with religion.'' This ''three-part test,'' as it came to be known through later refinements and elaborations, defined the Court's approach to the establishment clause in a variety of contexts.

The 1983 decision that struck down the legislative veto, Immigration Service v. Chadna, altered the balance of power between the executive and legislative branches.

It invalidated a procedure, which Congress had incorporated into some 200 laws, permitting one or both Houses to block executive branch action. The procedure, Chief Justice Burger wrote, was not within Congress' constitutional authority because it did not follow the rules the Constitution set out for ''legislation'': passage by both Houses and presentment to the President for his signature.

The Chadna opinion in many ways summarized the Chief Justice's view of American Government. He wrote, ''With all the obvious flaws of delay, untidiness and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.''

Chief Justice Burger wrote relatively few of the Court's criminal law decisions, and some of the more important decisions on the rights of criminal suspects found him in bitter dissent.

For example, in the 1977 case Brewer v. Williams the Court ruled, in a 5-to-4 opinion by Justice Potter Stewart, that the police had violated a murder suspect's constitutional right to counsel. The police officers, knowing that the suspect was deeply religious, delivered what came to be called the Christian burial speech, musing aloud on the wish of the victim's parents to give their daughter a Christian burial. The suspect, who had previously said he would talk only after seeing a lawyer, then led the officers to the victim's body.

The majority's decision overturning the murder conviction was ''bizarre,'' the Chief Justice wrote in a dissent that was a stinging attack on the so-called exclusionary rule barring the use at trial of illegally seized evidence.

''The result reached by the Court in this case ought to be intolerable in any society which purports to call itself an organized society,'' he said. ''Failure to have counsel in a pretrial setting should not lead to the 'knee-jerk' suppression of relevant and reliable evidence.''

A CONSERVATIVE ON CRIME ISSUES

Although Chief Justice Burger's views on criminal law did not always garner a majority on the Supreme Court, those views had probably been more responsible for his being nominated to the High Court than any other factor.

He dissented from the Court's 1972 decision that invalidated all death penalty laws then in force. After the Court permitted executions to resume four years later, the Chief Justice grew increasingly impatient with the legal obstacles that lawyers and judges continued to place in the way of executions.

When the Court refused to block the execution of a murderer whose appeals had lasted 10 years, Chief Justice Burger wrote a concurring opinion excoriating lawyers for condemned inmates. He said the lawyers sought to turn the administration of justice into a ''sporting contest.''

In 13 years on the United States Court of Appeals for the District of Columbia Circuit, he was known as a conservative, law-and-order judge. He enhanced that reputation with speeches and articles. A speech in 1967 at Ripon College in Wisconsin came to Richard Nixon's attention after it was reprinted in U.S. News & World Report.

The White House distributed copies of the speech at the time of Judge Burger's nomination, and the Supreme Court press office handed it out for years when asked for information about his views. In the speech, he compared the American system of justice with the systems of Norway, Sweden, Denmark and the Netherlands.

''I assume that no one will take issue with me when I say that these North European countries are as enlightened as the United States in the value they place on the individual and on human dignity,'' he said.

Yet, he continued, those countries ''do not consider it necessary to use a device like our Fifth Amendment, under which an accused person may not be required to testify.''

''They go swiftly, efficiently and directly to the question of whether the accused is guilty,'' he added.

''No nation on earth,'' he said, ''goes to such lengths or takes such pains to provide safeguards as we do, once an accused person is called before the bar of justice and until his case is completed.''

A MODEST START IN MINNESOTA

Chief Justice Burger's speechmaking style changed little in subsequent years. He often returned to the theme and imagery of the Ripon speech and often used the Scandinavian countries, which he visited frequently, as benchmarks against which to compare the American system.

Warren Earl Burger was born Sept. 17, 1907, in St. Paul. His parents, of Swiss-German descent, were Charles Joseph Burger and the former Katharine Schnittger. His paternal grandfather, Joseph Burger, emigrated from Switzerland and joined the Union Army at the start of the Civil War, when he was 14. He was severely wounded in combat and received both a battlefield commission and the Medal of Honor.

Warren Burger was one of seven children. The family lived on a 20-acre truck farm on the outskirts of St. Paul. In addition to farming, his father sold weighing scales; the family's financial circumstances were modest.

At John A. Johnson High School, from which Warren Burger graduated in 1925, he edited the school newspaper, was president of the student council and earned letters in hockey, football, track and swimming. He earned extra money by selling articles on high school sports and other news to the St. Paul newspapers.

The rest of his formal education took place in night school while he worked days selling insurance for the Mutual Life Insurance Company of New York. He attended the night school division of the University of Minnesota for two years, then began night law classes at the St. Paul College of Law, now known as the William Mitchell College of Law. He received his degree with high honors in 1931.

He joined the faculty of the law school and taught for 12 years while practicing law with the firm of Boyesen, Otis & Faricy. He remained with the firm, one of the oldest in the state, for 22 years; after he became a partner, the firm was known as Faricy, Burger, Moore & Costello. He handled probate, trial and appellate cases, arguing more than a dozen before the United States Supreme Court and many more in the Minnesota Supreme Court.

He married Elvera Stromberg in 1933. They had a son, Wade Allen, and a daughter, Margaret Elizabeth.

As a young lawyer, Mr. Burger became active in community affairs. He was president of the Junior Chamber of Commerce and the first president of the St. Paul Council on Human Relations. That group, which he helped to organize, sponsored training programs for the police to improve relations with minority groups. For many years, he was a member of the Governor's Interracial Commission.

He also became involved in state politics, working on Harold E. Stassen's successful campaign for governor. He went to the 1948 Republican National Convention to help Governor Stassen's unsuccessful bid for the Presidential nomination.

MAKING THE MOVE TO WASHINGTON

In 1952, he was at the Republican convention again, still a Stassen supporter. But he helped Dwight D. Eisenhower's forces win a crucial credentials fight against Senator Robert A. Taft of Ohio. On the final day, with General Eisenhower lacking nine votes for the nomination, Mr. Burger helped swing the Minnesota delegation and gave Eisenhower the votes that put him over the top. Cheers broke out on the convention floor as an organ played the University of Minnesota fight song.

His reward was a job in Washington, as Assistant Attorney General in charge of the Civil Division of the Justice Department. He supervised all the Federal Government's civil and international litigation. He told a young Justice Department lawyer years later that he would have been content to continue running the Civil Division for the rest of his career.

One of his assignments was somewhat unusual for the Civil Division chief. He agreed to argue a case in the Supreme Court, usually the task of the Solicitor General's Office. The case involved a Yale University professor of medicine, John F. Peters, who had been discharged on loyalty grounds from his job as a part-time Federal health consultant.

The Solicitor General, Somin E. Soboloff, disagreed with the Government's position that the action by the Civil Service Commission's Loyalty Review Board was valid and refused to sign the brief or argue the case. Mr. Burger argued on behalf of the board and lost. Among the lawyers who filed briefs on the professor's behalf were two who would precede Mr. Burger on the Supreme Court, Abe Fortas and Arthur J. Goldberg.

After two years, Mr. Burger resigned from the Justice Department and was preparing to return to private practice in St. Paul when Judge Harold Stephens of the United States Court of Appeals for the District of Columbia Circuit died. President Eisenhower nominated him for the vacancy, and he joined the court in 1956.

His elevation to the Supreme Court 13 years later was made possible by President Lyndon B. Johnson's failure to persuade the Senate to accept Abe Fortas as Chief Justice.

A BENEFICIARY OF '68 ELECTION

On June 13, 1968, Earl Warren had announced his intention to resign after 15 years as Chief Justice. President Johnson nominated Mr. Fortas, then an Associate Justice, as Chief Justice. But the nomination became a victim of the 1968 Presidential election campaign and was withdrawn on Oct. 2, the fourth day of a Senate filibuster that followed acrimonious confirmation hearings.

Chief Justice Warren agreed to delay his retirement, and it was clear that whoever won the Presidential election would choose the next Chief Justice. Justice Fortas remained on the Court until May 1969, when he resigned after the disclosure that he had accepted a $20,000 fee from a foundation controlled by Louis E. Wolfson, a friend and former client who was under Federal investigation for violating securities laws.

On May 21, a week after the Fortas resignation, President Nixon nominated Warren Burger to be Chief Justice. The nomination went smoothly in the Senate, and he was sworn in as Chief Justice on June 23, 1969.

The Chief Justice and his wife lived in a renovated pre-Civil War farmhouse on several acres in McLean, Va. According to the annual financial disclosure statements required of all Federal judges, he had assets of more than $1 million. His largest investment was the common stock of the Minnesota Mining and Manufacturing Company.

He was a gardener and a serious wine enthusiast who took pride in his wine cellar and occasionally sponsored wine-tasting dinners at the Supreme Court.

By statute, the Chief Justice is Chancellor of the Smithsonian Institution and chairman of the board of trustees of the National Gallery of Art, duties that, as an art and history buff, he enjoyed. He visited antiques stores to look for good pieces for the Court and took an active role in the Supreme Court Historical Society.

He and his wife led an active social life in Washington and spent part of nearly every summer in Europe, usually in connection with a conference or other official appearance.

Chief Justice Burger cut an imposing figure, and it was often said that he looked like Hollywood's image of a Chief Justice. He was nearly 6 feet tall, stocky but not heavy, with regular features, a square jaw and silvery hair.

Proper appearance was important to him. He once sent a note to the Solicitor General's Office complaining that a Deputy Solicitor General had worn a vest the wrong shade of gray with the formal morning attire required of Government lawyers who argue before the Court.

In 1976, he appeared at a Bicentennial commemoration in a billowing robe with scarlet trim, a reproduction of the robe worn by the first Chief Justice, John Jay. He later put the robe on display in the Court's exhibit area.

A book by Chief Justice Burger, ''It Is So Ordered'' (William Morrow), was published earlier this year. It is an account of 14 cases that, in his judgment, helped shaped the Constitution.

Mr. Burger's wife died in May 1994. He is survived by his son, of Arlington, Va.; his daughter, of Washington, and two grandchildren. Funeral arrangements were incomplete today.●

CONGRATULATING THE STUDENTS OF MAINE SOUTH HIGH SCHOOL

● Mr. SIMON. Mr. President, I wish to recognize a group of students from Maine South High School in Park Ridge, Illinois, who won the Unit 1 award for their expertise in the ''History of Rights,'' in the national finals of the ''We the People . . . The Citizen and the Constitution'' program.

As the ranking member of the Senate Subcommittee on the Constitution, Federalism, and Property Rights, I have a keen interest in constitutional issues. It is exciting to recognize achievement in an area which is important both to me personally and to the entire Nation.

Pat Feicher taught the winning class which competed against 49 other classes from across the Nation. The following students participated in the program: Raymond Albin, Julie Asmar, Marla Burton, Kevin Byrne, William Dicks, Nicholas Doukas, Neil Gregie, Conrad Jakubow, Brian Kilmer, Kristin Klaczek, Joe Liss, Robert McVey, Daniel Maigler, Agnes Milewski, Manoj Mishra, Vicky Pappas, Devanshu Patel, Anne Marie Pontarelli, Caroline Prucnal, Todd Pytel, Seema Sabnani, Jennifer Sass, Scott Schwemin, Peter Sedivy, Richard Stasica, Angela Wallace, Andrea Wells, and Stephen Zibrat.

This fine group of students has demonstrated a remarkable understanding of the fundamental element of the American system of government.●

VACLAV HAVEL

● Mr. KERRY. Mr. President, earlier this month, Vaclav Havel, President of the Czech Republic, spoke at a luncheon in his honor at the John F. Kennedy Library in Boston. President Havel spoke eloquently about President Kennedy's New Frontier and the hopes it inspired in his own country and among peoples throughout the world. He quoted the famous words of President Kennedy's Inaugural Address, ''Ask not what your country can do for you, ask what you can do for your country.'' He spoke as well of our failure to live up to those ideals, and of the importance of continuing to strive for them. ''What we can never relinquish is hope,'' he said.

Present in the audience at the Kennedy Library to hear these inspiring words were many members of the Masaryk club in Boston, a nonprofit cultural and social organization for Americans of Czech or Slovak ethnic background. President Havel's own personal courage in leading his country to freedom and democracy after the fall of the Berlin Wall made his visit to Boston an especially moving occasion for them.

I believe President Havel's eloquent address will be of interest to all my colleagues in the Senate. I ask that it be printed in the RECORD, along with Senator KENNEDY'S introduction of President Havel.

REMARKS OF SENATOR EDWARD M. KENNEDY

I want to thank Paul Kirk for that generous introduction. Everyone in the Kennedy family and everyone associated with President Kennedy's Library is proud of Paul and his outstanding leadership as Chairman of the Library Foundation.

I also want to thank John Cullinane for his effective role in our Distinguished Foreign Visitors Program. John has been a dear friend to our family for many years, and we are grateful for all he's done for Jack's Library.

Today is a special day for the Library, and we are delighted that our guest of honor could be here.

The ties that bind the United States and the Czech people go back many years. We're proud to have with us today members of Boston's Masaryk Club, named for the great founder of modern Czechoslovakia.

In 1918, at the end of World War I and the collapse of the Austro-Hungarian Empire, the new independent nation of Czechoslovakia was born. Thomas Masaryk drafted

its Declaration of Independence, and he used America's Declaration of Independence as his model. He adopted the red, white and blue colors of our flag for the Czech flag and he declared the birth of the new nation. At the time, he was in Pittsburgh, Pennsylvania, seeking support for his native land, a true patriot for his people.

Masaryk's Declaration of Independence had a fascinating subsequent history. Masaryk died in 1937, and left the document to his private secretary, who gave it to the Library of Congress for safe keeping, until it could one day be returned to a free Czechoslovakia

When I first met President Havel in 1990, the Berlin Wall had been down for several months, and I mentioned to him that it might be time to return the document to Czechoslovakia. But Czechoslovakia's democracy was still very new, and it's future was uncertain. So President Havel thought is best for the document to remain at the Library of Congress a little longer. In 1991, with democracy firmly established, it was a great honor and privilege for all of us in Congress to return that historic document to President Havel and the people of Czechoslovakia.

As all of us know, our guest of honor has had an extraordinary and very inspiring career. As a student in the 1950's in Prague, he was attracted to the theater. After completing his compulsory military service, he started work for an avant-garde theater company as a stagehand and electrician. With his talent for writing and his strong sense of the stage, he quickly rose to the position of manuscript reader, and then resident playwright.

His rise coincided with the increasing political thaw in his country in the 1960's, and he became well-known for his vivid plays about the dehumanizing and repressive bureaucracy of communist regimes.

President Havel's relationship with the Kennedy family goes back to 1968, when he visited the United States in connection with the first American production of one of his most famous plays. Due to restrictions on visitors from Iron Curtain countries at the time, his visa limited him to New York City. His friends in the literary and theater community contacted Senator Robert Kennedy, and, with Bobby's help, President Havel was given permission to visit Washington.

But the thaw in Czechoslovakia was only temporary, and the Soviet invasion of 1968 ended the famous Prague Spring. President Havel's works were banned and his passport was confiscated.

Repression and harassment followed. In 1975, after his production of ''The Beggar's Opera,'' even the members of his theater audiences became targets of police harassment.

But President Havel never wavered. He did not remain silent or flee the country during the repressive Communist rule. He was forced to take menial jobs, but he continued writing, speaking out for human rights, and standing up against the Communist dictatorship.

In 1977, he became a leader of Charter 77, a manifesto signed by hundreds of artists and intellectuals protesting the government's refusal to abide by the Helsinki Agreement on Civil and Political Rights. For his continuing courage, he was jailed several different times, and spent five years in prison.

In his visit to this country in 1990, President Havel told me that during those dark years in prison, the most important and most sustaining book he had read was ''Profiles in Courage'' by President Kennedy.

After the fall of the Berlin Wall, President Havel became the leader of the Civic Forum, an organization of groups opposed to the Communist Government. In November 1989, massive crowds gathered in Wenceslas Square to challenge that government and there was real dangers of violence. President Havel showed great leadership in bringing about a peaceful transition. It was called the Velvet Resolution, and in December he became the first president of the new, free Czechoslovakia.

In 1993, when Czechoslovakia peacefully split into two independent nations, he became the first President of the new Czech Republic.

During President Havel's earlier visit, we happened to be together at a large dinner party in his honor. As it was ending, I mentioned that one of the most beautiful and moving places to visit in Washington was the Lincoln Memorial at night. He was intrigued, and so we drove over there together. I read out loud the beautiful words inscribed on the walls—the text of Lincoln's Gettysburg Address and his Second Inaugural Address—and his interpreter translated them for President Havel.

It was a deeply moving few moments. He wrote down several of the great phrases, and he turned to me and said, ''I am not able to understand the language, but I can understand the poetry.''

Finally, I want to quote briefly from some of President Havel's own words, describing his life. Here is what he said: ''You do not become a 'dissent' just because you decide one day to take up this most unusual career. You are thrown into it by your personal sense of responsibility, combined with a complex set of external circumstances. You are cast out of the existing structures and placed in a position of conflict with them. It begins as an attempt to do your work well, and ends with being branded an enemy of society.''

But that label could not stick. No friend of freedom can be an enemy of society. President Havel's heroic opposition to repression won him many admirers throughout the world, including the great Irish playwright, Samuel Beckett. In 1982, in a unique political action, Beckett dedicated a play to Havel, about the suffering of a martyr in an oppressive country.

I know that President Havel regards that as one of the finest tributes he has ever received, and he eminently deserved it. Through many years of hardship and repression, he kept the idea of freedom alive, and he successfully led his people to it.

As Robert Kennedy said, ''Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.''

Those words eloquently describe the extraordinary life of our guest of honor and the ripples of hope he has set forth across the world. He is a symbol of the aspirations of peoples everywhere for liberty and an end to oppression.

I am honored to introduce him now, a man for all seasons, an inspiring leader for our times, President Havel of the Czech Republic.

REMARKS OF VACLAV HAVEL

Dear Mr. Senator, dear guests, the name of the President for whom this library is named, your name, Mr. Senator, and the name of your family, evokes as powerful an echo as few other names do. For several generations, this name has been inseparably linked with the history of Boston, the Commonwealth of Massachusetts, the United States of America and, indeed, of the whole world.

For me and many others, this name is primarily linked with a period which had profoundly influenced a whole generation in various parts of the world, a period whose aftereffects we are still feeling today. I am speaking, of course, about the sixties. I will never forget my sense of elation at the election of President Kennedy. I will never forget my sense of shock at the news of his assassination. It was then that I realized that there are dark forces operating in the human nature and in the world at large. And I will never forget the few weeks I spent in the United States at the end of the sixties, my own taste of the unrepeatable atmosphere of the times in this country.

The historical dimensions of a decade do not always coincide with its chronological dimensions. The sixties began right on time in 1960, on a wave of hope with the election of your brother John Fitzgerald Kennedy as the 35th President of the United States. The same sixties, however, ended prematurely in the chaos and disillusion of 1968, with the student riots in Paris, the assassination of your brother Robert Kennedy in Los Angeles, the demonstrations against the war in Vietnam in Washington, and with the invasion of Czechoslovakia by the Warsaw Pact. What remained of the sixties chronologically after that, did not really belong there. Even the last joyful moment of the decade, the landing of Man on the Moon ''before the decade was out,'' seemed to be a mere legacy of the late President who had turned the eyes of the nation toward the New Frontier but was murdered before he could witness the breakthrough.

Few decades in the history of mankind have been the focus of so much energy, joy and hope as well as of so much pain, bitterness and disappointment. It is then no wonder that few decades have left behind a legacy so controversial. It is hard to imagine a more suitable place for a small reflection on this legacy and what it might mean today than the Kennedy library.

From the very beginning of the sixties we hear the great call of the dead President for a new step forward, for courage and personal responsibility: ''Ask not what your country can do for you—ask what you can do for your country.'' In the course of the sixties the civil rights movement triumphed and eliminated much of the heavy burden of the past. The turmoil of the sixties destroyed the barriers between the sexes and opened a new realm of freedom—sexual freedom. The creative impulse of the sixties produced an unprecedented number of original works in literature, music and arts. The technological progress, accelerated by the effort to conquer the space, set off an information revolution whose fruit we are in full extent reaping only today. In the communist part of the world the end of the decade witnessed an outburst of popular will against the absurdity of the totalitarian dictatorship in Czechoslovakia.

If it all stayed at that, we would now be remembering the sixties as a golden age of mankind. However, the hope that had ushered it in remained largely unfulfilled. The removal of barriers did not automatically bring about universal prosperity or universal harmony. A large part of the creative impulse of the times dissipated in disillusion or succumbed to commercial interests. The newfound individual freedom spent itself in hedonism, arbitrariness and in drugs. Technological progress also helped to build a new generation of ever more destructive weapons which were prevented from being used only by the certainty of mutually assured destruction. And the Czechoslovak rebellion against totalitarianism collapsed, in part because of the ambivalence of its efforts, under the avalanche of half a million troops of occupation while the rest of the world could only stand by and watch.

It would be too simple to attribute the failure of our hopes at the time only to unfavorable circumstances, to assassins or to the military might of the totalitarian regime. It would be equally simple to say that our hopes had been false from the very beginning, that they were nothing more than a result of the euphoria of youth or inexperience.

Our hopes did not come true because, as many times before in history, we failed to heed that call for personal responsibility and for a service to common interests. The opportunity to work together for the common good gradually degenerated into a service to group interests, sectarian interests and ultimately purely individual interests. The loving sixties were followed by the selfish eighties.

I do not think we should tear our garments here as if this were some exceptional and unforgivable failure. The service to one's own interests, the tendency to use one's own potential for one's own good is an inseparable part of human nature and the motivation which ultimately drives the world forward. At the same time it is equally an inseparable part of human nature to love and be loved, to be capable of solidarity, altruism, even of self-sacrifice. Some scientists like E. O. Wilson and some theologians think of both these tendencies as being a part of a single elementary life force. The question of a talmudistic scholar: ''If I am not for myself, who will be for me? And if I am only for myself, who am I?'' still demands an answer.

Today we are all thirty years older and hopefully—though this is far from certain—wiser. Much of that crazy decade we remember with a smile and sometimes even with some embarrassment. Much of that decade we can relinquish as unrepeatable, mistaken or misconceived. What we can never relinquish is hope.●

REGULATORY REFORM

● Mr. BAUCUS. Mr. President, in the next few days, the Senate will begin to debate regulatory reform legislation to make regulations more sensible, less burdensome, and more efficient.

This debate is long overdue. Because while passing laws is important, real people are affected not by congressional debates but by implementation of the law by agencies.

And all too often, agencies implement laws with too much paperwork, too much harassment and too little common sense. It is time to set things straight, and I congratulate the leadership for bringing this issue to the floor.

At the same time, however, we must remember that preventing pollution, ensuring food safety and keeping our rivers clean are critically important to a good life for Americans.

Unfortunately, some special interest groups do not see it that way. All over Washington, they are trying to get loopholes and special relief that will let them get away with polluting the air and water. And they are calling their loopholes regulatory reform. They should not get away with it.

So let us watch what is coming aboard pretty carefully. Let us reform Government rules and regulations to make them work better. But let us not use regulatory reform to weaken protection of public health and safety and to lower the quality of life.

THE NEED FOR REFORM

Government has to treat people like adults. It has to understand that most people are good people. They don't need to fill out a lot of forms to do the right thing.

As the debate unfolds, we will hear theories about so-called super mandates. About judicial review. About esoteric provisions of the Administrative Procedures Act. About how many permissible statutory constructions can dance on the head of a pin.

But when most Montanans think about Government regulations, they are more straightforward. Montanans want common sense. Montanans believe most Federal rules and regulations cost too much. They accomplish too little. They make responsible business owners fill out too many forms. And they just plain make people angry.

OSHA LOGGING REGULATIONS

I will give you an example. Earlier this year, OSHA, the Occupational Safety and Health Administration, proposed a rule that would make loggers wear steel-toed boots.

Seems to make sense—unless you are actually out in the Montana woods in winter, on a steep slope and frozen ground. In that case, steel-toed boots can make the job more dangerous, not less. They make your feet go numb, so it is harder to hold your grip. And if you are holding a live chainsaw at the time, you are in a lot of trouble.

So the people this regulation was meant to help knew it made no sense at all. And to add injury to insult, it threatened their jobs. OSHA told them to buy the boots in 2 weeks or take a furlough.

Another example was the EPA's decision 2 years ago to ban some kinds of bear sprays—pepper sprays that help people avoid injury from bear attacks—because they might irritate the nasal tissues of an attacking grizzly. Yet another was the Forest Service's decision to bar loud speech and inappropriate noises in national forests.

Most regulations are not as ridiculous or offensive as these. But even so, the sheer volume of regulation is a big problem. Small business owners often give up all of Friday afternoon to fill out OSHA forms and IRS withholding documents just to comply with existing regulations, let alone keep up with all the new ones.

Today, we are only half-way through 1995. And the Federal Register, in which the government publishes its rules and regulations, is about to hit the 33,000-page mark. That is about 200 pages of rules, regulations, comments, revisions, and rerevisions every day.

KEY ELEMENTS OF REFORM

So I congratulate the leadership for moving ahead with regulatory reform. The effort is only beginning, but at the end I believe a good bill will include five key elements.

First, we should open up the regulatory process. It should be easier for people to comment on proposed rules. They should get more notice when a rule will affect their job or business. You simply cannot expect a hard-working gas station owner or restaurant manager to subscribe to the Federal Register and track all the changes and revisions in the OSHA code.

And while they are at it, agencies should explain their rules in plain English. For example, look at a sentence from an EPA rule in the December 29, 1994, Federal Register. It means to say treated hazardous wastes are exempt from disposal regulations under two conditions. But what it actually says is this:

> Currently, hazardous wastes that are used in a manner constituting disposal (applied to or placed on land), including waste-derived products that are produced in whole or in part from hazardous wastes and used in a manner constituting disposal, are not subject to hazardous waste disposal regulations provided the products produced meet two conditions.

Imagine handing that in to a high school English teacher.

Second, we should use new statistical tools like risk assessment and cost-benefit analysis when appropriate. They can help agencies set priorities, so we spend our money wisely and solve the biggest problems first. And they can help make sure agencies think creatively and consider all the options before charging ahead. But we must also understand their limitations—because I do not believe we can place a dollar value on things like the survival of the bald eagle or brain damage in children from lead in drinking water.

Third, Congress should conduct more oversight. Passing a law is only a small part of the job. It is implementation of the law that affects real people at home and in business. But too often, Congress passes a law and then walks away, leaving implementation entirely to bureaucrats who do not always have practical experience. The OSHA logging regulation is a good example. Congress should review major new regulations closely, so the mistakes are corrected before they start to threaten jobs and businesses.

Fourth, we should strengthen the Regulatory Flexibility Act. This law requires agencies to pay special attention to the effects of their regulations on small business. A good goal—but one agencies sometimes ignore.

Today, small businesses have no right to challenge an agency, in court, when it fails to comply with the Act. By establishing a streamlined process for judicial review, we can help small businesses protect themselves.

And fifth, we must continue strong and effective protection of public health, public safety and our natural heritage. Clean air, clean water and clean neighborhoods are basic American values. They are essential to a high quality of life in our country. Regulatory reform should get them for us more efficiently. It must not run away from these goals, and allow more contamination of rivers and streams,

more urban smog, or greater threats to the public health and safety.

CONCLUSION

With these five steps, Mr. President, we will make federal rules and regulations more effective. And we will do something even more important. Americans will be more confident that their tax dollars are being spent wisely, and that we are guaranteeing public health and safety with the absolute minimum of bureaucracy and paperwork.

So I look forward to the debate on this bill, and to working with my colleagues to meet these goals.●

CONGRATULATING THE NEW JERSEY DEVILS FOR WINNING 1995 NHL STANLEY CUP

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 142, a resolution to congratulate the New Jersey Devils for winning the 1995 NHL Stanley Cup, a resolution submitted earlier today by Senators LAUTENBERG and BRADLEY; that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, and that any statements appear in the RECORD as if read.

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

So the resolution (S. Res. 142) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 142

Whereas on October 5, 1982, the New Jersey Devils played their first National Hockey League game in New Jersey, embarking on a quest for the Stanley Cup which was satisfied 13 years later;

Whereas the Devils epitomize New Jersey pride with their heart, stamina, and drive and thus have become a part of New Jersey culture;

Whereas the New Jersey Devils won 10 games on the road during the Stanley Cup playoffs, thus demolishing the previous record;

Whereas the Devils have implemented an ingenious system known as the ''trap'' that was designed by head coach Jacques Lemaire which constantly stifled and frustrated their opponents;

Whereas Conn Smythe trophy winner Claude Lemieux led the league with 13 playoff goals, three of which were game-winners, and goalie Martin Brodeur led the league with a 1.67 goals-against average during the playoffs;

Whereas the New Jersey hockey fans are the best fans in the nation and deserve commendation for helping build the team into championship caliber and for supporting the Devils during their drive for the Stanley Cup;

Whereas the New Jersey Devils during the playoffs beat Boston, Pittsburgh, Philadelphia and in the finals swept the heavily favored Detroit Red Wings in four games giving the state of New Jersey its first-ever championship for a major league team officially bearing the state's name: Now, therefore, be it

Resolved, That the Senate congratulates the New Jersey Devils for their outstanding discipline, determination, emotion, and ingenuity, in winning the 1995 NHL Stanley Cup.

Mr. LAUTENBERG. Mr. President, I stand here proud of the New Jersey Devils' accomplishment in winning hockey's most treasured prize, the Stanley Cup. I congratulate the players and their coaches for an inspiring series with four straight victories over the Detroit Red Wings.

This capped an impressive string of playoff victories over Boston, Pittsburgh, and Philadelphia—victories that resulted in the Devils bringing the Stanley Cup to my home State for the first time in history. It is the first time in history that a national professional championship was won by a team with ''New Jersey'' in its name.

Mr. President, it took a great deal of determination, courage, drive, and discipline—and no small amount of prayer on the part of fervent fans—for the Devils to bring this cup home.

And they did this despite the fact that no one thought they could win it. Not when the playoffs started. Not when they reached the finals. No one gave them a chance against the Red Wings.

But, under the guidance of Head Coach Jacques Lemaire and with the great help of Claude Lemieux, the Cup's Most Valuable Player, and Martin Brodeur, the Devils demonstrated everything great about New Jerseyans—we have the heart, the drive, and the stamina to do it when we have to.

I will take a moment to mention other outstanding Devils players—Ken Daneyko, Bruce Driver, and John MacLean who have each been with the Devils since 1983 and have helped start the team's long journey to the top. Also we must commend Jim Dowd, a New Jersey native hailing from the town of Brick, who scored the winning goal in game two.

Mr. President, anyone who has been in New Jersey knows that the Devils—like our shoreline—are an integral part of our culture. And I, along with 8 million other New Jerseyans look forward to seeing them defend their cup title in the Byrne Arena next year and the year after as well.

Once again, I would like to congratulate them on their remarkable accomplishment, and to thank them for the hard fight they fought to bring the Stanley Cup to the great State of New Jersey.

ORDERS FOR WEDNESDAY, JUNE 28, 1995

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:40 a.m. on Wednesday, June 28, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 240, the securities litigation bill, under the provisions of the previous agreement.

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

PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will resume consideration of the securities bill tomorrow at 8:40 a.m. All Senators should be aware there will be a rollcall vote beginning at 8:45 a.m. on or in relation to the Specter amendment. Following that vote, there will be a series of votes with a brief period of debate between each vote. The first vote will be 15 minutes in length, and the remaining votes in the series will be only 10 minutes in length. Following the series of votes and 30 minutes of debate, there will be a 15-minute vote on final passage of the securities litigation.

ORDER TO RECESS

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that at the conclusion of Senator PELL's morning business speech, the Senate stand in recess under the previous order.

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

The Senator from Rhode Island is recognized.

U.S. RATIFICATION OF THE LAW OF THE SEA CONVENTION WILL ENHANCE OUR NATIONAL SECURITY INTERESTS

Mr. PELL. Mr. President, in the past few months, I have taken the floor on several occasions to highlight how the U.N. Convention on the Law of the Sea would protect the national interests of the United States with regard to our fisheries and our economic activities. Today, I wish to address how U.S. ratification of the convention will enhance our most important interest: national security.

The convention establishes as a matter of international law freedom of navigation rights that are critical to our military forces. This was highlighted by the President in his Message to Congress, transmitting the Convention on the Law of the Sea:

The United States has basic and enduring national interests in the oceans and has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. . . . Each succeeding U.S. Administration has recognized this as the cornerstone of U.S. ocean policy. . . . The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. . . . Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which covers more than 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security

and economic strength.'' (Treaty Doc. 103–39, p.iii–iv)

Secretary of Defense William Perry and Secretary of State Warren Christopher emphasized in a joint letter to the Congress last year that:

As one of the world's major maritime powers, the United States has a manifest national security interest in the ability to navigate and overfly the oceans freely.

A recent Department of Defense Report on National Security and the Convention on the Law of the Sea concluded that the United States

. . . national security interests in having a stable oceans regime are, if anything, even more important today than in 1982 when the world had a roughly bipolar political dimension and the U.S. had more abundant forces to project power to wherever it was needed.'' (Hearing before the Committee on Foreign Relations on the Current Status of the Convention on the Law of the Sea, S. Hrg. 103–737, pp.61–75)

In his letter to the Senate accompanying that report Secretary Perry declared that:

. . . the Convention establishes a universal regime for governance of the oceans which is needed to safeguard United States security and economic interests, as well as to defuse those situations in which competing uses of the oceans are likely to result in conflict. . . . Historically, this nation's security has depended upon the ability to conduct military operations over, under and on the oceans. . . . To send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law, General Shalikashvili and I urge your support in securing early advice and consent of the United Nations Convention on the Law of the Sea and implementing Agreement.

I ask unanimous consent that Secretary Perry's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. PELL. With the end of the cold war, both our vital interests and our ability to defend them have shifted. In these fiscally difficult times, the convention allows us to concentrate our resources on the most strategic points of our national security. Illustrations of this phenomenon can be found in the provisions of the Law of the Sea Convention that provide for innocent passage, transit passage, and archipelagic passage.

The convention allows a coastal State to claim a territorial sea that shall not exceed 12 nautical miles measured from the baseline. While this provision recognizes the special rights of the coastal state in the area immediately adjacent to its coastline, it also provides specifically for the right of innocent passage for ships, including warships and submarines, to transit through the territorial sea.

Likewise, in some areas, archipelagic states have been allowed to enclose waters located between the various islands of an archipelago, and to claim them as national waters. Unfortunately, some of these instances involve islands located in international straits or along routes used for international navigation and overflight of the highest strategic importance. Here again, the convention strikes the perfect balance by guaranteeing to all ships and aircraft, including warships, submarines, and military aircraft a right of passage on, over and under international straits and archipelagic sea lanes.

The need to protect freedom of navigation is not merely a theoretical issue. There have been recent situations where even U.S. allies denied our Armed Forces transit rights in times of need. Such an instance was the 1973 Yom Kippur war when our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. Again, in 1986, United States aircraft passed through the Strait to strike Libyan targets in response to that government's acts of terrorism directed against the United States, after some of our allies had denied us the right to transit through their airspace.

In April 1992, Peruvian fighters strafed a United States C–130 aircraft that was 60 nautical miles off the Peruvian coast, well within Peru's claimed 200-nautical-mile territorial sea, but well outside the 12-nautical-mile limit recognized by the Law of the Sea Convention and the United States. This incident resulted in the death of one U.S. service member and the wounding of several others, as well as the loss of the aircraft. Peru continues to challenge United States aircraft flying over its claimed territorial sea.

There are a number of other situations where having the Law of the Sea in effect might have made a difference. I ask unanimous consent that a summary of such instances be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. PELL. Another way in which the convention protects our national security interests is by bringing an incredible amount of stability and certainty with regard to multiple and sometimes divergent ocean uses. Most importantly the convention provides the most effective brake on excessive coastal state maritime claims in ocean areas adjacent to their coasts.

If the United States is not a party to the convention, preserving our navigational rights in nonwartime situations becomes increasingly costly. The Law of the Sea provides very clear rules and circumstances according to which these claims need to be recognized. In addition, if the rights of a transiting nation are impeded, the Law of the Sea provides all parties with a very clear set of rules for the peaceful settlement of disputes.

Only a few weeks ago, a potential conflict threatened to erupt over Greek territorial claims around its islands in the Aegean Sea. Turkey has warned against the transformation of this area into a ''Greek Lake'' and many have warned of the possibility of conflict over this issue. The Law of the Sea specifically calls for peaceful resolution of such disputes and, when the Hamburg Tribunal on the Law of the Sea is convened, it could be seized to address disputes such as this one.

Another potential point of conflict is to be found in the South China Sea, where conflicting claims have been staked over the Spratly Islands. These islands have been claimed by the People's Republic of China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. Recently, some of those claimants have engaged in aggressive activities. The location of the Spratlys is of paramount importance, as the islands lie along strategic sea lanes that connect the Indian Ocean and the Persian Gulf to the Pacific Ocean. Seventy percent of Japan's oil imports travel through this route and both the United States and its allies would stand to lose if armed conflict erupted as a result of these conflicting claims. The administration recently advised the various claimants that the United States would view with serious concern any maritime claim or restriction on maritime activity in the South China Sea that was not consistent with the Law of the Sea Convention.

In that regard, on June 20, 1995, the Committee on Foreign Relations reported, and on June 22 the Senate agreed to, Senate Resolution 97, introduced by Senator THOMAS and Senator ROBB, which I cosponsored. This resolution calls on the parties involved in this dispute to solve their differences in a manner that is consistent with international law.

I would like to bring to the attention of my colleagues an op ed piece that was published on May 26, 1995 in the Washington Times and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. PELL. In it, Keith Eirinberg, a Fellow in the Asian Studies Program at the Center for Strategic and International Studies, calls the Law of the Sea Convention perhaps the world's greatest diplomatic achievement for having established internationally accepted laws for three fourths of the earth's surface. He also clearly demonstrates that excessive claims have no standing under the Convention and that the U.S. ability to influence a peaceful settlement of the dispute over the Spratly Islands would be enhanced by U.S. ratification of the treaty.

In addition, on June 22, 1995, Rear Adm. Lloyd R. Vasey (Ret.), a senior strategist specializing in Asia-Pacific security, wrote in the Christian Science Monitor that the claims over the Spratly Islands should be resolved through international law and the UN

Convention on the Law of the Sea. He added that for its own credibility the U.S. needs to complete ratification of the Law of the Sea Treaty. I ask unanimous consent that this article be printed in the RECORD at the end of my remarks.

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

(See exhibit 4.)

Mr. PELL. There are scores of other instances where maritime boundary disputes were solved in a peaceful manner, precisely because the Law of the Sea establishes such clear rules and limitations. If it does not ratify the Convention, the United States will stand at risk of being left out of the enforcement of this Constitution for the Oceans, and will be subject to the uncertainties of customary international law.

I have heard arguments that the Convention's provisions on freedom of navigation are not really important because they reflect customary international law. I disagree with that argument.

Customary international law is inherently unstable. Governments can be less scrupulous about flouting the precedents of customary law than they would be if such actions were seen as a violation of their treaty obligations.

Moreover, not all governments and scholars agree that all of the critical navigation rights protected by the Convention are also protected by customary law. They regard many of those rights as contractual and, as such, available only to parties to the Convention.

The concordant judgment of those charged with responsibility for the national security of our Nation is reflected in the report of the Department of Defense on National Security and the Law of the Sea, which states:

> Our principal judgement is that public order of the oceans is best established by a universally accepted Law of the Sea treaty that is in the U.S. national interest. . . . Reliance upon customary international law in the absence of the modified Convention would represent a necessarily imprecise approach to the problem as well as one which requires the United States to put forces in harm's way when principles of law are not universally understood or accepted. A universal Convention is the best guarantee of avoiding situations in which U.S. forces must be used to assert navigational freedoms, as well as the best method of fostering the growth and use of various conflict avoidance schemes which are contained in the Convention.

Mr. President, this is not merely my opinion but that of the professionals whose job it is to protect our Nation's security. We must not ignore their advice: United States ratification of the Law of the Sea Convention will enhance our national security interests.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, DC, July 29, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In 1982, the United States made a decision that it would not become a party to the United Nations Convention on the Law of the Sea because of its concerns about the deep seabed mining provisions, contained in Part XI of the Convention. The Convention is due to enter into force on November 16, 1994, now that the requisite number of other states (60) have ratified it. However, consultations were recently concluded which resulted in an Agreement to correct what the United States has long viewed as the Convention's flawed deep seabed mining provisions. The United States now intends to sign the Agreement at the United Nations on July 29, 1994. Accordingly, the Convention as modified will be transmitted to the Senate for its advice and consent at the end of the 103rd Congress.

The Department of Defense fully supports U.S. signature of the Agreement, and ratification of the Convention as modified by the Agreement. In the Administration's view, the new Agreement satisfactorily resolves the issues that the U.S. Government and ocean mining interests raised in the early 1980's during deliberations over whether the United States should sign the Law of the Sea Convention. The new Agreement meets these objections by correcting the serious institutional and free market deficiencies in the original Convention. We have received indications from other industrialized nations that, with adoption of the new Agreement, they will soon accede to the modified Convention.

The Convention establishes a universal regime for governance of the oceans which is needed to safeguard U.S. security and economic interests, as well as to defuse those situations in which competing uses of the oceans are likely to result in conflict. In addition to strongly supporting our interests in freedom of navigation, the Convention provides an effective framework for serious efforts to address land and sea-based sources of pollution and overfishing. Moreover, the Agreement provides us with an opportunity to participate with other industrialized nations in a widely accepted international order to regulate and safeguard the many diverse activities, interests, and resources in the world's oceans. Historically, this nation's security has depended upon the ability to conduct military operations over, under, and on the oceans. The best guarantee that this free and unfettered access to the high seas will continue in the years ahead is for the U.S. to become a party to the Convention, as modified by the Agreement, at the earliest possible time.

In the coming months, we anticipate heightened public debate of the merits of the Law of the Sea Convention. To put that debate into perspective, you will find enclosed a paper which briefly outlines the history of the original Convention, the steps leading to the formalization of the Part XI Agreement, and the nation's vital national security and other interests in becoming bound by the modified Convention.

To send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law, General Shalikashvili and I urge your support in securing early advice and consent of the United Nations Convention on the Law of the Sea and implementing Agreement.

Sincerely,

WILLIAM J. PERRY.

EXHIBIT 2

PARTICULAR CASES WHERE HAVING THE LAW OF THE SEA CONVENTION IN EFFECT MIGHT HAVE MADE A DIFFERENCE:

Between 1961 and 1970, Peru seized 74 U.S. fishing vessels over disputed tuna fisheries.

In 1986, Ecuador interfered with a USAF aircraft flight over the high seas 175 miles from the Ecuadorian coast.

Since 1986, Peru has repeatedly challenged U.S. aircraft flying over its claimed 200 nautical mile territorial sea. During several of these challenges, the Peruvian aircraft operated in a manner that unnecessarily and intentionally endangered the safety of the transiting U.S. aircraft and its crew. This includes an incident where a U.S. C–130 was fired upon and a U.S. service member was killed.

In 1986, two Cuban MIG–21 aircraft intercepted a USCG HU–25A Falcon flying outside of its 12 nautical mile territorial sea, claiming it had entered Cuban Flight Information Region (FIR) without permission.

In 1988, Soviet warships intentionally ''bumped'' two U.S. warships engaged in innoncent passage south of Sevastopol in the Black Sea.

In 1984, Mexican Navy vessels approached U.S. Coast Guard vessels operating outside Mexican territorial waters and interfered with valid USCG law enforcement activities.

Libyan claims to the Gulf of Sidra have resulted in repeated challenges and hostile action against U.S. forces operating in high seas.

During the 1980's, transits of the Northwest Passage by the USCG POLAR SEA and POLAR STAR were challenged by the Canadian Government.

EXHIBIT 3

[From the Washington Times, May 26, 1995]

U.N. MARITIME PACT COULD PRODUCE SOUTH CHINA SEA SOLUTION

(By Keith W. Eirinberg)

The recent Clinton administration statement on the Spratly Islands dispute, urging negotiations instead of force, is the strongest declaration yet of U.S. interests in the South China Sea.

While critics of the administration argue that the United States should ''draw a line in the sand'' against Chinese aggression in the Spratlys, U.S. interests are better served by efforts to persuade the contesting parties to follow international law, including the newly effective 1982 U.N. Convention on the Law of the Sea, and find a diplomatic solution.

The Republican-controlled Senate can help America's efforts to protect these interests by ratifying the Law of the Sea accord, giving this country greater standing as it encourages a peaceful resolution of the dispute.

The Spratly Islands imbroglio is essentially a maritime controversy centered on the question of sovereignty and jurisdiction over geologic features and adjacent waters in the South China Sea.

Six nations claim part or all of the Spratlys: the People's Republic of China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei. The dispute has direct implications for U.S. interests: freedom of navigation and overflight and the maintenance of peace and stability in Southeast Asia.

The sovereignty issue appears intractable, so many of the parties have voiced a desire to shelve this point and look to joint development of the area's resources. China, in a ''divide and conquer'' strategy, insists on negotiating bilaterally and rejects a regional or international approach. The Association of Southeast Asian Nations, which includes some of the claimants, is interested in a regional solution.

The parties to the dispute, except Brunei, claim ownership over islands, reefs, atolls, rocks and cays in the Spratlys. The Spratlys are important because they lie along strategic sea lanes and lines of communication that connect the Indian and Pacific oceans. More than 70 percent of Japan's oil imports and a large volume of global commerce travel along this maritime route. The Spratlys are domestically important to the claimants

because of the politics and patriotism reflected in ownership.

It is the potential of vast hydrocarbon resources beneath the seabed that has caused this dispute to become a flash point in East Asia. The energy needs of the developing claimants have made the exploitation of oil and gas beneath the South China Sea especially attractive.

The U.N. Convention on the Law of the Sea—perhaps the world's greatest diplomatic achievement for having established internationally accepted laws for three-fourths of the earth's surface—can provide the framework for a diplomatic solution. For example, it prescribes the methods for determining boundaries. Of the claimants, the Philippines and Vietnam have ratified the convention.

To Beijing, however, ownership is nine-tenths of the law. While advocating a diplomatic solution, it has aggressively placed encampments and markers in contested areas of the Spratlys. This ''talk and take'' pattern was most recently illustrated in China's occupation of Mischief Reef in Philippine-claimed territory.

China's cavalier attitude to international law is also shown by its 1992 territorial sea law. This declares Chinese jurisdiction over virtually all of the South China Sea—a claim that has no basis in modern international law.

China must play by the rules. Washington encourages Beijing to join the international community in many different areas, from nuclear proliferation to human rights. But Washington finds itself in a poor position to persuade Beijing to ratify the Law of the Sea accord without having done so itself.

U.S. administrations had resisted ratification because of inequities in the deep-seabed-mining provisions. But changes to the convention have addressed U.S. objections.

Last year, with strong Defense Department backing, the White House signed the amended Convention on the Law of the Sea and sent it to the Senate for ratification.

America's ability to influence a peaceful settlement of the Spratly Islands dispute would be enhanced by U.S. ratification of the treaty. In light of the tensions in the South China Sea, this step should be taken soon.

EXHIBIT 4

[From The Christian Science Monitor, June 22, 1995]

COLLISION IN THE CHINA SEA—WORLD OIL AND SHIPPING LANES AT STAKE IN MULTINATION DISPUTE

(By Lloyd R. Vasey)

East Asia's economic momentum may grind to a premature halt unless political leaders find a way to defuse tensions over territorial disputes in the South China Sea. With several countries on a collision course, a major regional crisis is waiting to happen.

At issue are claims of sovereignty over the Spratly and Paracel Islands—hundreds of islets and reefs and surrounding seas believed to be rich in oil, gas, and other resources. China, which urgently needs new energy sources, is the central disputant; others include Vietnam, Brunei, Malaysia, the Philippines, and Taiwan. China's claims are historically based, going back several centuries when the South China Sea was an area of preeminent Chinese influence and power. Currently they have no basis in international law, and claims of some of the other countries are also questionable.

The prevailing view in Asia is that China is deliberately expanding its geopolitical influence in the region. This perception was dramatically reinforced in 1992 when the Chinese People's Congress declared ownership of the waters around the Spratlys and Paracels and readiness to use military power to defend its interests. The claim would make the South China Sea a virtual Chinese lake straddling shipping lanes carrying huge volumes of global trade, including the oil lifelines of Japan and South Korea.

Indonesia and other countries of the Association of Southeast Asian Nations (ASEAN) have convened unofficial forums seeking to resolve the disputes, but progress on the issues has stalled.

Regional tensions escalated last month when Philippine president Fidel Ramos challenged China's ''illegal'' occupation of a small atoll in the Spratlys aptly named Mischief Reef.

It lies well within the Philippine's 200 mile Exclusive Economic Zone but also within the area claimed by Beijing.

China hasn't hesitated to use force in asserting territorial claims. In 1974 it seized most of the Paracel islands east of Vietnam. In 1988, the two engaged in bloody clashes over the Spratlys.

Indonesians are deeply suspicious of China's revision of a map that now depicts part of the maritime area around Natuna island, hundreds of miles south of the Spratlys, to be under Chinese jurisdiction. Indonesia's military leaders have announced that they will defend their national interests by force if necessary. What makes the issue particularly irksome to Indonesia is that a $35 billion deal involving a United States oil company was signed last year to help develop the Natuna gas field, possibly one of the world's largest.

Such colliding claims ought to alert Washington to pay much closer attention to this high-stakes strategic game. The implications for American interests are disturbing: future access to resources, freedom of the seas, the balance of power, and regional stability are all involved.

The US should now revamp its policy of relying on ASEAN even when important American interests are involved. Instead, the US should volunteer to act as honest broker to work out production-sharing agreements for joint development of resources in contested areas, and request disputants to put sovereignty claims on hold. These claims should be resolved through international law and the UN Convention on the Law of the Sea. For its own credibility the US needs to complete ratification of the Law of the Sea Treaty, now in the Senate. Leadership won't cost Washington an extra dime, nor will it require any troops. Crisis prevention is what it's all about.

RECESS UNTIL 8:40 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 8:40 tomorrow morning.

There being no objection, the Senate, at 9:38 p.m., recessed until Wednesday, June 28, 1995, at 8:40 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1995:

JUDICIARY

TODD J. CAMPBELL, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE, VICE THOMAS A. WISEMAN, JR., RETIRED.

JAMES M. MOODY, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS, VICE HENRY WOODS, RETIRED.

EVAN J. WALLACH, OF NEVADA, TO BE A JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE, VICE EDWARD D. RE, RETIRED.

U.S. INFORMATION AGENCY

ALBERTO J. MORA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 2 YEARS. (NEW POSITION.)

EXTENSIONS OF REMARKS

THE UNITED NATIONS AT 50: BAD IN BOSNIA; TIME TO GROW UP

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. RADANOVICH. Mr. Speaker, I'm going to withhold wishing the United Nations a ''happy birthday'' until it grows up. My particular problem with this international organization—chartered for a mighty mission and with the best of intentions—comes into clear focus when you look at the sorry state of its performance in Bosnia.

As so often is the case, the editors of the Wall Street Journal have offered their readers an insightful and incisive examination of current conditions. That is the case with today's editorial, ''Virtual United Nations,'' which I am pleased to draw to the attention of my colleagues in Congress.

[From the Wall Street Journal, June 27, 1995]

VIRTUAL UNITED NATIONS

Fifty years ago this week, representatives of 50 countries gathered in San Francisco to sign the Charter of the United Nations. It was probably both the novelty of peace in Europe and the dream that it would spread and last that inspired the U.N.'s signatories to pledge to ''save succeeding generations from the scourge of war'' by practicing ''tolerance and [living] together in peace,'' by uniting ''our strength to maintain international peace and security'' and by accepting ''principles and the institution of methods'' so that ''armed force shall not be used, save in the common interest.''

Fine as they are, it is difficult to imagine that these words sounded any less like rules for a virtual reality world then than they do today. Then as now, people like to believe that having such intentions is important, no matter that war is raging in Bosnia under the U.S.'s watchful eye.

This 50th anniversary year of the U.N. features far more debates about how the U.N. needs to be reformed than recounting of its successes.

But these ideas do not address the key failings of the U.N. that are visible all around us. These are not just the shortcomings that can be attributed to the dearth of collective interest and political will. They are also uniquely U.N.-inspired instances of failing to do what the organization and its bodies say it is dedicated to doing.

The failure of the U.N. in Bosnia is too grand to describe exhaustively or even in thematic terms, so events of last week will have to suffice. The refusal of the United Nations to authorize a NATO request for an air strike on a U.N.-mandated target last week was merely the lastest in a series of such vetoes.

A new type of failure of the U.N. was also on display last week in Belgrade. There, the office of the U.N. High Commissioner for Refugees is complaining that it is besieged by draft-age ethnic Serb men—mainly refugees from Bosnia and Croatia—who are being rounded up for conscription into the rump-Yugoslav army. Figures given by the office are that as many as 2,500 men have already been press-ganged, and 70 ''begging for some sort of protection'' were turned away by UNHCR on Thursday alone.

Also last week was Le Monde's report that for a year the United Nations has been sitting on a report written by its own people that shows that the Serbs alone have pursued ethnic cleansing as a planned and systematic government policy and that they have been responsible for the vast majority of the other war crimes and atrocities. The report makes the explicit admission that it is not possible to treat all of the parties in the Bosnian conflict on an equal basis.

The U.N. not only made this pretense possible, but also dressed it up with the mantle of the world's prominent international mediating body. This farce of moral equivalence continues despite the existence of the U.N.'s report and was most recently on display on Friday when the Security Council condemned Bosnian Muslim army efforts to block the movement of Unprofor forces in its attempt to lift the siege of Sarajevo.

To be sure, many organizations and individual states have failed Bosnia. But the U.N. is the body that purports to be competent in such situations. Worse than inaction (which the U.N. could then blame on member-state cowardice), the U.N.'s actions have in many ways worsened the conflict.

Those who talk of U.N. reform are therefore the most optimistic of the pundits. Many believe the body is simply unreformable because consensus of the type that existed in 1944 and 1945 would be impossible to find today. Presumably there is a role for such an organization, though perhaps confined to a talk shop. Yet as long as the U.N. undermines its own goals, as it has in Bosnia by refusing to acknowledge and condemn blatant aggression, any hope that it will somehow develop into a useful forum for conflict resolution are likely to be disappointed.

AMENDMENT TO THE ENERGY AND WATER APPROPRIATIONS BILL

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FORBES. Mr. Speaker, as per the request of the Rules Committee, I am submitting an amendment to the Energy and Water Development Appropriations bill for preprinting in the RECORD.

Mr. Speaker, my amendment is quite simple, it would simply add $100 million to the energy supply, research, and development activities account in the bill and offset the increase with a corresponding cut in the Department of Energy departmental administration account. Mr. Speaker, my amendment is intended to restore funding to a couple of valuable research and development programs while making further cuts in the DOE bureaucracy.

The first program is the Energy Research Laboratory Technology Transfer Program which was funded at $57 million last year and unfortunately has been zeroed out in this bill. This program is a highly important tool for developing our industrial technological base for the future. Lab Tech Transfer programs around the country provide industry with access to the incredible R&D resources and capabilities of our national laboratories. Every year, thousands of scientists from U.S. companies perform experiments in collaboration with scientists at our national labs. Through this program, technologies developed at our national labs become resources that permit U.S. industry to introduce new state-of-the-art products and to enhance its competitive position in domestic and international markets.

The Lab Tech Transfer Program also funds cooperative research and development agreements, or CRADA's, with small- and medium-sized companies around the country. Currently, there are CRADA's in such important fields as advanced materials, advanced computing, biotechnology, nuclear medicine, and others. For each of these CRADA's, industry more than matches the amount of funds contributed by our national labs. Mr. Speaker, I believe that this kind of collaborative partnership between industry and our national laboratories is necessary to the economic future of the country and is certainly a higher priority than the administration of the sprawling Department of Energy.

The second general area that I think should be funded at a higher level is biological and environmental research; specifically oceanographic and carbon dioxide programs. These programs quantify the mechanisms and processes by which carbon dioxide is assimilated, transported and transformed in coastal oceans; study the flux of carbon dioxide between the oceans and the atmosphere and develop remote sensing equipment for measurement of carbon dioxide in the oceans.

Mr. Speaker, while I am not convinced of the theory of global warming, it does seem to me that it is worth our while to find out its validity. This of course can only be done through more research and there is valuable work going on right now in the fields of oceanographic and carbon dioxide research. Again, I place a higher priority on this than the bureaucracy at DOE and I urge adoption of the amendment.

A TRIBUTE TO BRIG. GEN. JEFFREY R. GRIME

HON. WALTER B. JONES, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. JONES. Mr. Speaker, I want to recognize Brig. Gen. Jeffrey R. Grime for his dedicated service to our Nation as the commander of the 4th Wing for the U.S. Air Force. General Grime was assigned to Seymour Johnson Air Force Base, Goldsboro, NC in July 1993 as commander of the 4th Wing. The 4th Wing has been involved in every major air support action undertaken by the United States. General Grime also commands an F–15E and

KC–10 composite wing, a major air combat command base with more than 4,600 personnel who provide logistics support for the 916th Air Refueling Wing.

General Grime served with distinction from February to August 1994 as the commander of the 4404th Composite Wing at Dhahran Air Base in Saudi Arabia. He has also presided over the addition of the national training mission for the F–15E—giving Seymour Johnson the world's largest compliment of this state-of-the-art weapons system. Also under his command, the 4th Wing received the highest rating during the air combat command operational readiness inspection, thus establishing a new standard of excellence for the U.S. Air Force.

As if his operational contributions have not been enough, General Grime distinguished himself in reaching out to the civilian community of the Goldsboro area. This was shown in an increase in base tours and by over 94,000 hours of volunteer work by service members in Wayne County in 1994 alone. Indeed, General Grime has made a big difference in the lives of many—and there are plenty of personal testimonies supporting it. From all of us who have worked with General Grime, we join in bidding him a fond farewell. Thank you, Jeff Grime, for your friendship and extraordinary contributions to Goldsboro-Wayne County, NC, and to our Nation.

A TRIBUTE TO THEO JACKSON, AN EXAMPLE OF EXCELLENCE IN DEDICATION

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TUCKER. Mr. Speaker, in this world there are those people who dedicate themselves to the work ethic, and the needs of others.

Mr. Speaker, Theo Jackson is such a person.

Theo has dedicated himself to the needs of American Airlines, starting some 26 years ago.

Theo uprooted his family for his company, and came west to assume the role of general manager at the Oakland Airport.

Mr. Speaker, Theo gave of his time above and beyond the call of duty, sacrificing family time and personal wants for the benefit of his company. He also dedicated himself to the community, becoming involved in various activities to make a difference and an impact.

Mr. Speaker, I rise today to pay tribute to a gentleman who exemplifies the type of dedication so needed in America today, Mr. Theo Jackson.

HONORING SENATOR BARRY LEVEY ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of Ohio. State senator and chairman of the senate judiciary committee, Barry Levey is retiring after a distinguished career in service to the people of Ohio.

I had the privilege of serving in the Ohio State Senate while Barry served in the Ohio House of Representatives during the 1960's and again when he joined the State senate in 1987. I can tell you Barry has been a strong advocate and outstanding friend to southwestern Ohio. Barry's aggressive leadership has been crucial in promoting the concerns of the citizens of this area.

Barry holds the distinction of being the only member in Ohio history to be the chairman of both the senate and house judiciary committees. He is a graduate of Middletown High School, the University of Michigan, and the Ohio State University College of Law. This former officer in the U.S. Army Judge Advocate General Corps was first elected to the Ohio House of Representatives in 1962 and served in that body until 1970. After a successful career in banking and business, Barry returned to public service in 1987 as a State senator. Throughout his distinguished tenure, Barry has demonstrated his deep faith in, and dedication to, upholding the principles of American democracy. He has been a strong advocate for education and has been recognized for his efforts on behalf of controlling government spending.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Senator Barry Levey over the years. While Barry is leaving his official capacity as State senator, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join in paying a special tribute to my friend, Senator Barry Levey's record of personal accomplishments and wishing him, his wife Marilee, and their three children all the best in the years ahead.

THE 1995 CONGRESSIONAL HIGH SCHOOL ARTS COMPETITION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HOYER. Mr. Speaker, I rise today to mark the opening of the 14th annual congressional high school arts exhibition, entitled ''An Artistic Discovery.'' This competition, which is held in congressional districts throughout the country, with the winning entry being displayed in the U.S. Capitol, is designed to recognize the creative talents of young Americans.

This event is an inspiration to many young artists, Mr. Speaker. I recently received a letter from the parents of Dan Sutherland, the winner of the arts competition in the Fifth Congressional District of Maryland in 1984. In this letter, which I would like to share with my colleagues, Ann and Doug Sutherland of Greenbelt write:

> Our son Dan was your district's selection in 1984. This recognition from outside his realm of family, friends, and school helped give him the assurance to decide to pursue art as a career. He won art scholarships as an undergraduate at James Madison University and as a graduate student at Syracuse University. Dan moved to Texas with his wife, and began as an adjunct instructor at the University of Texas, Austin. This month (May, 1995) Dan was selected from among 400 applicants for a teaching and painting/drawing position on the University of Texas faculty.
>
> Encouragement from this type of competition is important, particularly in a field like art where so many people tell youngsters, ''You can't make a living in art.'' Be assured that this program and your contribution to it was an important stepping stone in our son's evolving career as an artist.

Mr. Speaker, the artistic heritage of our country is dependent upon our young artists and I would like to congratulate this year's arts competition winners from the Fifth Congressional District: First place—Rina Wiedenhoeft, a student at Eleanor Roosevelt High School in Greenbelt, for her winning watercolor entry entitled, ''Self-portrait.''

Second place (tie)—Erik Minter, a student at Thomas Stone High School in Waldorf, for his oil painting entitled, ''Mason Dixon Door,'' and Alicia Pirner of Northern High School in Calvert County for her colored pencil drawing entitled, ''Mediterranean Villa.''

Third place (tie)—Greg Paterno, a student at Leonardtown High School for his acrylic painting of football players in action entitled, ''4th and 1;'' and Khalise Holmes of Laurel High School in Prince Georges County for a linoleum block print entitled, ''Still Life With Flowers.''

I hope my colleagues will join me in saluting these talented individuals. These young artists enrich our cultural traditions, and through this competition we continue to encourage their creative energies.

WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MARKEY. Mr. Speaker, I rise today on the occasion of the national conference in Washington of We the People * * * the Citizen and the Constitution to congratulate the teachers and educational administrators who have participated in and led this highly effective program.

We the People * * * the Citizen and the Constitution is a program of the Center for Civil Education, and is funded by the U.S. Department of Education by act of Congress. The program teaches the principles of the U.S. Constitution. It does so by engaging students at the upper elementary, middle, and high school levels in group research, study and debate on the central issues and questions which shaped our Constitution.

Marie Gosnell is a ninth grade civics teacher at Medford High School. Her honors class presented their hearing project to parents and teachers this past May after finishing six units of the We the People * * * national curriculum. Mrs. Gosnell finds it to be, ''among the most exciting programs, involving students deeply, preparing them for citizenship, and giving them a rich understanding of why our government functions as it does.''

We the People is an example of how coordination and consultation among Federal and State education officials and teachers can

produce a national program which addresses the fundamental issues of civics education. The excitement generated by this program should be emphasized, especially in the face of recent attacks by some groups on the Department of Education and on any national educational coordination or standards in the name of local control.

The program also builds links between public officials, businesses, parents, educators, and students. Former Chief Justice of the Supreme Court, the late Warren Burger, called it ''one of the most extensive and effective programs for the education of young Americans about our constitutional system of government and the principles and values it represents.'' I and members of my staff have visited schools to support the program's goal of directly involving legislators.

Once again, I congratulate the organizers, teachers and students of the We the People program.

RETURN TO STRONGER 5 MPH BUMPER STANDARD

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BEILENSON. Mr. Speaker, today I am reintroducing legislation I have proposed before to restore automobile bumper protection standards to the 5-mile-per-hour requirement that was in force when the Reagan administration took office in 1981.

Beginning in 1978, new cars were equipped with bumpers capable of withstanding any damage in accidents occurring at 5 miles per hour or less. That action was taken in accordance with the Motor Vehicle Information and Cost Savings Act of 1972, which requires the National Highway Traffic Safety Administration [NHTSA] to set a bumper standard that ''seek(s) to obtain the maximum feasible reduction of cost to the public and to the consumer.''

As part of the Reagan administration's effort to ease what it called the regulatory burden on the automobile industry, NHTSA reduced the standard to 2.5 miles per hour in 1982, claiming that weaker bumpers would be lighter, and would therefore cost less to install and replace, and would provide better fuel economy. This supposedly meant a consumer would save money over the life of a car, since the lower purchase and fuel costs should outweigh the occasionally higher cost of any accident. The administration promised at the time to provide bumper data to consumers, so that car buyers could make informed choices about the amount they wished to spend for extra bumper protection.

This experiment has been a total failure. None of the anticipated benefits of a weaker bumper standard has materialized. Crash tests conducted by the Insurance Institute for Highway Safety [IIHS] have shown year after year that bumper performance has little or nothing to do with bumper weight or car price. Lighter bumpers seem to perform just as well as heavier ones in accidents, and bumpers on inexpensive autos perform just as well as or better than the bumpers on expensive autos. In fact, some of the heaviest and most expensive bumpers serve no energy-absorbing purpose at all. Adding insult to injury, NHTSA has virtually ignored its promise to make adequate crash safety and damage information available to consumers.

What has happened is that consumers are spending hundreds of millions of dollars in extra repair costs and higher insurance premiums because of the extra damage incurred in low-speed accidents. In IIHS's latest series of 5-mile-per-hour crash tests, all but 1 of the 14 1995 midsize four-door models tested sustained damage that ranged up to $1,056 in the two crash tests this legislation would restore as a standard. That is a Federal standard that cars were required to withstand without any damage at all. Worse yet, the lowest total damage repair cost for IIHS's four crash tests—all at 5 miles per hour was $1,433; and 3 of the 14 cars ended up with more than $3,000 damage in those 4 tests at 5 miles per hour. That a consumer would be faced with this amount of damage after an accident occurring at 5 miles per hour is both offensive and totally unnecessary.

There is no doubt that consumers overwhelmingly favor a stricter bumper standard, a survey conducted in 1992 by the Insurance Research Council found that almost 70 percent of respondents said cars should have bumpers that provide protection in low speed collisions, and over 80 percent said they would choose protective bumpers over stylish bumpers. Surely no one buying a new car would prefer the extra inconvenience and cost associated with damage sustained in low-speed accidents with weaker bumpers to the virtually negligible additional cost, if any, of stronger bumpers.

Both Consumers Union, which has petitioned NHTSA unsuccessfully to rescind the change, and the Center for Auto Safety strongly support Federal legislation requiring a return to the 5-miles-per-hour bumper standard. The insurance industry also strongly believes rolling back the bumper standard was an irresponsible move, and supports a stronger standard as a way of controlling auto insurance costs.

Mr. Speaker, the Reagan administration made a serious, costly mistake when it rolled back the bumper standard. It has cost consumers many hundreds of millions of dollars, with no offsetting benefit at all. Some manufacturers have continued voluntarily to supply the stronger bumpers. But car buyers, who cannot look at a bumper system and judge how it would perform, have no easy way of knowing whether cars have the stronger or weaker bumpers.

Restablishing the 5-miles-per-hour bumper standard would be the most effective and easiest measure Congress could approve this year to reduce excessive automobile insurance costs. We can save consumers hundreds of millions of dollars by a re-instating a proven regulation that worked well in actual practice. We cannot allow rhetoric about the burden of Government regulation and the advantages of free market economics to blind us to the reality of the unnecessary costs of minor automobile accidents. It is long past time to restore rationality to automobile bumper protection standards.

Mr. Speaker, I urge my colleagues to join me in supporting this proposal to restore the 5-mile-per-hour bumper standard.

A RUMMAGE SALE ON THE ENVIRONMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MILLER of California. Mr. Speaker, each day we seem to have a clearer view of ways in which the Republican Congress intends to attempt to balance our Nation's budget—and this week's action by the House Interior Appropriations Subcommittee is an alarming indication that it will be our Nation's most valuable natural resources that will play a major role in this balancing act.

As a recent San Francisco Chronicle editorial laments the subcommittee's actions appears to be ''a national rummage sale, the effect of which will be to privatize, commercialize, pollute, and consume America's natural heritage.''

I believe that those of us who have worked for years to protect our natural resources would agree with the Chronicle's view that such actions are ''a sell-out, pure and simple.''

I commend the following editorial to my colleagues' attention:

[From the San Francisco Chronicle, June 22, 1995]

A RUMMAGE SALE ON THE ENVIRONMENT

Now we know how the Republican Congress is going to balance the budget: auction off the nation's most valuable natural resources, along with its own votes, to the highest bidder.

Make no mistake, the legislation on offshore oil and gas leasing and the East Mojave National Preserve that passed the House Appropriations Subcommittee Tuesday is part and parcel of a giant national rummage sale, the effect of which will be to privatize, commercialize, pollute and consume America's natural heritage.

It is a sell-out, pure and simple.

The congressional assault on natural resources is far from being limited to the coasts and the desert. The House budget plan calls for selling—or even giving away—vast tracts of national forests, and other House legislation would set up a commission to study the closure of national parks.

Still other proposals call for turning national wildlife areas over to the states to do with as they please. And an amendment to the vetoed budget rescission act, that would have doubled the cutting of timber in national forests while suspending all environmental protections, has risen from its well deserved grave and is heading back to the president's desk.

In April, President Clinton promised to veto any bill that compromises America's clean water, clean air and toxic waste laws. If he is as good as his word, every single one of these ecological nightmares must be vetoed if and when they reach his desk.

Let's look at just three of them.

The so-called ''logging without laws'' amendment to the rescission bill would virtually hand national forest management over to timber barons with chain saws.

Ostensibly intended to expedite salvage logging of dead and dying trees, it would direct the U.S. Forest Service and the Bureau of Land Management to cut more than 6.2 million board-feet over the next 18 months with no regard to the protections stipulated in the National Environmental Policy Act, the National Forest Management Act, the Clean Water Act or the Endangered Species Act.

The bill's definition of ''salvage'' timber would include all ''associated trees,'' ''insect-infected trees'' and ''trees imminently susceptible to fire or insect attack''—in other words, anything that can be cut.

A recent BLM memo correctly characterized it as ''more or less a license for unregulated timber harvest.''

Second, the House Interior Appropriations bill would virtually zero-out funding for National Park Service management of the new Mojave National Preserve, created last fall as part of the California Desert Protection Act.

Not satisfied with having won a battle to permit continued hunting and grazing in the preserve, Representative Jerry Lewis, R-Redlands, along with ranching and mining interests, are pressing ultimately for a reversal of the Desert Protection Act, which took eight years to negotiate.

It seems not to matter a whit to Lewis that many of his own constituents, including the San Bernardino County Board of Supervisors, which originally opposed the preserve, is now enthusiastic about winning full funding for it, having noted that tourist visits in the area have increased dramatically since the preserve was established.

Finally, the same legislation would open up all federal waters on both the Atlantic and Pacific coasts to leasing by oil and gas extractors, reversing a 14-year moratorium on offshore drilling that has enjoyed bipartisan support, including that of Governor Wilson.

Laughingly, congressional Republicans argued that the United States is too dependent upon foreign oil and that it would be irresponsible not to explore all domestic sources. But a Department of Energy study shows that there are approximately 726 million barrels of proven reserves off the California coast.

This means that, in exchange for allowing oil derricks to threaten spills along the entire length of our coast, the nation would get all of 41 days worth of energy from proven oil reserves—a bargain that only members of Congress in thrall to oil companies could appreciate.

President Clinton, get out the veto pen.

THE JAYCEE ALLIANCE MOBILIZES YOUNG AMERICANS TO GET INVOLVED

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BARCIA. Mr. Speaker, I take great pride today in saluting the commencement of an organization created so that young Americans in their twenties, thirties, and forties can have a collective voice on pertinent Federal issues of the day. The Jaycee Alliance is a new national, grassroots organization, boasting 150,000 members, that will allow concerned and involved young leaders to contribute their thoughts and experiences on issues before the U.S. Congress and State legislatures, and will form a compact between each generation of Americans to the next.

I applaud the success of the U.S. Junior Chamber of Commerce—Jaycees—organization and I proudly point to my membership as a Jaycee at an early age as essential in my professional development. I firmly believe that the new Jaycee Alliance is an intelligent and much needed organization that will edify and mobilize thousands of new leaders into the 21st century. We are facing some very serious challenges in terms of this and future generations' responsibility to prioritize Government spending in a fiscally prudent fashion. I am pleased that the Jaycee Alliance has already pledged its support for the balanced budget amendment, which I too have supported throughout my years in public office.

Many young business people and homemakers are striving to achieve the American dream and make their communities better places to live. These are bright, energetic people who are interested in securing and creating high-wage jobs, keeping their streets safe, and promoting the highest quality of education in their children's schools. The challenges we, as Americans, face are certainly daunting, but they pale in comparison to the energy this young, invigorated group has to offer. Now is the time that people in the early and middle stages of their careers should mark as the day on which they were invited to get involved. In the finest tradition of the Jaycees, I am confident that the alliance will succeed in becoming the voice of young Americans.

ALASKA NATIVE SUBSISTENCE WHALING EXPENSE CHARITABLE TAX DEDUCTION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I rise to introduce a measure that would provide critically needed tax relief to a few Alaskan Native whaling captains who otherwise may not be able to continue their centuries-old tradition of subsistence whaling. In brief, this bill would provide a modest charitable deduction to those Native captains who organize and support traditional whaling hunt activities for their communities.

The Inupiat and Siberian Yupik Eskimos living in the coastal villages of northern and western Alaska have been hunting the bowhead whale for thousands of years. The International Whaling Commission [IWC] has acknowledged that ''whaling, more than any other activity, fundamentally underlies the total lifeway of these communities.''

Today, under the regulatory eye of the IWC and the U.S. Department of Commerce, these Natives continue a sharply restricted bowhead subsistence hunt out of 10 coastal villages. Local regulation of the hunt is vested in the Alaska Eskimo Whaling Commission [AEWC] under a cooperative agreement with the Department of Commerce, National Oceanic and Atmospheric Administration.

The entire Native whaling community participates in these hunting activities. However, Native tradition requires that the whaling captains are financially and otherwise responsible for the actual conduct of the hunt; meaning they must provide the boat, fuel, gear, weapons, ammunition, food, and special clothing for their crews. Furthermore, they must store the whale meat until it is used.

Each of the approximately 35 bowhead whales landed each year provides thousands of pounds of meat and muktuk—blubber and skin—for these Native communities. Native culture dictates that a whaling captain whose crew lands a whale is responsible for feeding the community in which the captain lives. Customarily, the whale is divided and shared by all of the people in the community free of charge.

In recent years, Native whaling captains have been treating their whaling expenses as a deduction against their personal Federal income tax, because they donate the whale meat to their community and because their expenses have skyrocketed due to the increased costs in complying with Federal requirements necessary to outfit a whaling crew. The IRS has refused to allow these deductions, placing an extreme financial burden on those who use personal funds to support their Native communities' traditional activities. Currently five whaling captains have appeals of these disallowances pending before the Tax Court of the IRS.

The bill I am introducing today would amend section 170 of the Internal Revenue Code to provide that the investments made by this relatively small and fixed number of subsistence Native whaling captains are fully deductible as charitable contributions against their personal Federal income tax. Such an amendment should also retroactively resolve the disallowance and assessment cases now pending within the statute of limitations.

The expenses incurred by these whaling captains are for the benefit of the entire Native community. These expenses are vital contributions whose only purposes are to provide food to the community and to perpetuate the aboriginal traditions of the Native subsistence whaling culture.

Each Alaskan Native subsistence whaling captain spends an average of $2,500 to $5,000 in whaling equipment and expenses in a given year. A charitable deduction for these expenses would translate into a maximum revenue impact of approximately $230,000 a year.

Such a charitable deduction is justified on a number of grounds. The donations of material and provisions for the purpose of carrying out subsistence whaling, in effect, are charitable contributions to the Inupiat and Siberian Yupik communities for the purpose of supporting an activity that is of considerable cultural, religious, and subsistence importance to those Native people. In expanding the amounts claimed, a captain is donating those amounts to the community to carry out these functions.

Similarly, the expenditures can be viewed as donations to the Inupiat Community of the North Slope [ICAS], to the AEWC, and to the communities' participating churches. The ICAS is a federally recognized Indian tribe under the Indian Reorganization Act of 1934 (48 Stat. 984). Under the Indian Tax Status Act, donations to such an Indian tribe are tax deductible (28 U.S.C. 7871(a)(1)(A)). The AEWC is a 501(c)(3) organization. Both the ICAS and the AEWC are charged with the preservation of Native Alaskan whaling rights.

Also, it is important to note the North Slope Borough of Alaska, on its own and through the AEWC, spends approximately $500,000 to $700,000 annually on bowhead whale research and other Arctic marine research programs in support of the U.S. efforts at the International Whaling Commission. This is money that otherwise would come from the Federal budget to support the U.S. representation at the IWC.

Given these facts and the internationally and federally protected status of the Native

Alaskan subsistence whale hunt, I believe expenditures for the hunt should be treated as charitable donations under section 170 of the Internal Revenue Code. I ask my fellow Members to join with me in clarifying the Federal Tax Code to make this a reality for these Native whaling captains.

RECOGNITION OF ORLANDO YARBOROUGH AND GROUP

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. EHRLICH. Mr. Speaker, I rise today to publicly recognize an outstanding group of people in my district. Because of the great number of outstanding citizens in the Second District of Maryland, I am hesitant to single out one particular example. This group, however, has been selected for a great honor on behalf of the United States, and should be so recognized.

Mr. Orlando Yarborough works with at-risk youngsters in the Essex-Middle River area of Baltimore County. This area is a very strong, working class area that has been slow to recover from the most recent recession. Therefore, opportunities for young people to get involved in programs that give them self-esteem and a sense of accomplishment are critical.

Mr. Yarborough developed an after school personal power package for kids. Participants sign a contract to improve their bodies as well as their minds in activities done at the Body Mechanics Family Fitness Center. The program encompasses academic and physical exercises, community service, and a discussion of personal improvement. The contract also specifies that participants will not smoke, fight, use profane language, nor use drugs or alcohol.

The program has the enthusiastic support and financial backing of many local business and community groups, as well as prominent members of the community at large.

Mr. Speaker, recently Mr. Yarborough's group was selected to attend ceremonies commemorating the 1,500th anniversary of the founding of the Shaolin Temple in mainland China. The selection was based on the program's emphasis on discipline, perseverance, and character development. They are the only U.S. citizens to be invited to this very historic event. While in China, the team will be training, performing demonstrations, speaking at local schools, and generally acting as good will ambassadors of the United States. They will be introducing American ideas and culture to their hosts as well as bringing some of China's rich culture and heritage back to share with their friends and families.

This, Mr. Speaker, is what I want America to stand for: kids who take the responsibility to constructively improve themselves and their communities without turning to the evils of substance abuse or crime. Similarly, we should honor adults like Mr. Yarborough who care enough about their communities and their kids to put forth the effort in making programs like this work.

Mr. Speaker, I could not be more proud of Mr. Yarborough and his kids. They are our future. And I want to recognize Mr. Yarborough and everyone else connected with this noble endeavor. The sacrifices made by the community on behalf of each child will pay many dividends in the form of productive, well-rounded citizens.

AMERICAN CHILDREN DESERVE EDUCATIONAL CHOICE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BLILEY. Mr. Speaker, I commend to the attention of Members the following article by Walter Williams which appeared in the June 23, 1995, Richmond Times Dispatch. I believe Mr. Williams' remarks paint an honest portrait of the debate surrounding the critical need for school choice.

[From the Richmond Times Dispatch, June 23, 1995]

BLACK VICTIMS OF LIBERALS WANT CHOICE IN EDUCATION

(By Walter Williams)

The nation's capital provides one of the best examples of the destructiveness of liberal ideas. Washington used to be a thriving city where free persons of color and freed slaves established flourishing family businesses. As early as 1899, the black students of Washington's Paul Lawrence Dunbar High School scored higher than any of the white schools in the District of Columbia. From 1870 to 1955, most Dunbar graduates went to colleges like Oberlin, Harvard, Amherst, Williams, and Wesleyan. Washington was home to a broad, upwardly mobile black middle class.

All that has changed. According to Philip Murphy's article in Policy Review, Washington has ''the highest per-capita murder and violent-crime rates, the highest percentage of residents on public assistance, the highest-paid school board, the lowest SAT scores, the most single-parent families, and the most lawyers per capita.''

People are fleeing Washington in droves. During the second half of the 1980s alone, over 157,000—one-fifth of Washington's population—moved. This exodus disproportionately consisted of black households earning between $30,000 and $50,000 a year. Today, Washington's population is 578,000, down from a peak of 800,000.

To blame racism for Washington's emergence into a bankrupted Third-World-type city requires a lot of imagination. Washington is a city where the mayor is black, the chief of police is black, the school superintendent is black, and most of the city council is black. Can we blame poor revenue sources? According to Murphy, the city takes in an astonishing $8,950 in revenue for every man, woman, and child in its jurisdiction. That's to be compared to $4,000 and $3,700 in nearby Maryland and Virginia, respectively. Nonetheless, the city is in receivership. Its bonds have achieved junk status because it manages to spend $1,000 more per person than it receives in revenue.

Washington's story can be told in varying degrees in other predominantly black cities. The story is a monument to the failure of the liberal ideas of Democrats, black politicians, and civil-rights organizations. Liberals have convinced blacks that we deal with crime not by arresting and locking up criminals but by searching for crime's original causes. This theory gives criminals carte blanche to prey on law-abiding citizens. Liberals have convinced blacks that we deal with education fraud by spending more money to create programs that fall just short of lunacy. Liberals don't expose their children to this nonsense—they enroll their children in private schools.

Victims of the liberals are mostly poor, black people who have few options—such as Sheila Stamps, a widowed mother of five living in a housing project. She complains, ''You can't let the children out by themselves, and the playground is littered with intravenous needles.'' Like most black parents, Ms. Stamps wants school choice, saying: ''Any child in this city should be able to go to the best schools. If they meet the criteria, let them go.'' But her liberal ''benefactors'' say no.

When black Americans finally come to the full realization of what liberals have done to them, it's going to make last November's political revolution look like a Girl Scout outing.

JUNIOR HIGH STUDENTS HAVE LUNCH WITH THEIR REPRESENTATIVE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HYDE. Mr. Speaker, those who believe that youth are not interested in public affairs have not met the eighth grade class at Churchville Junior High in Elmhurst, IL. In a contest, sponsored by the school's social studies department, the students were asked to write an essay entitled, ''Why I would like to have lunch with Representative Hyde.'' The students used the opportunity to voice opinions on a wide range of issues. Many also expressed interest in running for public office and making positive contributions to government in the future. I would like to share with my colleagues the six winning essays, I and am happy to report that we had lunch and discussed some of the students' concerns and questions about political office.

HENRY HYDE

(By Gwen Infusino)

I wish to have lunch with the prominent politician, Henry Hyde. I would very much enjoy expressing my political opinions. I would enjoy meeting him because I want to know about the life of a politician. Also, I am interested in the way government works.

I would very much enjoy expressing my political opinions. I'm concerned about society, environment, and many other issues. I'm happy to imagine that I just might make a difference. I'm sure Mr. Hyde is open to all kinds of opinions and suggestions.

I would enjoy meeting him because I want to know about the life of a politician. At this point in time, many people my age are making career decisions. These will affect us for the rest of our lives. If I find a politician's life appealing, I might choose to get into that field.

I am interested in the way government works. America is where I live, and so will all of our children. I want to learn a bit about our system so I know how it works and how safe it makes it for us all. I feel knowing about our political and judicial system is a must for us all.

In conclusion, I would like to meet Henry Hyde for three prominent reasons. I want to know about the life of a politician. I am interested in expressing my political opinions. I want to ask him about our government and the way it works.

WHY I WOULD LIKE TO EAT LUNCH WITH CONGRESSMAN HYDE

(By Jodi Carnevale)

For a thirteen year old I have very strong opinions that I share with people to show them how I feel. Congressman Hyde did the same thing. That is why I would be honored to eat lunch with him and talk one on one.

Congressman Hyde had made a presentation on abortions and why he was very anti-abortion. I was lucky enough to hear his presentation, and even get a cassette tape of the speech. I have the same morals on abortion that he does, and I find it interesting that someone older than me has the same feelings I do about abortions. It would be an exciting, as well as educational experience for me to tell him how I feel, and to tell him that as a kid, I greatly respect him for having such strong feelings, and publicly addressing them on such a strong world-wide debate. I would also like to know if since he addressed his opinion on abortions publicly if he has received any remarks on his position regarding abortions. It's not very likely that someone with as much authority as Congressman Hyde states his position. I admire that greatly.

I also believe it would be fun to talk to him one on one to find out his positions on other world-wide problems. I would like to know if he has made a speech about any other topic, and if so, where you can find them, because his speeches make an impact on me and I would like to have more.

That is why I would like to eat lunch with Congressman Hyde, I respect him for telling the truth, and I know he is open and willing to state his opinion on issues as big as abortions. I would also like to go out with him because I would just like to tell him how much I admire his way of speaking out to people.

WHY I WANT TO GO TO LUNCH WITH HENRY HYDE

(By Melissa Greco)

I would like to go to lunch with Henry Hyde because it will expand my knowledge in social sciences and in politics. I am very interested in people's opinions and I would like to ask Mr. Henry Hyde some questions of my own. I have lots of respect for people involved in making our government work and settling laws. I have lots of opinions of my own and I would love to represent Churchville.

Some topics that I would like to discuss with Congressman Hyde are: gun control, abortion, our national debt, and the baseball strike. I want to know if he thinks that guns should be outlawed or if they should remain on the streets. Then I would discuss my opinion on this matter. I also want to know if he believes in abortion and his reasoning. Another issue I would like to ask him about is the baseball strike. Does he believe that the players or the owners are being unfair? I would also like to know what he is doing to help reduce our national debt. I would also like to ask Congressman Hyde what laws he is trying to pass now.

I will represent Churchville by displaying well behaved manners. I always respect my elders and am very polite to others. I would love to have the honor of representing Churchville and meeting Mr. Henry Hyde.

I think that politics is very interesting and one day I would like to become a part of it and represent, not only Churchville but the United States. This opportunity would bring me one step closer toward this goal. As I mentioned, I would like to hear out Mr. Henry Hyde's ideas and reasoning on important issues that we are dealing with in our society everyday.

WHY I WOULD LIKE TO GO TO LUNCH WITH REPRESENTATIVE HYDE

(By Megan Guimon)

I think that being able to go out to lunch with Representative Hyde would be a great privilege, and something we will probably never again have the chance to experience. As eighth graders, this is our last year attending Churchville, and this would be a perfect last memory of it. My Uncle Roy McCampbell is a trustee in Leyden Township, and I have heard Representative Hyde's name since I was little. I think it would be great to finally get to meet him in person, and actually get to talk to him. I think that it would be very fascinating to hear ideas and views from a person that has such a great deal to do with the outcome of them. I don't know very much on the government system, and it seems like a lot of work, with very many obligations and pressures attached to it. Though I know in my heart that I will never get into politics as a career, I still believe that it is very important to understand and experience all different areas. I know that a chance like this is very rare, and this is why I felt that I should try to get involved. I think that it is very important for kids our age to understand or at least acknowledge our government system. That's why I believe that this is such a perfect chance for all of us. I think that it is completely different than listening to an already prepared speech. I think that this is such a terrific program that Churchville has setup, and Representative Hyde has fit us into his surely tight schedule, and I hope to be a part of it.

WHY I WOULD WANT TO HAVE LUNCH WITH HENRY HYDE

(By Joy Tetrick)

I would very much enjoy having lunch with Dupage County Representative, Henry Hyde. It would be a very honorable and memorable experience.

One reason I would like to go to lunch with Henry Hyde is to find out the answers to some questions I have. It would be interesting to see what he does all day, how stable is his job, to find out how they come up with new laws, how much he has to work a week, etc. It would also be interesting to find out how he got in politics, like if he was a lawyer and then decided to try out for a position. I would also want to know if he enjoys his job, if it's pressuring at times, how his family feels about it.

Henry Hyde is very well respected and again, it would be an honor to have lunch with him. I would be on my best behavior at all times if I was chosen, and I think I would be a good representative of Churchville Junior High School.

I would also like to talk to him about some ideas I have. One idea is about Salt Creek. I live right by Salt Creek so I know how polluted it is. It is so polluted that York High School wouldn't let my brothers class test some things out because it was too dangerous.

It would also be neat to see a bigger recycling program. In our school were have a recycling program for paper but I'm talking about going farther than that. I'm talking about having a recycling program for the cafeteria. For Styrofoam, plastic, etc. It would be neat to have it in all schools in DuPage county. Also, to have recycling programs for home. I know Elmhurst has one but Addison doesn't. In Addison you have to buy plastic bags. Most people don't want to buy them. It would be neat to see all DuPage county doing these ideas.

WHY I WOULD LIKE TO HAVE LUNCH WITH REPRESENTATIVE HYDE

(By Heidi Wilberschied)

I can't even begin to tell you all the reasons I want to go! In fact when I first heard about it I told my whole family! (I was very excited). These are some of the reasons I want to go: It's a chance of a life time, I've got a lot of questions, I want to know how it feels to be in this position, and most importantly I want to be in a similar position when I grow up.

It's definitely a chance of a lifetime. I've always had dreams of meeting the president, not to mention being the president. Representative Hyde is just as important. Also, I don't know anyone who's had such a chance like this, it's one of the highest privileges I can think of.

I have many questions, such as, ''What do you exactly do? Do you agree with other senator's opinions? Do you enjoy your job''? There is so much an 8th grader is deprived of knowing on this subject. (Although it isn't due to Mr. Caldwell's and Mr. Heap's expertise in the field of Social Science/Studies.)

I want to know how it feel's to be in this position. It's a great honor. He hold's many people's trust and opinions. After all that's how he got chosen. Is his position stressful or successful?

Most importantly I want to be in a similar position when I grow up. Ever since I was young I've been interested and intrigued by our government. I've wanted to be in a government position for four years. I know it's a big dream, and I know it will take many years of hard work, but I want it. I want to hold a high government position, so you can be sure I'll get it. That's why I want this opportunity so much, I need much information and education now so I can start forming opinions now, so I'll be familiar and knowledgeable in this field in my upcoming years.

To conclude my points; It's a chance of a life time, I've got a lot of questions, I want to know how it is to be in this position, and I want to be in this position. I really want to go.

IN APPRECIATION OF CHRISTIAN RELIEF SERVICES ON THEIR 10TH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MORAN. Mr. Speaker, I would like to commemorate the 10th anniversary of Christian Relief Services, an international, charitable organization located in Lorton, VA. Throughout its 10-year history, Christian Relief Services has always had one overriding goal: to help those in need both in the United States and around the world.

From the hollows of Appalachia and the barren plains of the Pine Ridge Indian Reservation in South Dakota, to a children's home in Kenya and the first pediatric hospital in Haiti, and to the children of Chernobyl in Ukraine, Christian Relief Services has touched lives.

Just minutes from this building are some of the poorest neighborhoods of Washington, DC. Just minutes from this building are children who go to bed hungry every night, who wake up hungry the next morning, who never have enough to eat. Christian Relief Services, through its food distribution programs, has reached these people. Working with local churches and civic organizations, over

100,000 pounds of fresh fruit and vegetables have been distributed to the needy in northern Virginia, Washington, and suburban Maryland just in the past 2 months.

As great as our Nation is, poverty and need still exist. The innercities, Appalachia, small towns, Indian Reservations, and rural areas all have people in need of assistance. Christian Relief Services is meeting these needs, and has been for 10 years, by giving people a hand up, not a hand out. This is their motto, and through long-term development projects they are providing people with the foundations they need to improve their lives for themselves. Organic gardening programs on the Pine Ridge Reservation and vocational-technological classes in West Virginia are but two examples.

Long-term development is a focus of Christian Relief Services projects overseas, as well. The Kip Keino Children's Home in Eldoret, Kenya, in addition to giving abused and abandoned children a safe and supportive place to live and grow, provides for their education, and allows them to become happy, productive members of society. Currently, 68 children live at the home. Over the years, 90 children have been rescued by the home and given new lives.

Pick up today's newspaper and you will read of far-off lands in turmoil: Haiti, Bosnia, Rwanda, Somalia. Within the past year alone, Christian Relief Services has shipped countless tons of emergency medical supplies, food, clothing, building materials, and other relief items to refugees from these areas. As our Government appears to be pulling inward, it is important and commendable for Christian Relief Services to reach out an American hand to those less fortunate in places some would write off as not being in our national interest to help.

Christian Relief Services is about connecting with people, about caring for them and their families, and about making a difference in their lives.

For 10 years, Christian Relief Services has made a difference in the lives of many people. Each day, this number grows. For this reason, and on behalf of these people, I would like to say thank you, Christian Relief Services, for 10 years of service to humanity, for making the world a less harsh place, for feeding those who are hungry, for providing the supplies to make well those who are sick, and for giving hope to those who had none.

TRIBUTE TO DAN ZENO ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual and a good friend of Ohio, Dan Zeno, who is retiring on June 30, 1995, after a distinguished career with Ohio Edison.

An Ohio native, Dan graduated from Toronto High School in Toronto, OH, and served as a sergeant in the United States Army in Korea from 1950 to 1953. After the Army, Dan pursued a degree in finance at Kent State University. In 1961, he began a career in public service at the Akron Area Chamber of Commerce. While there, he was responsible for designing a financial plan enabling the city to participate in urban renewal projects of over $100 million.

Before coming to Ohio Edison, Dan was director of finance for the city of Akron. As its chief financial officer and a member of the mayor's cabinet, he was responsible for long-range planning, budgeting, debt management and accountability of all city funds.

Through the years Dan has been active in a variety of community and business groups. He is on the board of directors of the Ohio Chamber of Commerce, the board of trustees of the Ohio Public Expenditure Council, and a member of the Akron Regional Development Board Taxation Committee among others. In addition, he is a visiting lecturer at Akron University and involved with the Weathervane Community Playhouse.

Mr. Speaker, it is obvious that the Akron community and the State of Ohio have benefited greatly from Dan's hard work and dedication over the years. His service is a model of citizenship. I ask my colleagues to join me today in wishing Dan Zeno and his wife June well as they begin this new chapter in their lives.

IN MEMORY OF JOHN B. VEACH, SR.

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor a very special person from western North Carolina, John ''Jack'' B. Veach, Sr. Jack passed away on Thursday, June 19, at the age of 95. With great sadness, I offer my condolences to his wife Jane, and his son, John B. Veach, Jr. Jack was a pioneer in North Carolina's timber industry and one of the great leaders of the community.

Jack was respected by those in commerce and public service for his outstanding leadership and great inspiration to all the people of North Carolina. His energy and love for helping those in the community kept him involved in public service up to the final days of his life. Much of his success in business and politics can be attributed to the fact that he was a true gentleman.

Jack was nationally known for his work as a forester in the timber industry. He was past president of Appalachian Hardwood Manufactures Inc., American Forest Products Industries, National Manufacturers Association, North Carolina Forestry Association, and Asheville Area Chamber of Commerce. He was voted Man of the Year by the Southern Hardwood Lumber Association, and twice voted Man of the Year by the North Carolina Forestry Association. In 1985, the Southern Appalachian Multiple Use Council honored Jack for having the most influence over western North Carolina forestry during the past 50 years. In 1993, he was inducted into the Western North Carolina Agricultural Hall of Fame as a forester and civic leader. His strongest efforts were always centered toward the regeneration of the forests in western North Carolina. These efforts led to the creation of the Cradle of Forestry Discovery Center, where others could be taught forestry and environmental stewardship. In 1987, Jack was named to the Forestry Advisory Council, that reviews forestry division programs.

Jack's other interests included his businesses and helping the community. He was a cofounder and chairman of Western Carolina Bank and a past director of Carolina Power & Light Co. At one time, he operated Benis Hardware Lumber Co., Williams-Bronwell planing mill, Educational Lumber, and Veach-May-Wilson, Inc. Jack was chairman of the United Way of Asheville and Buncombe County. He was a member of the All Saints Church in Mills River and an integral part of the Republican Party.

Jack Veach was an innovator in the timber industry and a leader in the community. His energy and excitement motivated our community. The loss of this remarkable man will be felt by all.

RECOGNITION OF NATIONAL AMATEUR RADIO WEEK

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SHUSTER. Mr. Speaker, today I rise in support of National Amateur Radio Week which runs from June 18 to 24. I would like to take time to recognize this activity, the people involved in it and the service to our country which it performs.

Currently, there are over 500,000 amateur radio operators in the United States and approximately 2,500,000 amateur, ham, radio operators worldwide. And, due to the many technological advances which have made our world smaller and even the most remote village accessible, ham radio operation has become an increasingly popular hobby. Countless friendships have been formed over the airwaves. In some cases, people have even found their spouse through ham radio communication.

While amateur radio allows its users to learn the similarities and differences between one another's geographies and cultures, it performs a significant service to our Nation. In times of crisis or tragedy ham radio operators form networks providing information and lines of communication which would otherwise be inaccessible. Several national organizations have formal agreements with the Amateur Radio Emergency Service [ARES] and other amateur radio groups. These groups include the Federal Emergency Management Agency, the American Red Cross, the Salvation Army, the National Weather Service, and the National Communications System.

In conclusion Mr. Speaker, I applaud all those who helped to make National Amateur Radio Week a reality. I believe this to be a wonderful activity which in time of need, performs a wonderful service to our Nation.

ACTION ON FINAL RESOLUTION OF GIBBS AND HILL AGAINST THE GOVERNMENT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BURTON of Indiana. Mr. Speaker, I rise today to voice a specific and direct concern, and a demand for action from our State Department, over the inexcusable delay in the final resolution of the $43.4 million commercial claim of Gibbs & Hill against the Government of the Kingdom of Saudi Arabia. This claim is the last remaining unpaid claim under the special claims process established by the Congress in 1992 in recognition of a pattern of commercial abuse by the Kingdom towards the American companies working there during the period of the late 1970's and early 1980's.

Gibbs & Hill's story is not unlike that of all of the other American companies whose claims were satisfactorily resolved by Saudi Ambassador Bandar under the special claims process. Gibbs & Hill provided services to the Kingdom and was not paid for the services provided. The claim was notified to the Saudi Government for resolution under Ambassador Bandar's mandate to resolve these claims' and Ambassador Bandar pledged to spare no efforts in so doing fairly and expeditiously. This was more than 2 years ago. Since that time, a message on behalf of none other than the King has been provided to our country's representative in Riyadh that the claim was soon to be paid. Yet the claim still has not been paid.

We have included legislation in the fiscal year 1996 American Overseas Interest Act to further the policy of our country that the claim be favorable resolved for the company, as has been repeatedly committed to by the Saudis to our Government and the company. This is only the first of such steps the Congress can take to ensure that the wrongful acts of the Kingdom against Gibbs & Hill are rectified.

What is needed, and what is expected from our State Department, is its immediate and unrelenting effort to bring this matter to a successful conclusion, through the full and prompt payment of the claim, so as to conclude successfully the claims issue. Nothing short of this will be tolerated, nor is acceptable. The importance of the successful conclusion of this singular issue to our bilateral relationship cannot be overemphasized. Until it is resolved, it will continue to fester and threaten to undermine our relationship with the Kingdom.

PERCELL ANTHONY BELL

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TUCKER. Mr. Speaker, I rise today to pay tribute to a builder. Mr. Percell Anthony Bell, a self-taught masterplasterer, was born and raised in Richmond, VA.

In 1903, Mr. Bell was born to the proud parents of Charles E. Bell, Jr., and Julia Graham Bell. He attended the Baker Street School and became one of the finest masterplasterers in Virginia.

Mr. Speaker, Mr. Bell's contributions to the architecture of this great country include many of the finest buildings on the east coast, including the Federal building here in Washington.

In addition, Mr. Bell's work can be seen in the Union Theological Seminary, the Federal Bank, and the Richmond City Hall.

Mr. Bell leaves, to cherish his memory, three daughters, Elinor B. Pollard, Marion Hill, and Geraldine Anderson, seven grandchildren, five great grandchildren, and one great-great grandson, and a host of other relatives and friends.

Mr. Speaker, to this good and decent man, the oldest member of the Mount Carmel Baptist Church Deacon Board, the proud father of three and a builder for all seasons, thank you.

INTRODUCTION OF THE IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I rise today to introduce the Immigration Enforcement Improvements Act of 1995 on behalf of the Clinton administration. This bill builds upon the strong effort this administration has been making to control illegal immigration.

This administration has done more to close the door on illegal immigration than any previous administration. With expected increases this year and next, border control staffing will have increased by 51 percent since President Clinton took office—including border patrols and inspectors at border crossing points and airports. Deportation of illegal immigrants has tripled and the removal of criminal aliens has been targeted. The budget of the INS has increased by over 70 percent from $1.5 billion in 1993 to $2.6 billion requested for 1996.

The President, the Attorney General, and INS Commissioner Doris Meissner should be credited for their effective leadership and commitment to rising to the challenge of illegal immigration.

The legislation introduced today gives the administration a number of tools to control our borders more effectively, to combat illegal hiring and to remove those who are here in violation of our laws.

The bill would make realistic increases in border enforcement personnel without jeopardizing the quality and safety of Border Patrol officers and inspectors. Border control officers know best what resources they need to do their job effectively, and this bill responds directly to their needs.

The bill imposes stiff penalties for smuggling of immigrants, document fraud and other offenses.

The bill authorizes pilot programs to test ways to verify that job applicants are eligible to work in the United States. The goal is to find simple and effective ways of denying jobs to illegal immigrants to help eliminate the reason why immigrants enter this country illegally.

The bill promotes coordination on workplace enforcement between the INS and the Department of Labor, since employers who hire undocumented workers often also violate other labor standards.

Finally, the bill expedites the removal of criminal aliens by eliminating some procedures and redtape.

I commend the administration for their initiative and I look forward to working with my colleagues to produce legislation that deals thoughtfully with the serious challenges we face.

CONGRATULATIONS TO MELVIN DANAO TABILAS ON HIS EAGLE SCOUT AWARD

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. UNDERWOOD. Mr. Speaker, in my home district of Guam, we have many outstanding young people. However, one young man from Boy Scout Troop No. 38 deserves special mention. Whenever a Scout earns the rank of Eagle, the accomplishment stands out as a milestone in his life. Melvin Danao Tabilas is the only person on Guam to get the Eagle Scout Award this year. This triumph alone predicts future successes, but there are many things about Melvin worth watching.

This Eagle Scout plans to attend college and major in the fields of medicine and music. I have heard him play piano at family functions; he has the gift of harmony. A career in music would be a natural, but this fine young man plans to participate in medical missions to the Philippines after college. He wants to provide medical assistance to the less fortunate. I can close my eyes and see Melvin also soothing patients with song.

Melvin pledges to remain active as a Scout in the Order of the Arrow, and he will espouse the values learned in Scouting throughout his life. One needs only to examine his Eagle Scout Service Project to grasp the sincerity of this young adult. Melvin embarked on a beautification project for the central park in Dededo where he lives. He recruited his friends, who put in over 130 hours of labor. In return for a simple lunch, they painted the pavilion, planted trees, picked up trash, and replaced the sand around the swing and slide. When the project began, garbage was everywhere, the pavilion was covered with graffiti, and there were only a couple of trees. In this fast-paced, ever changing society, Melvin wanted his villagers to have a place to relax. From the planning stage in April, 1994, Mel and his volunteers completed the project 2 months later.

Melvin Tabilas graduated from Father Duenas Memorial High School and is a National Honor Society member. It's hard to keep up with him. He ran cross country for Father Duenas in 1992, and has been on the move ever since. He received the Governor's Art Award and a Guam legislative resolution as a member of the San Vicente School Percussionists. He performed at the Lytigo and Bodig Telethon, using his talent to help others.

Melvin has upheld the Scout oath. He has made his family, parents, and Congressman proud. Keep up the good work!

A SPECIAL TRIBUTE IN HONOR OF THE VERY REVEREND J. EARL CAVANAUGH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Ms. McCARTHY. Mr. Speaker, it is with great pride and respect that I rise today to bring to your attention, and to the attention of my colleagues, the fine work and outstanding public service of the Very Reverend J. Earl Cavanaugh.

On Sunday, May 21, 1995, I was honored to join with the congregation of the Grace and Holy Trinity Episcopal Cathedral of Kansas City, MO, as well as the greater Kansas City community, to salute Reverend Cavanaugh on the occasion of his retirement after 19 years as dean of the Cathedral.

Reverend Cavanaugh was born in Philadelphia, PA, on May 22, 1930. After graduating from Lycoming College in Williamsport, PA, in 1953 with an A.B. degree in English literature, he attended Drew Theological School in Madison, NJ, receiving a master of divinity degree in 1956. Upon completing a year of special study at the Church Divinity School of the Pacific, he was ordained to the priesthood on June 18, 1958, diocese of Los Angeles, CA.

During the period 1958–1976, Reverend Cavanaugh served as vicar of St. Peter's Church in Rialto, CA 1958–1961; vicar of St. Bartholomew's Church in Poway, CA 1961–64; rector of St. Barnabas Church and chaplain to Episcopal students at Occidental College in Los Angeles, CA 1964–68; and rector of the Church of the Holy Faith in Inglewood, CA 1968–76.

In March 1976, Reverend Cavanaugh became dean and rector of Grace and Holy Trinity Cathedral in Kansas City, MO, the heart of the heartland and my hometown.

As he had in his previous ministries, Reverend Cavanaugh not only embraced his pastoral duties to his congregation but became an advocate and a leader in many areas of concern and challenge to the community at large, establishing the place of the Cathedral as a center of worship and service to both the greater Kansas City community and the diocese of West Missouri.

As dean of Grace and Holy Trinity, he extended participation in the worship ministry to both women and men at all levels; encouraged and facilitated the development of congregational diversity by age, socio-economic and cultural background; advocated and implemented the ordination of women to the presbyterate; and strengthened the relationship of the Cathedral with other Christians and members of other faiths through joint worship, study and community service.

As Dean of Kansas City, Reverend Cavanaugh, working with the Grace and Holy Trinity congregation, provided vision and leadership in support of the community's efforts to address the growing human needs and suffering of the Kansas City population, in particular the residents of the downtown area and our more troubled neighborhoods. As part of Downtown Ministries, Reverend Cavanaugh and the Grace and Holy Trinity congregation worked hand-in-hand with the Catholic Cathedral of the Immaculate Conception, Grand Avenue Temple, United Methodist Church, and St. Mary's Episcopal Church to minister to area youth, the elderly, the hungry, and the needy. From the beginning, Reverend Cavanaugh became involved publicly and pastorally in dealing with the very difficult issues of the AIDS epidemic, working to instill throughout our community a sense of true compassion and concern for those inflicted with this terrible disease. He dedicated his spirit and his energies to creating a climate of ecumenical cooperation and to fostering within our community a heightened awareness of the continuing need for social, racial, gender, and economic justice.

Among his many community activities, Reverend Cavanaugh has served with distinction as a member of the U.S. Interreligious Committee for Peace in the Middle East; as a member of the Downtown Council Board of Directors; as chaplain of the Harry S. Truman Good Neighbor Award Foundation; as a member of the Martin Luther King, Jr. Interfaith Coalition; on the Kansas City Community Joint Committee on Homelessness; and on the mayor's task forces on AIDS and on hunger and poverty.

Within the Episcopal Church, at the national level, Reverend Cavanaugh has served on the executive council; was elected nine times as deputy to the general convention of the executive church; served as a member of the Committee on the State of the Church; and served as a member of the House of Deputies Committee on Evangelism at the General Conventions held in 1973 and 1979.

In 1954, Reverend Gingrich married Nancy Gingrich Cavanaugh of Philadelphia, PA. Mrs. Cavanaugh graduated from the University of Pennsylvania with an A.B. degree in economics. She attended Claremont Graduate School in Claremont, CA where she received a master's degree in education. Prior to the family's relocation to Kansas City, Mrs. Cavanaugh worked for the Federal Reserve System, the California Department of Public Assistance, and the Rialto, Los Angeles, and Inglewood California School Districts. Since 1977, she has taught second grade at the now-Pembroke Hill School in Kansas City. While actively involved in her own career, Mrs. Cavanaugh has been an integral partner in the great works and the great successes of Reverend Cavanaugh. One of the greatest gifts Reverend Cavanaugh shared with Kansas City was Nancy Cavanaugh. She became a true citizen of our city embracing with her heart our cares and concerns, dedicating her personal time and energy to seeking solutions to our problems and to celebrating our gains.

Reverend and Mrs. Cavanaugh are the proud parents of Helen Mary, who I had the distinct pleasure of having as one of my students when I was on the faculty at the Sunset Hill School. Helen is an attorney and is married to Paul Stauts. Helen and Paul live in Northern California and have four wonderful children: Sydney, Alexander, Ethan, and Jacob. Helen's tribute to her father on Sunday, May 21, brought tears of joy to my eyes.

In 1976, when Reverend Cavanaugh came to the heartland of America—to Kansas City—he opened his heart to the congregation and to our community. During his 19 years as dean at Grace and Holy Trinity, Reverend Cavanaugh played an extraordinary and critical role in our community. He touched the lives of so many people. His contributions will long be remembered.

Today, Mr. Speaker, I ask that you and our colleagues join me, the congregation of the Grace and Holy Trinity Cathedral, Reverend Cavanaugh's family, and the citizens of Kansas City, MO, in recognizing Reverend Cavanaugh's outstanding achievements and selfless contributions and in extending our congratulations and best wishes on the occasion of his retirement.

TRIBUTE TO GEORGE LUTZA AND CAROL SILVER LUTZA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to George Lutza and Carol Silver Lutza, corecipients of the Bernardi Senior Center's ninth Community Service Award. For the past 7 years George and Carol's company, Dynamic Home Care, has provided home chore and bathing services to homebound seniors referred by the Bernardi Center. Their goal is to ensure that seniors have affordable and excellent health care. In that, Carol and George have succeeded admirably.

Carol and George serve on the professional advisory council and the member advisory council of the Bernardi Center, which is located in Van Nuys. They bring their own brand of dedication and energy to the center, in addition to providing a valuable service to the elderly of the northeast San Fernando Valley.

Both are busy in other organizations involved with the lives of senior citizens. For example, George is a member of the Elderabuse Task Force, a member of Elders at Risk, a supporter of the Alzheimer's Association and the past chairperson of the Living at Home Community Council. Carol has since 1987 been chairperson of the Home Care Consortium through Senior Care Network, which is affiliated with Huntington Memorial Hospital. She is also cochairperson of the steering committee of the Greater Los Angeles Amyotrophic Lateral Sclerosis Association.

Mr. Speaker, I ask my colleagues to join me in saluting George Lutza and Carol Silver Lutza, public servants who work tirelessly for the betterment of senior citizens. They are a shining example to us all.

RECOGNITION TO LEWIS ''DEE'' WALKER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mrs. SCHROEDER. Mr. Speaker, the Federal Government is losing to retirement a dedicated defender of both the U.S. Army and the American environment.

Lewis ''Dee'' Walker has been under the Secretary of the Army in charge of the environment. It was his duty to recognize years of environmental neglect at U.S. Army bases. It became his responsibility to turn that neglect into a commitment to make contaminated land safe for human health and the environment.

And Dee Walker performed in outstanding fashion.

I am most familiar with his years of work to clean up one of the Army's most infamous messes, the Rocky Mountain Arsenal. For over 10 years Walker showed great energy, patience, and determination to get where we are today—a comprehensive cleanup plan endorsed by all parties involved. His effort here alone casts him a spot next to Hercules and the Madonna.

Mr. Speaker, we owe a great debt to Dee Walker. And I wish him well in the future.

A BRIEF HISTORY OF UNION COUNTY, NJ, RESIDENTS WHO HAVE SERVED IN CONGRESS, 1789–1808

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, as a Member of the House of Representatives from Union County, NJ, I recently became interested in my predecessors who represented my home county during Congress' early years. During the first two decades of our Nation's history, Union County sent five distinguished gentlemen to serve in Congress. For many of these men, like Abraham Clark, who signed the Declaration of Independence, and Jonathan Dayton, a signer of the U.S. Constitution, their service in Congress was but one of their many contributions to our Nation during its formative years. And although some of these men have been obscured by the passage of time, their accomplishments are remembered by many of my constituents, and still studied by scholars of this period.

Before one can examine the Union County natives who served in the first 10 Congresses, a short primer on how Union County developed is appropriate. Although settlers from Europe had been living in Union County for nearly 200 years, Union County was not created by the State legislature until 1857. As New Jersey's youngest and second smallest county, Union County was originally part of its neighbor to the north, Essex County. In colonial times, what is now Union County was encompassed by the county's most populous community, Elizabethtown—now Elizabeth, and the county seat. Elizabeth, a port town, was founded in 1665 by Sir George Carteret, who named the new settlement in honor of his wife, Lady Elizabeth.

No sooner had the little village of Elizabeth been founded than settlers pushed outward onto the surrounding lands. As isolated farms were hewn from the forest, tiny hamlets developed, and new neighborhood names were born. Although these farms and small villages remained part of Elizabeth, they began to develop their own sense of identity and local concerns. By the end of the 18th century, division was inevitable. The first of the outlying areas to separate was Springfield, which was created by the State legislature in 1793. The next year Westfield incorporated, garnering its name because it was the ''west field'' of Elizabeth. Then in close succession came Rahway in 1804, Union in 1808, and my hometown of New Providence in 1809. The rest of Union County's 15 communities would grow out of these 6 towns. Elizabeth would continue to dominate the county politically, and would be home to most of the men Union County sent to the first Congresses.

On March 4, 1789, amid much fanfare, the first session of the First Congress began. Unfortunately for the new government, a quorum to conduct business was not reached in the House until April 1, and in the Senate until April 4. One of the reasons for this absence of a quorum was the difficulty Members had in reaching New York City, the home of the new government. Travel was slow during this period, especially for Members from the Western States or those not near the coast or a river. The trip must have been an easy one for Elias Boudinot, however, Union County's first resident to serve in Congress. Representative Boudinot probably took a short ferry ride across Newark Bay, up the Kill van Kull, and finally across the Hudson River to reach Federal Hall, located on Manhattan's southern tip. It is interesting to note that prior to his trip to be sworn into the First Congress, Representative-elect Boudinot entertained President-elect George Washington at Boxwood Hall, his two-story mansion in Elizabeth. President-elect Washington was also on his way to New York City, to be sworn in as our Nation's first chief executive.

Although born in Philadelphia, Representative Boudinot lived and practiced law in Elizabeth when he was elected to the First Congress. A tall, dignified, and reportedly handsome man, Boudinot was both cautious in his temperament and conservative in his politics. His career before his congressional service was quite distinguished. He served in the Revolutionary Army, and was a Delegate to the Continental Congress in 1778. Delegate Boudinot would serve again in the Continental Congress from 1781 to 1783. During his tenure, Delegate Boudinot gained valuable experience by serving on over 30 committees. He also served as the Continental Congress' tenth president during 1782–83, making him, in a de facto sense, New Jersey's first elected national leader. As my colleagues may be aware, under the Articles of Confederation, there was no executive branch, and hence, no chief executive. The Continental Congress, a unicameral legislature, ran the entire government. Furthermore, under the Articles, Delegate Boudinot's term was automatically abbreviated because the terms of Delegates to the Continental Congress were limited to 3 years.

As a House member during the first three Congresses, Representative Boudinot fathered many essential measures and participated in practically all important debates. Boudinot led the defense of Hamilton's conduct of the Federal Treasury. He also was the first chairman of the Rules Committee, then a select committee that had the important task of formulating the first rules of the new body. During his tenure as chairman, Boudinot's leadership and experience from serving in the Continental Congress would prove invaluable to the First Congress.

After the Third Congress, Representative Boudinot declined to run for reelection. In 1795, he accepted an appointment as director of the U.S. Mint. He moved to Philadelphia, and sold Boxwood Hall to his House colleague Jonathan Dayton. He served as director of the Mint until 1805. Representative Boudinot died in 1821.

In the Second Congress, Representative Boudinot was joined by another Elizabeth native, a slight, almost frail man named Abraham Clark. Representative Clark grew up on his family farm in a section of Elizabeth which is now present-day Roselle. Born in 1726, Representative Clark had a distinguished career and contributed much to the founding of our Nation. He hated aristocratic privilege in any form and was outspoken in his advocacy for independence from England, culminating in his signing the Declaration of Independence. Although not formally educated in the law, Representative Clark's zeal for giving free legal advice earned him the nickname of ''the Poor Man's Counsellor.''

Because of his support for the American Revolution, he was chosen as a Delegate to the Continental Congress from 1776–78, and again from 1780–83, and finally from 1786 until the Continental Congress largely disbanded in 1788. Delegate Clark was also chosen as a delegate to the Constitutional Convention in Philadelphia, but ill health—he suffered from poor health his entire life—prevented him from attending. He would go on to oppose adoption of the Federal Constitution until the Bill of Rights was added in 1791. Reelected to the Third Congress, Representative Clark's tenure in Congress was cut short by his death in 1794 at age 69. In honor of his patriotism and many accomplishments, the future township of Clark, NJ, at the time a part of Rahway, was named for him.

Also joining Representative Boudinot and Clark in the Second Congress was Jonathan Dayton of Elizabeth. Son of Elias Dayton, a Delegate to the Continental Congress, Representative Dayton was elected to the First Congress, but declined the office, preferring instead to become a member of the New Jersey council and later speaker of the New Jersey General Assembly. Born in 1760, he graduated from the College of New Jersey, now Princeton University, became a lawyer, and fought during the Revolutionary War, attaining the rank of captain. He was captured by the British in Elizabeth, but obtained his freedom in a prisoner exchange. In addition to his military service, he was also a delegate to the Federal Constitutional Convention, and had the honor of being the youngest signer, at 27, of the U.S. Constitution. interestingly, he was chosen to go to the Constitutional Convention after his father and Abraham Clark declined to travel to Philadelphia because of poor health.

In the Third Congress, Representative Dayton became chairman of the House Committee on Elections, one of the first standing committees of the House. From that position, and because he was a loyal Federalist, Representative Dayton attained the Speakership during the Fourth and Fifth Congresses.

As Speaker, Dayton has been described as being of ordinary ability, but of being personally popular, which helped temper the growing bellicose attitude of the House over the controversial Jay Treaty, which Dayton supported. He is also seen as an active Speaker compared with his predecessors, and as someone who used his position to influence other Members. He was also the first Speaker to speak out on issues before Congress when the House operated in the Committee of the Whole.

During his time in the House, Representative Dayton argued in favor of having the secretaries of the Treasury and of War appear in the House, and for a larger regular army, rather than a militia. With Representative

Boudinot, he voted five times to uphold Hamilton financial policy. His first speech in the House was on his own motion to sequester British debts. He also took part in the debate supporting the Washington administration's position in the Whiskey Rebellion.

As Speaker at the outset of the Adams administration in 1797, Dayton increasingly found himself in the middle of Jeffersonian attacks on Hamilton's administration of the Treasury Department. This growing lack of comity reached a boiling point when Dayton had to break up a fight between Jeffersonian Republican Matthew Lyon of Vermont and stalwart Federalist Roger Griswold of Connecticut on the House floor after Lyon spit in Griswold's face over a political dispute.

Dayton recognized that two noticeable factions in the Congress had developed. By 1800 these factions would be distinct political parties, called the Federalists and the Democrat-Republicans. In 1798, Speaker Dayton declined to run for the House again and instead ran and won a seat in the Senate as a Federalist candidate. Republican Dayton is still the only Speaker of the House ever from Union County.

Although an active participant in the debates of the Senate, Dayton wielded considerably less influence than he had as Speaker. During his tenure in the upper body, Senator Dayton voted along Federalist party lines against the repeal of the Judiciary Act of 1801, and against the impeachment of Justice Samuel Chase. After a visit to New Orleans in 1803, he favored the purchase of Louisiana, which was a Jefferson administration initiative. Dayton served one term in the Senate, from 1799 to 1805.

After leaving the Senate, Dayton was supposed to accompany President Jefferson's first Vice President and his childhood friend Aaron Burr on an expedition to the West, where Burr apparently intended to conquer Spanish land and create an empire. However, Senator Dayton became ill and was unable to make the arduous journey. Fortunately for Dayton, his absence from the trip may have saved him from a lengthy prison term as he was indicted for treason due to his perceived role in Burr's schemes. After spending a brief time in prison, he was released and spared the embarrassment of a public trial. However, the attendant publicity brought an end to his national political career. Nevertheless, the people of New Jersey still held him in high regard, and he went on to serve two terms in the New Jersey General Assembly beginning in 1814. He died in 1824 in the town of his birth, Elizabeth, soon after hosting a visit from Lafayette. The city of Dayton, OH was named for him—not for his political achievements, but because he was a member of a group of businessmen that invested in the area in 1796—and closer to my home, a regional high school in Springfield was named in his honor.

Serving with Senator Dayton in the Sixth and Seventh Congresses was Aaron Ogden of Elizabeth. Senator Ogden, a Federalist, was elected to fill the vacancy caused by the resignation of James Schureman, who left the Senate to become the mayor of his hometown, New Brunswick. Born in 1756, Senator Ogden was educated at Princeton University and served with great valor in the Revolutionary Army, attaining the rank of brigade major. After the Revolution, Senator Ogden became an outstanding lawyer and leader of the Federalist Party in New Jersey. His first political job was Essex County clerk, which he held from 1785–1803, coinciding with his brief tenure in the Senate. He was also a presidential elector in 1796 for John Adams. In 1802, he ran for a full 6-year Senate term, but was denied reelection. He went back to New Jersey and resumed his law practice, and capped his political career by serving as New Jersey's fifth governor.

Before his death in 1839, Governor Ogden would make one more significant contribution to his Nation, not as a lawmaker, but as a defendant in a civil case. In the early 1820's, a dispute arose with Thomas Gibbons, his former partner in the steamship trade. This dispute resulted in the landmark Supreme Court case Gibbons versus Ogden (1824). In this case, which Ogden ultimately lost, Chief Justice John Marshall established important constitutional precedents concerning the Federal commerce clause and the supremacy clause's restraints on State power.

In the Ninth Congress, with the retirement of Senator Dayton, Union County's only native in either body was freshman Congressman Erza Darby of Westfield. Born in 1768, Representative Darby was a farmer in what is now Scotch Plains. Unlike all of his predecessors from Union County, Representative Darby did not attend college, played either no or a minor role in the Revolutionary War—he was a young teenager when the War ended—and his highest office he ever achieved was his brief tenure in the House. Prior to his election as a Democrat-Republican to the House in 1804, he served as a freeholder, assessor, and justice of the peace, and a member of the New Jersey General Assembly for one term, 1802–04. Re-elected to the Tenth Congress, Representative Darby died in office on January 28, 1808, and is interred at the Congressional Cemetery in Washington, DC.

From the time of the First Congress to Erza Darby's death in 1808, the five men who Union County sent to Congress served an average of 6 years. While unusual for this period, as turnover in Congress was usually 50 percent or more every election, this fact speaks to the stature and quality of these men. For the average House Member or Senator, however, this was an era when serving in Congress was generally done only for a short period of time. This was especially prevalent for southern members. One of the principal reasons for the relatively brief period of service during this time was the enormous burdens placed on Members of Congress. Depending on the occupation, a Member had to neglect his farm or his business to serve in Congress. Additionally, a Member's pay of $6 per day was paltry even by the standards of the day, the pay was not increased until 1860. Nevertheless, prominent men like Boudinot, Dayton, and Clark did choose to serve, probably out of a mix of devotion to their country, and the opportunity to enhance their reputation and stature back home.

Mr. Speaker, Union County is extremely proud of its sons that it sent to Congress during this early period in our Nation's history. Union County is full of interesting history that can easily be relived by visiting the preserved homes of some of New Jersey's famous Congressman or Senators. For example, the public is welcome to visit Boxwood Hall in Elizabeth, home of Representative Boudinot and Senator Dayton, or the Abraham Clark House in Roselle, or the Belcher-Ogden Mansion home of Governors Ogden and Belcher in Elizabeth. These beautifully restored homes are for both the casual visitor or the serious historian. I urge my colleagues and all of my constituents, and especially my younger constituents, to discover Union County's proud heritage.

HONORING CANTRELL'S SACRIFICES AND CONTRIBUTIONS TO HIS COUNTRY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GORDON. Mr. Speaker, I rise today to recognize and commend the contributions a middle Tennessee family is making to preserve and further the heritage of an outstanding Tennessee ancestor.

Charles T. Cantrell will present his grandfather's Congressional Medal of Honor to American Legion Post 122 during a Tennessee bicentennial celebration scheduled for June 29, 1995.

Charles P. Cantrell, a Keltonburg native, was awarded the Congressional Medal of Honor during the Spanish-American War for acts of bravery. He was a member of the unit that participated in the taking of San Juan Hill, the major stronghold of the Spanish. Without consideration for his own safety, Cantrell rushed to the front lines and rescued the wounded from enemy territory. Cantrell escaped the battle unharmed, and died in 1948 at the age of 74.

Until World War I, Cantrell was the only recipient of the Medal of Honor in middle Tennessee.

Now, years later, Tennesseans can personally, share the history that surrounded the events of Cantrell's life-changing day. The family's contribution will be displayed in a special case at a local library with other Spanish-American War memorabilia.

I ask you to join me today in honoring Cantrell's sacrifices and contributions to his country, as well as his family's.

IN RECOGNITION OF WORLD WAR II VETERANS WHO SERVED AS COMBAT ARTISTS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Ms. SLAUGHTER. Mr. Speaker, I rise today to pay tribute to the World War II veterans who served as combat artists. The art collections of the Army, Navy, Air Force, Marines, and Coast Guard provide a pictorial memory using the medium of fine art to record the military heritage of America and to provide insights into the experiences of individual members of the Armed Forces. Regardless of service affiliation, the World War II combat artist was assigned to document events of military importance. These included frontline battles, combat service support, areas of operations, and incidents in the daily lives of military men and women. Their paintings and drawings are

varied in personal interpretation, but are alike in their portrayal of the reality of war.

The Department of Defense 50th Anniversary of World War II Commemoration Committee is honoring the combat artists from World War II with an exhibition opening Friday, June 30, 1995 at the National Building Museum in Washington, DC. The artists whose works will be displayed are:

From the Army: Leslie Anderson, Bernard Arnest, Howard D. Becker, Howard Brodie, Manuel Bromberg, James D. Brooks, William V. Caldwell, Harry A. Davis, Harry Dix, Frank Duncan, Olin Dows, Loren Fisher, Jean Flannigan, Albert Gold, Robert Gottsegen, Robert MacDonald Graham Jr., Robert Greenhalgh, Hans Helweg, Richard H. Jansen, Steven R. Kidd, Wayne Larabee, David Lax, Ludwig Mactarian, Hans Mangelsdorf, Barse Miller, James Neace, Charles Peterson, John Pike, Savo Radulovic, Edward Reep, Julian Ritter, John A. Ruge, Edward Sallenback, John Scott, Sidney Simon, Mitchell Siporin, Samuel D. Smith, Harrison Standley, Joseph Steffanelli, A. Brockie Stevenson, Ann B. Tilson, Frede Vidar, Rudolph C. Von Ripper, John A. Wittebrood, and Milford Zornes.

From the Navy: Standish Backus, Jr., Griffith Bailey Coale, William Franklin Draper, Mitchell Jamieson, Edward Millman, Albert K. Murray, Alexander P. Russo, and Dwight C. Shepler.

From the Air Force: Richard Wood Baldwin, Charles Baskerville, Edward Brodney, R. Munsell Chambers, G. Frederick Cole, Almer F. Howard, John Lavalle, Clayton Knight, Robert Laessig, Jack Levine, Milton Marx, John T. McCoy, Jr., Arthur G. Murphy, Oke G. Nordgren, George Edward Porter, Arthur S. Rothenberg, James Powell Scott, Maltby Sykes, and William Peter Welsh.

From the Marines: Paul Arlt, John Degrasse, Donald Dickson, Vic Donahue, James Donovan, Tom Dunn, John Fabion, Richard Gibney, Victor Guinness, Harry Jackson, Walter Anthony Jones, Woodrow A. Kessler, Hugh Laidman, John McDermott, and Charles Waterhouse.

From the Coast Guard: Gare Antresian, Tom Asplundt, Peter Cook, Robert Daley, Ralph DeBurgos, Russell Dickerson, Joseph DiGemma, Di Valentine, Max Dorothy, Bruno Figallo, Anton Otto Fischer, John Floherty, Jack Gildersleeve, John Gretzer, Sherman Groenske, Lawrence Jenson, Jack Keeler, Sandor Klein, Joe Lane, Leonardo Mariani, Kenneth Miller, John Morris, John B. Norall, Ken Riley, Richard Saar, Michael Senich, Norman Thomas, Robert Tucker, Ronald Ullman, H.B. Vestal, John Wisinki, and Hunter Wood.

America is grateful for this powerful legacy—rich in its emotional context—and is proud to recognize these artists who served their country during World War II.

HOME EQUITY CONVERSION MORTGAGES

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. LAZIO of New York. Mr. Speaker, today I offered a bill reauthorizing the Federal Housing Administration's ability to insure home equity conversion mortgages [HECM], one of the most effective tools available to older Americans to ensure their own financial standing.

I strongly support the HECM program. Last year I cosponsored the HECM expansion and extension provisions included in last year's housing bill, which the Senate failed to act on at the close of the last session.

The HECM program is still in its infancy—currently, banks only underwrite on average 200 to 400 loans HECM loans per month. This all the more reason to support this worthwhile effort, to give the private sector time to educate itself and adjust to this valuable program. The legislation I am introducing extends the authorization for an additional 5 years. This bill also extends the provisions of HECM to cover 1 to 4 family units in which the owner resides.

This is precisely the kind of role FHA has served well in the past and should continue to serve into the future: Creating a market for valuable financing products and, after they are established, moving out to let the private sector operate those products more efficiently.

By creating a market for reverse mortgages, the HECM program provides unique opportunities for older Americans to hold onto their houses throughout their lifetime and avoid being house poor, a sad result for those Americans who have worked long and hard to keep their house but find, later in life, that they cannot afford to live without selling their home.

The program also makes sense from a budget standpoint. It is a net inflow to the FHA insurance fund of between $1.5 and $4 million a year.

Currently, lenders in 47 States, the District of Columbia, and Puerto Rico are originating HECM loans.

The average HECM borrower is 76 years old and has a home value of $138,000, but an income of only $10,400. By contrast, the median senior's income in the United States today is $18,500 and the median home value is only $70,400.

We should encourage, not punish those who want to stay in their houses and stay in the neighborhoods they care about and at the same time make their life more livable. What could be better than ensuring the quality of life of older Americans at no additional cost to the Government?

IN RECOGNITION OF THE MILIKEN LEGAL CLUB OF THE BOYS CLUB OF NEW YORK

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. NADLER. Mr. Speaker, I rise today to recognize the Miliken Legal Club of the Boys Club of New York. The Miliken Legal Club was founded in 1992 by Dr. Shirley Smith. This program provides an active legal education for high school age students. During the school year, young men and women are instructed in legal procedure by lawyers such as Larry Carbone of the New York City Con. Ed. Legal Department and by Ellen Van Dyke of the Manhattan district attorney's office. When summer arrives, several students are chosen to act as interns at the Manhattan district attorney's office. The program culminates each year with a mock trial that is presided over by Bronx Supreme Court Justice Richard Lee Price.

This program helps make the legal system accessible to many young people in my district. In doing so, the Miliken Legal Club teaches these students that they have an investment in the law, in the justice system and in this Nation. I am proud to have this fine organization located in my district.

TRIBUTE TO JACK DRISCOLL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Jack Driscoll, who is recipient of the 1995 Distinguished Public Service Award given by the Anti-Defamation League, Southwest Division. The award reflects Jack's many outstanding contributions to the city of Los Angeles.

Jack is best known as the executive director of the Los Angeles Department of Airports, a position he has held since December 1992. In this role Jack oversees the operations of Los Angeles and Ontario International Airports, Palmdale Regional Airport, and Van Nuys Airport. This position has given Jack tremendous influence in local and regional affairs, and made him one of the key players in the economic revitalization of southern California. It is also the culmination of a successful 28-year career in municipal government.

Prior to assuming his duties with the Department of Airports, Jack was general manager of the city of Los Angeles Personnel Department. He arrived in Los Angeles in 1978, after serving in various capacities in the mayor's office in Seattle.

Jack has a bachelor's degree in psychology, a master's in business administration from the University of Seattle, and is a graduate of the UCLA Graduate School of Management, Executive Program. In addition, he is a member of the American Association of Airport Executives and the government affairs committee of Airports Council International-North America.

Mr. Speaker, I ask my colleagues to join me in saluting Jack Driscoll, a public servant who works tirelessly for the betterment of his community. He is a shining example to us all.

THE FUTURE OF THE REPUBLIC OF KOSOVA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. ENGEL. Mr. Speaker, Dr. Bujar Bukoshi, Prime Minister of the Republic of Kosova, recently gave an important address to the European Parliament in Strasbourg, France.

In his speech, Dr. Bukoshi spoke eloquently about his homeland and the people of Kosova. While lamenting the past, including the number of Kosovars who have been killed, wounded, arrested, tortured, and otherwise subjected to inhumane treatment, Dr. Bukoshi gave reason for hope in the future by laying out his vision for protecting Kosova from further injustice.

I urge my colleagues and members of the European Union to strongly consider Dr.

Bukoshi's positive, forward-looking solutions as the United States and Europe consider how to proceed in the former Yugoslavia.

The text of the speech follows:

Ladies and gentlemen, it is an Honor for me to have been given the opportunity to address an important audience that is actively seeking to identify conflict situations and prevent them before they become unmanageable. In this context, let me congratulate you on the good task you have started, in the hope that the FORUM will have its impact in breathing a sense of reality into the asphyxiated, and crisis-ridden international fora.

Let me begin by quoting one of the greatest Albanian writers, Ismajl Kadare, who has on one occasion stated: ''The word 'Kosova' is spoken always with hesitation, in a low voice, almost in a whisper—the way ancient people spoke some words in a low voice when they talked of 'evil spirits' ''.

Although hesitantly, Kosova is always mentioned whenever there are evident signs of the escalation of the former Yugoslav crisis, and always in the context of a wider Balkan conflict. In the case of the last escalation in Bosnia involving UN hostages taken by Serbian forces, a clear act of international terrorism, western leaders have pointed out again the possibility of a wider Balkan war rightly stressing that such a war would firstly encompass Kosova, then Macedonia, in order to include Albania, Bulgaria, Greece and possibly Turkey.

Just 200 kilometers southeast of Sarajevo lies the Republic of Kosova, in danger of becoming another Bosnia, but even worse. The Balkans imbroglio suggests that Kosova may be next in the succession of victims in the face of Serbian ethnic cleansing and oppression.

Kosova with its 90-percent Albanian population is already a Serbian victim. Kosova lost its autonomy six years ago, when Serbia, unconstitutionally and by use of police and military forces, abolished the Parliament of Kosova, dismissed the government and its administration, and closed down television, radio and the daily Albanian-language newspaper. Systematic structural repression against the Albanians of Kosova, enacted martial law, has reached tragic proportions each passing year.

Serbian apartheid manifests itself in discrimination that started with rigged political trials before civil and military courts; isolation and confinement of hundreds of intellectuals, scientists and economic experts; massive prison sentencing of Albanians, killings of peaceful demonstrators; expulsion of hundreds of university professors, thousands of teachers and administrators; dismissal of physicians and medical staffs and the complete abrogation of all human, civil and national rights.

Our plight has been documented by Amnesty International, the United Nations Special Rapporteur, CSCE, and other human rights bodies and international organizations.

In the first quarter of 1995, more than 3,000 Albanians were subjected to all forms of mistreatment by the Serbs. Two were shot dead; seven wounded; 34 were convicted; 125 were subjected to arms searches and harassment; 1,157 were arrested; 985 tortured; 973 families subjected to weapons raids; 589 summoned for police interrogation; 204 suffered political persecution; 114 youth were punished for not joining the Serbian army; 8 were convicted by military courts; 9 Albanian families were evicted from their apartments. The above constitute only the most drastic forms of repression. It should also be noted that many cases are never reported.

Thus far, Kosova has reacted to this repression with peaceful resistance. We have been firm, we have established a functioning government and economy, we have held together in solidarity with one another. We have demonstrated incredible patience, restraint, and judgment in the face of daily brutality, harassment and intimidation.

Numerous delegations have visited Kosova and have witnessed the appalling situation. They have visited the storefront clinics, spoken with patients, listening to the doctors. They have witnessed the classrooms in homes where thousands of Albanian students are doing their best to preserve their education, and they have reported on massive violations of human civil and national rights of the Albanians.

Also many delegations from Kosova, including the leadership of Kosova have repeatedly informed governments of western democratic countries and the general public about the ever deteriorating situation that can lead to a conflict with unpredictable consequences.

In parliaments around the world, legislators have spoken with resolutions of support. For illustration, let me mention that the European Parliament has condemned repression against the Albanian population in eight resolutions. At the same time Albanians have been praised for their peaceful restraint.

Yet, the situation has only kept worsening while repression continues.

The international community cannot continue to ignore the untenable situation in Kosova.

As much as we are determined to remain patient, no one can guarantee that the Albanians can sit idly by for decades, watching their personal and collective resources disappear while their families and friends are subjected to barbaric treatment by cruel and inhuman occupying forces.

To avert this calamity the European Union and the international community must become engaged in helping solve the Kosova part of the Balkans problem. We need their involvement in the following ways:

First: While talks on the future of Kosova remain an uncertain reality, it is necessary that preventive forces be deployed to Kosova. Since Kosova presents a threat to regional peace and stability, the UN Security council should declare Kosova a safe area in the meaning of Chapter VII of the UN Charter.

Second: NATO must prepare contingency plans for intervention in Kosova in the worst possible scenario. Its credibility can only be restored if, as Manfred Worner has said, ''it is ready to punish the aggressor if necessary and also consider using force to achieve political and diplomatic solutions''.

Third: Keep sanctions in place and increase international pressure to Serbia.

Recent attempts to force Serbia to recognize the borders of Bosnia, a bargain for lifting of sanctions, is a doomed effort not only because of the request that a non-entity accepts what is now already a UN member. [The] Belgrade regime may be forced to accept this demand, which will most probably be another Serbian farce, but nothing will change on the ground and the peoples of former Yugoslavia will not find themselves closer to an acceptable solution. Although sanctions were introduced because of the Serbian active role in the war, they should never be lifted before a global solution of the former Yugoslavia crisis is achieved. (In this regard, we welcome the tough stance of EU Commissioner for Central and Eastern Europe, Mr. Hans van den Broek, that international sanctions should be linked to a solution of the Kosova issue.)

Fourth: Immediately return a long-term, expanded OSCE monitoring mission to Kosova.

A handful of then-CSCE observers were posted in Kosova until July 1993 when Belgrade expelled the delegations. Although few in number, the monitors served the purpose of at least chronicling the cases of human right abuses across Kosova. Since their departure, incidence of violence, beating, plundering and murder has escalated dramatically.

Fifth: Support mediated dialog with the Serbs in the presence of international mediator.

We have repeatedly offered to meet with the Serbs to discuss our difference without preconditions except one: an international mediator must be present in the talks. We are prepared to meet anywhere at anytime to talk about our differences and sincerely try to resolve them.

Sixth: Reactivate the Kosova Group of the International Conference on Former Yugoslavia.

The Working Group which was established in London in August 1992 and which has been moribund ever since, has achieved absolutely nothing. Now is the time to breathe new life into the process and create a new mechanism to begin the task of fulfilling the legitimate rights of the Albanians to life, liberty and self-determination.

Seventh: UN get involved for the restoration of democratic institutions to Kosova. This would prove to be a powerful deterrent of conflict and, therefore, instill hopes of a return to normality in Kosova.

Events of the last months demonstrate that a new reality is setting in among those concerned with the Balkans. We firmly believe that until the world deals with the major cause of the aggression, the problem will fester, the bloodshed will continue, and there will be no place in the Balkans.

The current Yugoslav crisis is not the result of an abrupt decision of its peoples to part company. It is the realization of the right of peoples to self-determination; it is a free expression of their national identities, hitherto suppressed by Serbian hegemonism. In this context, the independence which we have proclaimed for Kosova, and we are pursing to institute, is but an adaptation to political realities and moderate approach to our goals.

In conclusion, let me point out the Kosova issue has been wrongly ignored until now. Whether this has been done because of the Serbian Myth, was place in the service of aggression, or because of the 'evil spirits', inaction in Kosova may prove costly. There is still time to save Kosova, and we still believe in peace, therefore we have not resorted to violent means. However, if it comes to conflict, for which Kosova Albanians can never be blamed, they have no other option but to defend themselves.

Bad Judgments of the past must not be repeated. It is time for courageous leadership and commitment to principle, southeast of Sarajevo and throughout the Balkans.

ELECTIONS IN HAITI

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HAMILTON. Mr. Speaker, yesterday I received the following statement from the Presidential delegation to the June 25, 1995, Haitian elections.

The text of the correspondence follows:

DEPARTURE STATEMENT, UNITED STATES PRESIDENTIAL DELEGATION TO OBSERVE THE HAITI ELECTIONS

JUNE 26, 1995, PORT-AU-PRINCE, HAITI

Yesterday's elections represent a step in the building of democracy in Haiti. A peaceful balloting process occurred in a country where violence has so often marked past elections. This feat is truly impressive when one considers that but nine months ago Haiti was under the yoke of a military dictatorship. However, the process was affected by irregularities and administrative flaws that need to be addressed for the second round and the future.

Members of the presidential delegation visited five of Haiti's nine departments and more than 300 polling sites. We observed a complicated balloting procedure, involving elections for more than 2100 legislative, mayoral and local council offices. Dedicated polling officials and pollwatchers representing 25 political parties surmounted various obstacles in allowing the Haitian people, in most localities, to choose their representatives.

Procedural and administrative problems before and on election day, nonetheless, prevented citizens in several municipalities from expressing their voting preferences. The failure to include the names of certain approved candidates on the ballots contributed to the cancellation of elections in seven communities and created disquiet in other areas. We also have received critical reports regarding the failure to follow proper procedures during the initial counting phase, with most serious consequences in the Department of the West, which covers the Port Au Prince area.

Despite repeated misunderstandings over the actions of election officials at all levels, the delegation saw little evidence of any effort to favor a single political party or of an organized attempt to intentionally subvert the electoral machinery. At many points, the Provisional Electoral Council's actions and public statements raised questions about the credibility of the process. The most significant of the problems was the failure to explain the reasons candidates were rejected. Political parties raised these and other concerns relating to the transparency of the elections in their contacts with the delegation.

President Aristide and his government performed a positive role in repeating often the theme of reconciliation. In meeting with some rejected candidates and in a public statement on the eve of the elections, the President demonstrated his concern over the controversies surrounding the process and underscored his desire to be President of every Haitian citizen.

We wish to emphasize that this electoral process is far from over and thus a definitive evaluation is premature. The counting of ballots and the adjudication of electoral complaints are pending. There may even be a need to rerun elections in certain jurisdictions. We will remain in close contact with other observer delegations, most notably the Organization of American States, which has organized coverage of these elections throughout the country.

A determined effort is required to remedy the most significant problems affecting the electoral process before the next round of elections. Sincere consultations with a broad range of political parties and transparent decisionmaking by the electoral authorities should have occurred and are indispensable to strengthening Haiti's democratic institutions. The government also should consider carefully the recommendations of the United Nations, various observer delegations and technical election experts who have worked closely with their Haitian counterparts in assisting the electoral process. In this context, we note the very positive role that the United Nations Mission played in Haiti during the entire transition period.

Despite the problems associated with the pre-election period and observed on election day, the Haitian people voted freely and seemingly without fear. Haiti is now one step closer to establishing a functioning parliament and viable local government.

It is our firm belief that further steps to correct the identified problems will encourage a perception of fairness about this process, despite the inevitable difficulties of conducting an election in Haiti. The Haitian people have demonstrated that they have earned the respect associated with participating in the individual act of casting a ballot. For our part, we will continue to work with the government and people of Haiti in supporting the strengthening of democratic institutions in this country.

PRODIGIOUS TRAVEL BY ENERGY SECRETARY O'LEARY

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HOKE. Mr. Speaker, as you may remember, 1 month ago I asked the General Accounting Office and the chairmen of the House Commerce, House National Security, and House Government Reform and Oversight Committees to initiate investigations into the Secretary of Energy's prodigious travel.

I am happy to report that the General Accounting Office has initiated an investigation into Secretary O'Leary's travel. This is especially important in light of the Monday, June 26, front page story in the Los Angeles Times reporting that Secretary O'Leary's travel expenditures far exceed those of all other Cabinet officers.

When I made my May 25 statement about the Secretary's travel habits, I was under the impression that she had transferred $100,000 from various program accounts to finance her travel. Imagine my surprise when it actually turned out that Secretary O'Leary had transferred in excess of $400,000 from other accounts, including accounts used by scientists and technicians in the Department's nuclear safeguards and security program, to pay for her globe-trotting.

According to the L.A. Times, Secretary O'Leary believes in traveling first class all the way, spending approximately $815 per trip for a total of nearly $50,000 on her domestic travels. But that does not include the costs associated with her entourage that has included as many as 10 staff members. I ask unanimous consent that the Los Angeles Times article be inserted in the CONGRESSIONAL RECORD after my statement.

I now understand that Secretary O'Leary has demanded that DOE program offices cough up additional funds for her planned boondoggle to South Africa. I suppose that a safari to South Africa would be grand this time of the year, but I cannot believe that this trip is more important than safeguarding our nuclear deterrent. As I have said before, the Department of Energy seems to have become nothing more than a travel service to satisfy the Secretary's wanderlust.

For that reason and in order to gain a handle on DOE travel expenditures, I plan to offer an amendment to the Energy and Water Appropriations bill that would require Secretary O'Leary to report to Congress every time the Secretary authorized the payment of travel expenditures in excess of the amount appropriated for fiscal year 1996.

[From the Los Angeles Times/Washington edition, June 26, 1995]

O'LEARY: ENERGY SECRETARY LOGS CABINET'S HIGHEST TRAVEL COSTS

(By Alan C. Miller and Dwight Morris)

WASHINGTON.—Energy Secretary Hazel O'Leary defends her department against budget-cutting proposals to dismantle it by portraying herself as a master economizer in government—reducing her work force, boosting efficiency and saving taxpayers' money.

But when she hits the road in her job, as she often does, O'Leary apparently is no bargain hunter.

Traveling in a style that is unusual, if not unique, among her Cabinet colleagues, O'Leary is the jet-setter of the Clinton Administration.

On longer trips, the former corporate executive frequently upgrades her airline flights to business class or first class—and sometimes authorizes staff members accompanying her to do so as well. And she routinely stays at expensive hotels, such as the Ritz-Carlton and the Four Seasons, in contrast with more cost-conscious fellow Cabinet members.

The travel habits are apparent on the bills for all trips, other than flights on military or Energy Department aircraft, that she submits to the government. For her first two years on the job, the median cost of O'Leary's 61 domestic official trips was 58% higher than it was for EPA Administrator Carol Browner's trips, 73% higher than for travel by Housing Secretary Henry G. Cisneros and 90% higher than Health and Human Services Secretary Donna Shalala's trips, according to travel documents obtained under the Freedom of Information Act.

In a written response to questions, O'Leary said her travel costs and practices are entirely appropriate and that, in fact, she had spent nearly $14,500 of her own money on official travel. On most domestic flights, she upgrades to business class at no cost to the government, even though she is on duty 24 hours a day and does considerable work en route, a spokeswoman said.

''Secretary O'Leary is an activist secretary who believes that most of the work of the government is beyond the Beltway,'' said Barbara Semedo, the Energy Department's press secretary. ''She is responsible for supervising a nationwide network of sites, many of which are former nuclear weapons facilities located in remote areas of the western United States, where transportation is sometimes time-consuming and expensive.''

Two practices in particular put O'Leary at the top of the travel-expense list. The government has ceilings on the amount it will repay officials for meals and accommodations but citing special circumstances, O'Leary routinely seeks hotel reimbursement at as much as 150% of the maximum level. Other Cabinet members usually find lodging for considerably less.

And most other agency heads rarely, if ever, upgrade from coach class on commercial flights.

The figures cited for O'Leary do not reflect one additional area in which the Energy Department outspends other agencies: travel by staff members. The energy secretary usually takes a larger retinue of aides with her on trips than do her Cabinet colleagues.

O'Leary, 58, a lawyer, oversees a $17.5-billion agency and one of the largest federal bureaucracies, with 17,000 federal employees and another 140,000 who work for the government through contracts with private companies. Its responsibilities include cleaning up thousands of sites that were radio-actively contaminated through the nation's nuclear weapon program.

O'Leary was executive vice president for corporate affairs at Northern States Power Co., a gas and electric utility based in Minnapolis, before Clinton made her the first woman and first African American to head the Energy Department. A multimillionaire, her annual salary is now $148,400.

She won early plaudits for revealing information about government-sponsored atomic experiments and has led high-profile overseas trade missions to India, Pakistan and China, where U.S. energy firms signed deals that the Energy Department said were worth at least $19.2 billion.

While battling Republican-led efforts to eliminate her department in recent months, O'Leary has announced plans to close offices and reduce staff, as well as cut back on overall department travel.

An extensive review by The Times of the travel itineraries and vouchers of eight senior Clinton officials found that O'Leary's travel habits stood out. The median cost of her trips, which means that half her trips cost more and half less, was $671. The median duration of the trips was three days.

Among those surveyed, only Veterans Affairs Secretary Jesse Brown recorded similar costs. His traveling style is not comparable to O'Leary's, but he tends to take longer trips.

The figures for O'Leary and her counterparts appear low, in part because they include inexpensive trips, some of which involved only ground transportation and no overnight stays. In other cases, political campaign committees picked up some of the tab if the trip entailed a political appearance.

Moreover, government officials can be reimbursed no more than a certain amount for meals and lodging, with those maximums determined on a city-by-city basis. In addition, hotels and airlines often offer discount rates to government workers.

Overall, O'Leary spent $49,857 on her 61 domestic trips, a figure that does not include travel by her aides.

That amount was $11,088 less than Cisneros' cumulative cost, although he took nearly twice as many trips. Labor Secretary Robert B. Reich took only three fewer trips than O'Leary but charged taxpayers slightly more than half as much.

The seven times that O'Leary upgraded to business class or first class at public expense were generally on overseas or cross-country trips. She cited on her travel vouchers that she needed to do so to perform work during the flight, to arrive at her destination fresh enough to conduct business and because of periodic back spasms. Federal travel regulations require such justifications for flying via any class other than coach.

On other trips, Semedo said O'Leary upgraded by using frequent-flier miles accumulated before she came to the Energy Department or by paying the difference herself.

The spokeswoman said O'Leary considers it cost-effective for aides to upgrade so they can work with her in flight. Unless otherwise necessary, just a single seat is upgraded, with staff members moving back and forth from coach class to consult with the secretary.

But the practice can multiply the cost. During an October, 1993, flight from Chicago to London, three staff members upgraded to business class with O'Leary. The additional charge to the government for the secretary was $3,198, and the added amount for the three aides was $7,067.

The lodging choices of O'Leary and her Cabinet colleagues are also a study in contrasts.

When Browner traveled to Boston in late 1994 for the EPA, she stayed at the Charles Hotel on Harvard Square at a cost of $83 a night. O'Leary stayed at the Four Seasons for $335 a night when she flew to Boston in November, 1993.

When Reich went to New York for the Labor Department in April, 1993, he stayed at the Sheraton Manhattan for $125. Three weeks later. O'Leary flew to Manhattan and checked into the Ritz-Carlton for $195.

Federal travel regulations permit officials to seek approval to claim up to 150% of the maximum per diem cost if one of the several ''special or unusual circumstances'' applies. In Boston, O'Leary sought the higher rate in her travel authorization because she required lodging close to where she was scheduled to appear. She also did so in New York, citing high costs and her schedule.

The government maximum for New York accommodations is $140, or $210 at the higher reimbursement level. In Boston, however, even at the higher reimbursement rate, the secretary was able to put in for only $171 for lodging. O'Leary paid the balance herself.

Overall, O'Leary billed the government for expenses that exceeded the maximum standard reimbursement rate on 61 of the 71 occasions when she stayed at a hotel in the United States, records show. Other agency heads took advantage of the higher cap far less often.

O'Leary is usually joined by seven or more aides on foreign trips and by several aids on domestic journeys, through that number has been as high as 10 on occasion. She almost always travels with her director of scheduling and logistics and a security officer, Semedo said. Other staff members ''may be assigned if their expertise is needed'' in such matters as nuclear weapons cleanup or international trade, she added.

By comparison, Cisneros traveled alone on a quarter of his domestic trips, with one aide on nearly half of his trips and with as many of four staff members only once. U.S. Trade Representative Mickey Kantor traveled alone or with one aide on two-thirds of his trips that included domestic destinations and with no more than five on any trip.

''I don't travel with a large number of aides because I usually spend my travel time catching up on important reading that I can't get to in the office, or sketching out ideas,'' Cisneros said. ''Likewise, I find coach seating very satisfactory for my needs.''

One O'Leary destination had nothing to do with official Energy Department business.

In February, 1994, the secretary and two staff members traveled from Los Angeles to Boca Raton, Fla., where she participated in a weekend conference of the Democratic National Committee's Business Leadership Forum, a group of corporate executives who each gave at least $10,000 to the Democratic Party.

During her stay at the Boca Raton Resort & Club, O'Leary's schedule consisted primarily of attending a Democratic leadership forum lunch and dinner, as well as recreational and personal appointments. O'Leary did not seek reimbursement from the government for any of her expenses in Boca Raton. The Democratic National Committee repaid the Energy Department for the added cost of her flight from Los Angeles, where she had gone on government business.

But the two staff members who accompanied her did bill taxpayers for their flights to and from Florida and for some of their expenses during their midwinter stay at the oceanfront resort.

Chief of Staff Richard H. Rosenzweig was reimbursed for three nights at $125 a night and the daily per diem of $34. Johannah M. Dottori, O'Leary's director of scheduling and logistics, put in for the full resort rate of $257 for two nights and per diem for two days. Both sought the higher ceiling on their lodging because of ''extraordinary expenses associated with accompanying the secretary,'' according to their travel records.

Even so, Dottori exceeded the 150% limit by approximately $100. Semedo said Friday that this was ''an oversight'' by department auditors and that Dottori will probably have to reimburse the government for the excessive charge.

During the cross-country flight, Semedo said O'Leary worked on official business and consulted with her staff. Wherever O'Leary is, Semedo said, she spends ''a major portion of her time'' on departmental matters.

Asked to explain why Rosenzweig and Dottori were reimbursed for their expenses, the department cited a 1990 White House memorandum which said, in part, that travel can be charged to the government for individuals ''whose official duties require them to be with a Cabinet member, whether or not the Cabinet member himself is on official business.''

The two aides accompanied O'Leary ''to perform official functions, including preparation for upcoming work, policy discussions and providing a communications link to the department headquarters,'' Semedo said. ''They did not take part'' in partisan activities.

FLAG AMENDMENT IS THE PEOPLE'S WILL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to draw your attention to the comments of one of our colleagues in the House, the gentleman from Louisiana, Mr. JEFFERSON. His column entitled, ''Flag Amendment Is the People's Will'' was published in the recent edition of the American Legion Magazine in support of the constitutional amendment protecting our flag. As you know, Mr. Speaker, this constitutional amendment will be coming before us on the floor this Wednesday, June 28. I would ask all my fellow Members to heed Mr. JEFFERSON's sound advice and keep faith with the American people by supporting this constitutional amendment and sending it to the States and the people for ratification.

[From the American Legion]

FLAG AMENDMENT IS THE PEOPLE'S WILL

(By Representative William Jefferson)

In April, a proposed constitutional amendment that would permit the individual states to enact legislation banning physical desecration of the flag was introduced in the Congress.

After much careful deliberation, I became an original cosponsor of the amendment. My decision came not without considerable anguish, particularly over the principle of amending the Constitution.

In the final analysis, however, it came down to this: If we are not willing to stand up for our flag, what will we stand up for?

To those who say this is a First Amendment issue—an issue of free speech—let me remind them that there are several restrictions and limits on speech already. One cannot libel or slander another without fear of

legal retribution. One cannot advocate the assassination of the President without the Secret Service becoming extremely interested in his or her speech. As Supreme Court Justice Felix Frankfurter pointed out so eloquently many years ago, our right to free speech does not extend to yelling ''Fire!'' in a crowded theater. No, this is not a free speech issue. Rather, it is a matter of personal responsibility.

Surely, desecrating a U.S. Flag—burning a flag—is abhorred by society, and our society has the right to demand that such activity be punished. Reflecting that sentiment, my home state of Louisiana in 1991 was the 21st of 49 states so far to pass a resolution urging Congress to approve a flag-protection amendment.

Amending the Constitution is no simple undertaking. The Founding Fathers intended it to be that way. Two-thirds of the House (290 Members) and Senate (67) must agree to pass the legislation, then three-fourths of the states—36—must ratify the amendment within seven years.

Throughout our history, constitutional amendments have proved the only path for redress of serious societal ills in our country. Women's suffrage, for example, was accomplished through a constitutional amendment, as was the abolition of slavery after the Civil War. The Fourteenth Amendment recognized former slaves as citizens and the Fifteenth gave them the right to vote. No one could deny that these amendments—controversial as they were at the time—made our society better.

This proposed amendment and the need of its passage grew from a 1989 Supreme Court decision, Texas v. Johnson. The court narrowly ruled, 5–4, that burning an American Flag was ''protected'' as free speech. The case arose following a demonstration at the Republican National Convention in Dallas in 1984. Gregory Johnson and a group of fellow protesters burned a flag outside the convention hall as part of their protest. Texas authorities convicted Johnson of flag desecration under existing Texas law. The Supreme Court decision overturned not only the Texas law, but also flag-protection statutes in 47 other states and the District of Columbia.

The American public was outraged then and continues to be outraged today. Public-opinion polls show that more than 80 percent of all Americans favor protection of the flag. Following the 1989 Supreme Court decision and a similar 5–4 decision in 1990 in another flag desecration case, three out of four Americans believed the only way to protect the flag was through a constitutional amendment.

Nearly 40 years ago in the hot summer of 1957, Dr. Martin Luther King was beginning his dream of equality for all Americans. At a citizenship education program that summer, King said there was glory in citizenship, and that we don't want haters. Our country, he said, may not be all we want it to be, but that would change.

Respect your country; honor its flag.

We have come a long way as a nation since 1957. Dr. King's dream still lives—the American dream persists. In the words of Charles Evan Hughes, the 11th Chief Justice of the U.S. Supreme Court, ''This flag means more than association and reward. It is the symbol of our national unity.''

It is now our time to do our patriotic duty, to keep faith with the American people who sent us to Washington. Passing this flag-protection amendment adds one more strand to the fabric woven by preceding generations—the fabric of freedom, symbolized by our flag.

SAN YSIDRO NEIGHBORHOOD HISTORY DAY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FILNER. Mr. Speaker, I rise today to honor the community of San Ysidro in recognition of San Ysidro Neighborhood History Day. Its official name, ''San Ysidro,'' was given in 1909 by a group of people who came to live in the valley and founded a small agricultural colony named after Saint Isidro—the patron saint of field laborers and agriculture.

In 1957, San Ysidro was incorporated to the city of San Diego. Today, in 1995, because it is California and San Deigo's gateway to Mexico and Latin America, San Ysidro plays a major role in the development of San Diego.

The success of this unique community is an example of what happens when people take pride in their neighborhood—a community made up of friends and families that work hard every day for the betterment of the residents and especially the children.

San Ysidro Neighborhood History Day was celebrated with exhibits about the history of San Ysidro, the unveiling of murals by the children of San Ysidro, and a theatrical performance. I have been working with the community of San Ysidro since my days on the San Diego City Council to help the community foster pride in its diversity and culture. I was proud to participate with the community in recognizing San Ysidro Neighborhood History Day.

LETTER IN RESPONSE TO THE POMBO-SOLOMON AMENDMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to bring to your attention a letter I received in response to the Pombo-Solomon amendment which passed overwhelmingly in the House last week. The letter, in support of the amendment, is from Rear Adm. Joseph F. Callo, a Yale University alumnus.

JUNE 14, 1995.

Hon. GERALD B.H. SOLOMON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SOLOMON: I support your efforts to block all federal financial aid to schools that deny ROTC on campus.

The intellectual dishonesty of the campus groups that argue for the ban of ROTC, and other military activities on campus, is appalling. I am also deeply saddened by a faculty and administration that supports those efforts. My distress is heightened by the following:

As an undergraduate at Yale, I learned the importance of objectivity, intellectual consistency and rationality. Each of these qualities has been trampled by those pursuing, or supporting, the anti-ROTC efforts.

As a former NROTC student at Yale, I know first hand of the high academic quality of that program.

As a taxpayer, I protest using my tax money to support the students, administration and faculty involved in these efforts.

As an alumnus of Yale, I am aware of the significant contributions to national defense made through the years by members of the Yale community—including in some instances, the sacrifice of their lives. The efforts of those advocating, or supporting, the ban of ROTC units on the campus are an obscenity in the face of those contributions.

Please continue your efforts.

Sincerely,

JOSEPH F. CALLO,
Rear Admiral, USNR (Ret).

CONGRATULATIONS TO DR. DONALD E. JARNAGIN

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. STUMP. Mr. Speaker, it is a pleasure for me to recognize that a good friend and fellow native Arizonan, Dr. Donald E. Jarnagin, of Glendale, Arizona, is being inducted as the 74th President of the American Optometric Association today by his colleagues at their 98th Annual Congress in Nashville, Tennessee.

Don's accomplishment are most impressive and extend past his field of optometry. He is a graduate of Southern California College of Optometry in Fullerton, California, and has held numerous elective and appointed positions in his professional career. Prior to first being elected to the American Optometric Association Board of Trustees in 1987, Don served as the Central Arizona Optometric Society's President and then went on to become President of the Arizona Optometric Association.

Active in his community, Don is a former president of the Glendale Rotary Club and has been appointed a member of the City of Glendale Charter Review Committee. He chaired the City of Glendale Housing Authority and has also been active in the Glendale Chamber of Commerce.

I am pleased to join Don's family, many friends and colleagues in congratulating him on his induction today. From his many years of friendship and counsel, I know that he will be an outstanding AOA President, and will do a great job in leading the Association in its efforts to improve our Nation's vision care.

IMPORTANT NEWS ON THE DRUG ISSUES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to share with you some important news on the drug issue. In April of this year, the U.S. Sentencing Commission recommended that Congress end the sentencing disparity between powder cocaine and crack cocaine. Congress ought to ignore this politically correct suggestion and reaffirm its well-considered position that offenses involving crack cocaine deserve more severe punishment than those involving powder cocaine.

Under current Federal law, there is a 100:1 powder/crack ratio. That is, possession or distribution of 100 grams of powder is treated as

the equivalent of possession or distribution of one gram of crack for sentencing purposes. Therefore as the law currently stands, a first-time offender involved with one gram of crack would receive the same 5-year mandatory minimum sentence as another first-time offender arrested for an offense involving 100 grams of powder cocaine.

The Sentencing Commission recommends that Congress rewrite the law and treat crack and powder cocaine on an equal basis. Evidently, some members believe that there is no reason for the disparity. In my opinion, Congress in the 1980's reacted properly to the crack epidemic gripping vulnerable innercity communities. This body saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine and decided that crack offenses ought to be punished more severely than powder offenses because of the violence associated with the use and trafficking of crack.

I would alert my colleagues that there is another way to achieving equal treatment of crack and powder cocaine: Instead of lowering the penalties for crack offenses, as the Sentencing Commission proposes, we should increase the punishment for powder offenses. The advantages would be two-fold: First, it would prevent opponents from playing the ''race card.'' Second, it would stiffen the penalties for cocaine offenses, which are currently far too lenient.

Whatever path is taken—maintaining the current ratio—or mildly reducing it—or raising the penalties for powder offenses to achieve equal treatment—one point must be emphasized: Congress must do something. For if Congress fails to address the hasty recommendation offered by the Sentencing Commission, it will automatically become law on November 1, 1995.

Mr. Speaker, at this time I would submit into the CONGRESSIONAL RECORD a position paper on this subject drafted by Drug Watch International.

ALERT, JUNE 1995

A massive federal decriminalization of the most dangerous drug destroying our communities and feeding the wave of inner-city violence is poised to become law! And it will happen automatically on November 1, 1995, unless Congress stops it.

Crack dealing, even in large amounts, is about to be 99 percent decriminalized.

The greatest weapon used by federal prosecutors to protect urban, inner-city communities from gangs and gang violence will be 99 percent defused.

Who will benefit? Gang leaders and crack dealers whose business and activities are already destroying the lives and the future of one of the most vulnerable segments of our society.

Who will be hurt? The children of crack addicts who will continue to have everything of value in their households, including the money for food and clothing, and sometimes even their own bodies, given or sold by their parents to crack dealers for just one more fix. And the other helpless hostages of gangs in communities in which the most violent predators among them will be able to walk in the open with more confidence as they build their empires of drugs and violence.

How will it happen? The United States Sentencing Commission, which sets the guidelines federal judges must follow in imposing sentences, has recommended that the sentencing guidelines for crack offenses be reduced to equal the far lesser penalties for cocaine powder. Currently, one unit of crack is treated as the equivalent of 100 units of cocaine for sentencing purposes. That 100:1 ratio is also embodied in the federal mandatory minimum sentences, which provide a mandatory five year sentence for offenses involving five grams of crack (or 500 grams of cocaine), and 10 years for 50 grams of crack (or 5 kilograms of cocaine).

By law if Congress takes no action to stop it on November 1, 1995 it will take 100 times as much crack in an offense to get the same sentence as today. The Sentencing Commission recommendation will pass automatically. That is the way Congress set it up. Therefore, no one will be on the record favoring a massive decriminalization. It will just sneak on through and become law.

Effective investigation and prosecution of organized gang crimes invariably requires the undercover assistance and later trial testimony of gang members who have access to the gang's leadership and knowledge of the gang's inner workings. Such key gang insiders only agree to cooperate with agents and prosecutors when they fear federal sentences more than they fear and are loyal to their fellow gang members. Gangs thrive in prisons, and short prison sentences only give gang members a chance to advance in rank and return to the streets with more power than when they went in. Only very long sentences can remove the smirk from a hardened gang member's face and make him even consider helping the police.

If the sentences for crack crimes are reduced as proposed, the smirk will return. The threat will go out of federal sentences. Agents and prosecutors will be largely disarmed in their fight against the most dangerous and destructive predators in our cities.

Some people believe the drug laws are too harsh on those predators, and want to ease up on the federal pressure on gangs. At the moment, those sympathizers are in control. Only Congress can stop them, but most members of Congress may not even be aware of or understand the threat, so they will do nothing. Which means the decriminalizers win, automatically!

For the sake of the most vulnerable in our society, we must not let that happen!

The penalties for cocaine powder should be raised to equal those of crack, not the other way around.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S9109–S9198

Measures Introduced: Seven bills and one resolution were introduced, as follows: S. 968–974, and S. Res. 142. **Page S9174**

Measures Passed:

Congratulating the New Jersey Devils: Senate agreed to S. Res. 142, to congratulate the N.J. Devils for becoming the 1995 NHL champions and thus winning the Stanley Cup. **Pages S9174, S9182**

Private Securities Litigation Reform Act: Senate continued consideration of S. 240, to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act, with a committee amendment in the nature of a substitute, taking action on further amendments proposed thereto, as follows: **Pages S9109–45, S9150–73**

Adopted:

(1) D'Amato Modified Amendment No. 1476, of a perfecting nature. **Page S9117**

(2) Biden Amendment No. 1481, to make applicable the criminal Rico statutes if any participant in fraud is criminally convicted. **Page S9163**

(3) Bingaman/Bryan Amendment No. 1482, to clarify the application of sanctions under rule 11 of the Federal Rules of Civil Procedure in private securities litigation. **Pages S9163–64**

Rejected:

(1) By 39 yeas to 60 nays, 1 responding present (Vote No. 286), Bryan Amendment No. 1474, to restore the liability of aiders and abetters in private actions. **Pages S9109–12, S9115–16**

(2) By 41 yeas to 58 nays, 1 responding present (Vote No. 287), Boxer/Bingaman Amendment No. 1475, to establish procedures governing the appointment of lead plaintiffs in private securities class actions. **Pages S9112–17**

(3) By 43 yeas to 56 nays, 1 responding present (Vote No. 288), Sarbanes/Lautenberg Amendment No. 1477, to require the Securities and Exchange Commission to review the regulatory ''safe harbor'' for forward looking statements. **Pages S9117–31**

(4) Sarbanes Amendment No. 1478, to establish that an exemption from liability is lost for forward looking statements made when knowingly misleading or false. By 50 yeas to 48 nays, 1 responding present (Vote No. 289), Senate tabled the amendment. **Pages S9133–45**

(5) By 32 yeas to 61 nays, 1 responding present (Vote No. 290), Graham Amendment No. 1479, to provide for an early evaluation procedure in securities class actions. **Pages S9150–56, S9162**

Pending:

(1) Boxer Amendment No. 1480, to exclude insider traders who benefit from false or misleading forward looking statements from safe harbor protection. **Pages S9156–63**

(2) Specter Amendment No. 1483, to provide for sanctions for abuse litigation. **Pages S9164–70**

(3) Specter Amendment No. 1484, to provide for a stay of discovery in certain circumstances. **Page S9170**

(4) Specter Amendment No. 1485, to clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation. **Pages S9170–73**

A unanimous-consent agreement was reached providing for further consideration of the bill and the pending amendments proposed thereto, with votes to occur thereon, on Wednesday, June 28, 1995. **Page S9163**

Nominations Received: Senate received the following nominations:

Todd J. Campbell, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

James M. Moody, of Arkansas, to be United States District Judge for the Eastern District of Arkansas.

Evan J. Wallach, of Nevada, to be a Judge of the United States Court of International Trade.

Alberto J. Mora, of Florida, to be a Member of the Broadcasting Board of Governors for a term of two years. **Page S9198**

Communications: **Page S9174**

Statements on Introduced Bills: **Pages S9174–81**

Additional Cosponsors: Pages S9181–82
Amendments Submitted: Pages S9182–85
Notices of Hearings: Page S9185
Authority for Committees: Page S9186
Additional Statements: Pages S9186–95

Record Votes: Five record votes were taken today. (Total–290) Pages S9116–17, S9130–31, S9144–45, S9162

Recess: Senate convened at 9:15 a.m., and recessed at 9:38 p.m., until 8:40 a.m., on Wednesday, June 28, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S9195.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—DEFENSE

Committee on Appropriations: Subcommittee on Defense held hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on the ballistic missile defense program, receiving testimony from Lt. Gen. Malcolm R. O'Neill, Director, Ballistic Missile Defense Organization, Department of Defense.

Subcommittee will meet again on Tuesday, July 11.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Readiness met and approved those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Airland Forces met in closed session to mark up those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs, but did not complete action thereon and will meet again tomorrow.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on SeaPower met in closed session and approved those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Strategic Forces met in closed session and approved those provisions which fall within its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs.

PROPERTY RIGHTS AND ENVIRONMENTAL LAWS

Committee on Environment and Public Works: Committee held oversight hearings on proposals to supplement the legal framework for private property interests, focusing on the operation of Federal environmental laws, including related provisions of S. 605, receiving testimony from John R. Schmidt, Associate Attorney General, Department of Justice; Joseph L. Sax, Counselor to the Secretary and Deputy Assistant Secretary for Policy, Department of the Interior; New Hampshire State Senator Richard L. Russman, Kingston, on behalf of the National Conference of State Legislatures; Roger J. Marzulla, Akin, Gump, Strauss, Hauer and Feld, Roger Pilon, CATO Institute, and Edward M. Thompson, Jr., American Farmland Trust, all of Washington, D.C.; Frank I. Michelman, Harvard University Law School, Cambridge, Massachusetts; Jim Little, Emmett, Idaho, on behalf of the National Cattlemen's Association; and Don Martin, Albuquerque, New Mexico, on behalf of the National Association of Home Builders.

Hearings were recessed subject to call.

SOCIAL SECURITY TRUST FUNDS

Committee on Finance: Subcommittee on Social Security and Family Policy held hearings on proposals to restore the long-term solvency of the Social Security System, focusing on the Old Age and Survivors Insurance Trust Fund and the Disability Insurance Trust Fund, receiving testimony from Senator Kerrey; David M. Walker, Arthur Andersen LLP, Atlanta, Georgia, former Public Trustee of the Social Security and Medicare Trust Funds, and former Assistant Secretary of Labor; and Stanford G. Ross, Arnold & Porter, former Commissioner of Social Security and former Public Trustee of the Social Security and Medicare Trust Funds, Mark A. Weinberger, Oldaker, Ryan & Leonard, Anne C. Canfield, McClure, Gerard & Neuenschwander, Inc., Heather Lamm, Third Millennium, C. Eugene Steuerle, Urban Institute, and Allan Tull, American Association of Retired Persons, all of Washington, D.C.

Hearings were recessed subject to call.

DEPARTMENT OF JUSTICE OVERSIGHT

Committee on the Judiciary: Committee held oversight hearings on the activities and responsibilities of the Department of Justice, focusing on the administration of justice and the enforcement of laws, receiving testimony from Janet Reno, Attorney General, Department of Justice.

Hearings were recessed subject to call.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Dianne P. Wood, of Illinois, to be United States Circuit Judge for the Seventh Circuit, Tena Campbell, to be United States District Judge for the District of Utah, George H. King, to be United States District Judge for the Central District of California, and Robert H. Whaley, to be United States District Judge for the Eastern District of Washington, after the nominees testified and answered questions in their own behalf. Ms. Wood was introduced by Senators Simon and Moseley-Braun, Ms. Campbell was introduced by Senators Hatch and Bennett, Mr. King was introduced by Senator Boxer, and Mr. Whaley was introduced by Senators Gorton and Murray.

BRAIN RESEARCH AND HEALTH CARE COST REDUCTION

Special Committee on Aging: Committee concluded hearings to examine how investment in research into the causes and courses of certain diseases can reduce health care costs, focusing on brain research and the long-term-care costs of brain-related disorders, and a task force report on how to prioritize and fund aging-related research, after receiving testimony from Senator Hatfield; Richard W. Besdine, University of Connecticut Health Center, Farmington, Connecticut, representing the Alliance for Aging Research; Guy M. McKhann, Johns Hopkins University, Baltimore, Maryland, representing the Dana Alliance for Brain Initiatives; Jerry Avorn and Dennis J. Selkoe, both of the Brigham and Women's Hospital, and Ole Isacson, McLean Hospital, all of the Harvard University Medical School, Arthur D. Ullian, National Campaign to End Neurological Disorders, and Benjamin Reeve, all of Boston, Massachusetts; Robert M. Goldberg, Brandeis University, Waltham, Massachusetts; Allen D. Roses, Duke University Medical Center, Durham, North Carolina; Dennis W. Choi, Washington University School of Medicine, St. Louis, Missouri; Millicent R. Kondracke, Washington, D.C.; and Frances Powers, Lebanon, Pennsylvania.

House of Representatives

Chamber Action

Bills Introduced: Fifteen public bills, H.R. 1926–1940; and three resolutions, H.J. Res. 98, H. Con. Res. 79, and H. Res. 174 were introduced.

Page H6396

Reports Filed: Reports were filed as follows:

H.R. 541, to reauthorize the Atlantic Tunas Convention Act of 1975, amended (H. Rept. 104–109, Part 2);

H.R. 1642, to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of Cambodia (H. Rept. 104–160);

H.R. 1887, to authorized appropriations for fiscal years 1996 and 1997 for the International Trade Commission, the Customs Service, and the Office of the United States Trade Representatives, amended, (H. Rept. 104–161);

H.R. 1643, to authorize the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of Bulgaria (H. Rept. 104–162);

H.R. 1176, to nullify an executive order that prohibits Federal contracts with companies that hire permanent replacements for striking employees (H. Rept. 104–163);

H. Res. 173, proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States (H. Rept. 104–164). **Pages H6377, H6395–96**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Emerson to act as Speaker pro tempore for today.

Page H6313

Recess: House recessed at 10:52 a.m. and reconvened at noon. **Page H6315**

Catafalque Transfer: House agreed to S. Con. Res. 18, authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service—clearing the measure. **Page H6319**

Committees To Sit: The following committees and their subcommittees received permission to sit today during the proceedings of the House under the five-minute rule: Committees on Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, International Relations, Resources, Science, Transportation and Infrastructure, and Select Intelligence.

Page H6319

Air Force Academy: The Speaker appointed Representatives Young of Florida, Hefley, Dicks, and

Tanner, as members of the Board of Visitors to the United States Air Force Academy on the part of the House. **Page H6319**

Veterans Health Care: House voted to suspend the rules and pass H.R. 1565, amended, to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange, ionizing radiations, or environmental hazards. Agreed to amend the title. **Pages H6319–23**

Foreign Operations Appropriations: House continued consideration of H.R. 1868, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996; but came to no resolution thereon. Consideration of amendments will continue on Wednesday, June 28. **Pages H6324–77**

Agreed to:

The Gilman amendment that strikes language protecting the new child survival account from other laws; maintains a prohibition transferring funds from development assistance to other accounts; restates funding for Russia and the states of the former Soviet Union be used for limited purposes; and lowers the ratio of private to public funds to 1 to 1, that the former states must raise to qualify for certain funding; **Pages H6325–26**

The Klug amendment, as amended by the Callahan substitute, that reduces to $69,000, allocations for the cost of direct and guaranteed loans and strikes language that requires OPIC's subsidy come from its non-credit account; **Pages H6337–39**

The Burton of Indiana amendment that eliminates the $30 million Agency for International Development (AID) reform and downsizing account (agreed to by a recorded vote of 238 ayes to 176 noes, Roll No. 423); **Pages H6346–49**

The Hall of Ohio amendment, as modified, that increases the allocation to the Child Survival and Disease Fund by $108 million (agreed to by a recorded vote of 263 ayes to 187 noes, Roll No. 424); **Pages H6349–54**

The Miller of Florida amendment, as amended by the Wilson substitute amendment, that reduces funding to the new independent states of the former Soviet Union by $15 million; **Pages H6354–60**

The Jackson-Lee amendment that increases funding for the African Development Foundation by $1.5 million; and **Pages H6360–61**

The DeLay amendment, as amended by the Porter amendment (agreed to by a recorded vote of 242 ayes to 180 noes, Roll No. 426) that reduces by $20 million funding for the World Bank's Global Environment Facility (agreed to by a recorded vote of 273 ayes to 146 noes, Roll No. 427). **Pages H6364–70**

Rejected:

The Gilman amendment that sought to reduce the Development Assistance Fund by $25 million to conform with the foreign aid authorization (rejected by a recorded vote of 202 ayes to 218 noes, Roll No. 420); **Pages H6326–30**

The Sanders amendment that sought to abolish the Overseas Private Investment Corporation (OPIC) by October 1, 1995, and transfer the remaining functions to the State Department (rejected by a recorded vote of 90 ayes and 329 noes, Roll No. 421); **Pages H6330–37**

The Brownback amendment that sought to restore $24 million in assistance to the states of the former Soviet Union (rejected by a recorded vote of 78 ayes to 340 noes, Roll No. 422); and **Pages H6341–44**

The Hefley amendment to the Wilson substitute to the Miller of Florida amendment that sought to reduce funding to the new independent states of the former Soviet Union by $327 million (rejected by a recorded vote of 104 ayes to 320 noes, Roll No. 425). **Pages H6355–60**

The following amendments were offered but subsequently withdrawn:

The Richardson amendment that sought to increase funding for migration and refugee assistance by $1 million to assist the Thai-Burma border crisis; **Pages H6344–46**

The Lowey amendment that sought to prohibit funding for international military education and training in Indonesia; and **Pages H6361–64**

The Wilson amendment that sought to reduce by $10 million funding for the World Bank's Global Environment Facility. **Pages H6366–68**

Soap Box Derby: House agreed to H. Con. Res. 38, authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby. **Page H6377**

Committees To Sit: The following committees and their subcommittees received permission to sit Wednesday, June 28, during the proceedings of the House under the five-minute rule: Committees on Agriculture, Banking and Financial Services, Commerce, Economic and Educational Opportunities, Government Reform and Oversight, Judiciary, National Security, Small Business, and Select Intelligence. **Page H6378**

Senate Messages: Messages received from the Senate today appear on pages H6315–16.

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H6397–98.

Quorum Calls—Votes: Eight recorded votes developed during the proceedings of the House today and appear on pages H6329–30, H6336–37, H6343–44, H6349, H6353–54, H6360, H6370, and H6370–71.

There were no quorum calls.

Adjournment: Met at 10:30 a.m. and adjourned at 11:36 p.m.

Committee Meetings

AGRICULTURE AND INTERIOR APPROPRIATIONS

Committee on Appropriations: Ordered reported the following appropriations for fiscal year 1996: Agriculture and Interior.

FINANCIAL INSTITUTIONS REGULATORY RELIEF ACT

Committee on Banking and Financial Services: Continued markup of H.R. 1362, Financial Institutions Regulatory Relief Act of 1995.

Will continue tomorrow.

INDIVIDUALS WITH DISABILITIES EDUCATION

Committee on Economic and Educational Opportunities: Subcommittee on Early Childhood, Youth and Families continued hearings on the Individuals with Disabilities Education Act. Testimony was heard from Representatives Visclosky and Traficant; and public witnesses.

D.C. SCHOOL REFORM

Committee on Economic and Educational Opportunities: Subcommittee on Oversight and Investigations held a hearing on D.C. School Reform. Testimony was heard from public witnesses.

GOVERNMENT PERFORMANCE AND RESULTS ACT COMPLIANCE

Committee on Government Reform and Oversight: Subcommittee on Government Management, Information, and Technology held a hearing on Government Performance and Results Act Compliance. Testimony was heard from John A. Koskinen, Deputy Director, Management, OMB; Johnny C. Finch, Assistant Comptroller General, General Government Programs, GAO; Anthony A. Williams, Chief Financial Officer, USDA; Vice Adm. Arthur Henn, USCG, Vice Commandant, U.S. Coast Guard, Department of Transportation; Joseph Thompson, Director, New York Regional Office, Department of Veterans Affairs; Col. F. Edward Ward, Jr., Director, Field Offices, Defense Finance Accounting Service, Department of Defense; and public witnesses.

ILLICIT DRUG AVAILABILITY

Committee on Government Reform and Oversight: Subcommittee on National Security, International Affairs, and Criminal Justice held a hearing on Illicit Drug Availability: Are Interdiction Efforts Hampered by a Lack of Agency Resources? Testimony was heard from Thomas A. Constantine, Administrator, DEA, Department of Justice; Joseph Kelly, Director-In-Charge, International Affairs Issues, GAO; Ambassador Jane E. Becker, Principal Deputy Assistant Secretary, International Narcotics and Law Enforcement, Department of State; and Brian Sheridan, Deputy Assistant Secretary, Drug Enforcement Policy and Support, Department of Defense; and public witnesses.

Hearings continue tomorrow.

VALUE OF MICROENTERPRISE DEVELOPMENT

Committee on International Relations: Held a hearing on the Value of Microenterprise Development. Testimony was heard from Roxann A. VanDusen, Senior Deputy Assistant Administrator, Global Programs, Field Support and Research, AID, U.S. International Cooperation Agency; and public witnesses.

ASIA-U.S. SECURITY INTERESTS

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on U.S. Security Interests in Asia. Testimony was heard from Winston Lord, Assistant Secretary, East Asian and Pacific Affairs, Department of State; and the following officials of the Department of Defense: Joseph S. Nye, Assistant Secretary, International Security Affairs; and Adm. Richard C. Macke, USN, Commander-in-Chief, U.S. Pacific Command.

OVERSIGHT

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on the issue of Federal oversight of States acting under the Surface Mining Control and Reclamation Act of 1977 to effectively regulate active coal mining operations and protect the environment consistent with the State primacy provision of the Act. Testimony was heard from Robert Uram, Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior; Charles R. Matthews, Commissioner of Railroads, State of Texas; Ted Stewart, Director, Natural Resources, State of Utah; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans approved for full Committee action the following bills: S. 268, to authorize the collection of fees for expenses for triploid grass carp

certification inspection; and H.R. 1675, amended, National Wildlife Refuge Improvement Act of 1995.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on National Parks, Forests and Lands approved for full Committee action the following bills: H.R. 1296, amended, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; H.R. 629, The Fall River Visitor Center Act of 1995; and H.R. 1508, to require the transfer of title to the District of Columbia certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park.

PROHIBITING PHYSICAL DESECRATION OF THE FLAG

Committee on Rules: Granted, by a voice vote, a rule providing for consideration of H.J. Res. 79, proposing an amendment to the Constitution of the United States authorizing the Congress and the State to prohibit the physical desecration of the flag of the United States, in the House. The rule provides for 1 hour of general debate. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit, with or without instructions. The rule provides that if the motion to recommit is with instructions, it may only be offered by the minority leader or a designee but shall be debatable for 1 hour, equally divided between the proponent and an opponent. Testimony was heard from Chairman Hyde and Representatives Canady, Conyers, Frank of Massachusetts, Thornton, and Skaggs.

TECHNOLOGY TRANSFER

Committee on Science: Subcommittee on Technology and the Subcommittee on Basic Research held a joint hearing on Technology Transfer. Testimony was heard from Richard Marczewski, Manager, Technology Transfer Office, National Renewable Energy Laboratory, Department of Energy; Ambassador C. Paul Robinson, Vice President, Laboratory Development, Sandia National Laboratory; William Martin, Vice President, Office of Technology Transfer, Lockheed-Martin Energy Systems, Oak Ridge National Laboratory; Peter Lyons, Director, Industrial Partnership Office, Los Alamos National Laboratory; Ronald W. Cochran, Laboratory Executive Officer, Lawrence Livermore National Laboratory; and public witnesses.

SUPERFUND REAUTHORIZATION

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment continued hearings on the reauthorization and reform of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund). Testimony was heard from Carol M. Browner, Administrator, EPA; Lois Schiffer, Assistant Attorney General, Department of Justice; Sherri Goodman, Deputy Under Secretary, Environmental Security, Department of Defense; Tom Grumbly, Assistant Secretary, Environmental Management, Department of Energy; and Robert P. Davison, Assistant Secretary, Fish, Wildlife and Parks, U.S. Fish and Wildlife Service, Department of the Interior.

FAMILY MEDICAL SAVINGS AND INVESTMENT ACT

Committee on Ways and Means: Subcommittee on Health held a hearing on H.R. 1818, Family Medical Savings and Investment Act of 1995. Testimony was heard from Representatives Archer, Jacobs, Christensen, Roberts, Chrysler, Salmon, and Ganske; Brett Schundler, Mayor, Jersey City, New Jersey; and public witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 28, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services, Subcommittee on Acquisition and Technology, closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1996, 9 a.m., SR–222.

Subcommittee on Airland Forces, closed business meeting, to continue markup of those provisions which fall under its jurisdiction of proposed legislation authorizing funds for fiscal year 1996 for national defense programs, 10 a.m., SR–232A.

Full Committee, closed business meeting, to mark up a proposed National Defense Authorization Act for fiscal year 1996, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for fiscal year 1996, 1 p.m., SR–222.

Committee on Banking, Housing, and Urban Affairs, business meeting, to mark up S. 883, to amend the Federal Credit Union Act to enhance the safety and soundness of federally insured credit unions, and to protect the National Credit Union Share Insurance Fund, and proposed legislation to extend and reauthorize the Defense Production Act, and to consider pending nominations, 10 a.m., SD–538.

Committee on Energy and Natural Resources, business meeting, to consider pending calendar business, 9:30 a.m., SD–366.

Committee on Finance, to hold hearings to examine ways to control the cost of the Medicaid program, focusing on the States' perspectives, 9:30 a.m., SD–215.

Committee on the Judiciary, Subcommittee on Immigration, to hold joint hearings with the House Committee on the Judiciary's Subcommittee on Immigration and

Claims to review a report of the U.S. Commission on Immigration, 10 a.m., 2141 Rayburn Building.

Committee on Indian Affairs, to hold hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs, 9:30 a.m., SR–485.

House

Committee on Agriculture, to mark up H.R. 1103, Perishable Agricultural Commodities Act, 1930, 10 a.m., 1300 Longworth.

Committee on Appropriations, Subcommittee on Commerce, Justice, State, and Judiciary, to mark up appropriation for fiscal year 1996, 1 p.m., H–309 Capitol.

Subcommittee on District of Columbia, on D.C. Finances, 10 a.m., H–144 Capitol.

Subcommittee on Treasury, Postal Service, and General Government, to mark up appropriations for fiscal year 1996, 8:30 a.m., B–307 Rayburn.

Committee on Banking and Financial Services, to continue mark up of H.R. 1362, Financial Institutions Regulatory Relief Act of 1995, 9:30 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Energy and Power, oversight hearing on High-Level Radioactive Waste Disposal, 9:30 a.m., 2322 Rayburn.

Subcommittee on Health and Environment, to continue hearings on the Transformation of the Medicaid program, 10 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Early Childhood, Youth and Families, hearing on the Older American's Act, 10 a.m., 2261 Rayburn.

Subcommittee on Workforce Protections, to continue hearings on H.R. 1834, Safety and Health Improvement Reform Act of 1995, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Civil Service, hearing on Funding Civil Service Retirement, 10 a.m., 2154 Rayburn.

Subcommittee on National Security, International Affairs, and Criminal Justice, to continue hearings on Illicit Drug Availability: Are Interdiction Effort Hampered by a Lack of Agency Resources? 10 a.m., 311 Cannon.

Subcommittee on Postal Service, to continue oversight hearings on the U.S. Postal Service, 10 a.m., 2247 Rayburn.

Committee on International Relations, to mark up the following measures: H.R. 927, Cuban Liberty and Democratic Solidarity Act of 1995; and H.J. Res. 83, relating to the United States-North Korea Agreed Framework and the obligations of North Korea under that and previous agreements with respect to the denuclearization of the Korean Peninsular and dialog with the Republic of Korea, 2 p.m., 2172 Rayburn.

Subcommittee on International Economic Policy and Trade, oversight hearing on the U.S. AID Housing Investment Guaranty Program, 10 a.m., 2200 Rayburn.

Subcommittee on International Operations and Human Rights, to consider the issuance of subpoenas, writs of habeas corpus ad testificandum, and/or other measures to secure the attendance of witnesses, 9:30 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on state taxation of nonresidents' pension income, including the following bills: H.R. 371, to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; H.R. 394, to amend title 4 of the United States Code to limit State taxation of certain pension income; and H.R. 744, to limit State taxation of certain pension income, 10 a.m., 2226 Rayburn.

Subcommittee on Courts and Intellectual Property, to continue hearings on H.R. 1506, Digital Performance Right in Sound Recordings Act of 1995, 10 a.m., 2237 Rayburn.

Committee on National Security, Subcommittee on Military Personnel, hearing on U.S. POW/MIAs in Laos, 10 a.m., 2118 Rayburn.

Committee on Rules, to consider the following: Conference Report to accompany H. Con. Res. 67, setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002; and a measure making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, 4 p.m., H–313 Capitol.

Committee on Science, hearing on Restructuring the Federal Scientific Establishment, 9:30 a.m., and to mark up the following bills: H.R. 1815, American Technology Advancement Act of 1995; H.R. 1175, Marine Resources Revitalization Act of 1995; H.R. 1601, International Space Station Authorization Act; H.R. 1870, American Technology Advancement Act of 1995; H.R. 1852, National Science Foundation Authorization Act; and H.R. 1851, the United States Fire Administration Authorization Act, 12 p.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Government Programs, hearing on SBA's Low-Documentation (LowDoc) Loan Program, 2 p.m., 2359 Rayburn.

Subcommittee on Taxation and Finance, to continue hearings on the Burden of Payroll Taxes on Small Businesses, 10 a.m., 2359 Rayburn.

Committee on Standards of Official Conduct, executive, to consider pending business, 1 p.m., HT–2M Capitol.

Joint Meetings

Joint Hearing: Senate Committee on the Judiciary, Subcommittee on Immigration, to hold joint hearings with the House Committee on the Judiciary's Subcommittee on Immigration and Claims to review a report of the U.S. Commission on Immigration, 10 a.m., 2141 Rayburn Building.

Next Meeting of the SENATE

8:40 a.m., Wednesday, June 28

Senate Chamber

Program for Wednesday: Senate will resume consideration of S. 240, Private Securities Litigation Reform Act, with votes on the pending amendments and final passage to occur thereon.

Senate also expects to begin consideration of S. 343, Comprehensive Regulatory Reform Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, June 28

House Chamber

Program for Wednesday and the balance of the week: Complete consideration of H.R. 1868, Foreign Operations Appropriations Act;

Consideration of H.J. Res. 79, Constitutional Amendment prohibiting the physical desecration of the flag (rule providing 1 hour of debate in the House);

Conference report on H. Con. Res. 67, Budget Resolution;

Conference report on H.R. 483, Medicare Select Extension Act; and

Consideration of H.R. 1905, Energy and Water Appropriation Act.

Extensions of Remarks, as inserted in this issue

HOUSE

Barcia, James A., Mich., E1332
Beilenson, Anthony C., Calif., E1331
Berman, Howard L., Calif., E1336, E1337, E1340
Bliley, Thomas J., Jr., Va., E1333
Burton, Dan, Ind., E1336
Ehrlich, Robert L., Jr., Md., E1333
Engel, Eliot L., N.Y., E1340
Filner, Bob, Calif., E1344
Forbes, Michael P., N.Y., E1329
Franks, Bob, N.J., E1338
Gillmor, Paul E., Ohio, E1330, E1335
Gordon, Bart, Tenn., E1339
Hamilton, Lee H., Ind., E1341
Hoke, Martin R., Ohio, E1342
Hoyer, Steny H., Md., E1330
Hyde, Henry J., Ill., E1333
Jones, Walter B., Jr., N.C., E1329
Lazio, Rick, N.Y., E1340
McCarthy, Karen, Mo., E1337
Markey, Edward J., Mass., E1330
Miller, George, Calif., E1331
Moran, James P., Va., E1334
Nadler, Jerrold, N.Y., E1340
Radanovich, George P., Calif., E1329
Schroeder, Patricia, Colo., E1337
Shuster, Bud, Pa., E1335
Slaughter, Louise McIntosh, N.Y., E1339
Solomon, Gerald B.H., N.Y., E1343, E1344
Stump, Bob, Ariz., E1344
Taylor, Charles H., N.C., E1335
Tucker, Walter R., III, Calif., E1330, E1336
Underwood, Robert A., Guam, E1336
Young, Don, Alaska, E1332

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