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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

January 21, 1997.

I hereby designate the Honorable DOUG BEREUTER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

We join in the words of the Psalmist who wrote: ''Behold how good and pleasant it is when God's people dwell in unity. It is like the precious oil upon the head, running down upon the beard, upon the beard of Aaron, running down on the collar of his robes. It is like the dew of Hermon, which falls on the mountains of Zion. For there the Lord has commanded the blessing, life forevermore.''

Among all Your bountiful favors to us, O gracious God, is the knowledge that You have created every person in Your image and You have blessed every person with those gifts that make us truly human: the gifts of justice and mercy, the gifts of peace and good will, the gifts of unity and common purpose.

May all Your blessings, O God, that flow from the early morn to the last light, be with each of us and remain with us all our days.

In Your name we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT 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.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

Mrs. JOHNSON of Connecticut. Mr. Speaker, pursuant to rule IX and by direction of the Select Committee on Ethics, I send to the desk a privileged resolution (H. Res. 31) in the matter of Representative NEWT GINGRICH, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 31

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

Resolved, That the House adopt the report of the Select Committee on Ethics dated January 17, 1997, In the Matter of Representative Newt Gingrich.

The SPEAKER pro tempore. The resolution constitutes a question of privilege and may be called up at any time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before we proceed, the Chair will have a statement about the decorum expected of the Members.

The Chair has often reiterated that Members should refrain from references in debate to the conduct of other Members where such conduct is not the question actually pending before the House, either by way of a report from the Committee on Standards of Official Conduct or by way of another question of the privileges of the House.

This principle is documented on pages 168 and 526 of the House Rules and Manual and reflects the consistent rulings of the Chair in this and in prior Congresses. It derives its force primarily from clause 1 of rule XIV which broadly prohibits engaging in personality in debate. It has been part of the rules of the House since 1789.

On the other hand, the calling up of a resolution reported by the Committee on Standards of Official Conduct, or the offering of a resolution as a similar question of the privileges of the House, embarks the House on consideration of a proposition that admits references in debate to a Member's conduct. Disciplinary matters by their very nature involve personalities.

Still, this exception to the general rule against engaging in personality—admitting references to a Member's conduct when that conduct is the very question under consideration by the House—is closely limited. This point was well stated on July 31, 1979, as follows: While a wide range of discussion is permitted during debate on a disciplinary resolution, clause 1 of rule XIV still prohibits the use of language which is personally abusive. This is recorded in the Deschler-Brown Procedure in the House of Representatives in chapter 12, at section 2.11.

On the question now pending before the House, the resolution offered by the gentlewoman from Connecticut, Members should confine their remarks in debate to the merits of that precise

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question. Members should refrain from remarks that constitute personalities with respect to members of the Committee on Standards of Official Conduct or the Select Committee on Ethics or with respect to other sitting Members whose conduct is not the subject of the pending report. Finally, Members should exercise care to maintain an atmosphere of mutual respect.

On January 27, 1909, the House adopted a report that stated the following: It is the duty of the House to require its Members in speech or debate to preserve that proper restraint which will permit the House to conduct its business in an orderly manner and without unnecessarily and unduly exciting animosity among its Members.

This is recorded in Cannon's Precedents in volume 8 at section 2497.

The report adopted on that occasion responded to improper references in debate to the President, but it articulated a principle that occupants of the Chair over many Congresses have held equally applicable to Members' remarks toward each other.

The Chair asks and expects the cooperation of all Members in maintaining a level of decorum that properly dignifies the proceedings of the House.

The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 1 hour.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that debate on the resolution be extended for a half an hour.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 90 minutes.

Mrs. JOHNSON of Connecticut. Mr. Speaker, for purposes of debate only, I yield 45 minutes to the gentleman from Maryland [Mr. CARDIN], pending which I yield myself such time as I may consume.

Mr. Speaker, I rise as chairman of the Select Committee on Ethics to lay before you the committee's bipartisan recommendation for final action on the matter of Representative NEWT GINGRICH. The committee recommends that Representative GINGRICH be reprimanded and reimburse the House $300,000. The penalty is tough and unprecedented. It is also appropriate. No one is above the rules of the House of Representatives.

This matter centered on two key questions: whether the Speaker violated Federal tax law and whether he intentionally filed incorrect information with the Ethics Committee. While the committee investigated these questions extensively, its findings were inconclusive. Rather, the committee found that Representative GINGRICH brought discredit to the House by failing to get appropriate legal advice to ensure that his actions would be in compliance with tax law and to oversee the development of his letters to the committee to ensure they were accurate in every respect.

Each Member of Congress, especially those in positions of leadership, shoulders the responsibility of avoiding even the appearance of impropriety. Representative GINGRICH failed to exercise the discipline and caution of his office and so is subject to penalty today.

As I have said, the penalty recommended by the committee is tough and unprecedented. In past cases of this nature, the House has reprimanded a Member only where the Member was found to have intentionally made false statements to the Ethics Committee. In this case, the committee recommended a reprimand of Representative GINGRICH even though the statement of alleged violations did not assert that he intentionally misled the committee. Likewise in past cases where the committee imposed monetary sanctions on a Member, the committee found that the Member had been personally enriched by the misconduct. The committee made no such finding against Representative GINGRICH, yet recommends that a cost reimbursement of $300,000 be paid to the House by him.

The report before us contains several hundred pages of exhibits and a detailed analysis of the subcommittee's findings. The allegations and the key facts supporting them were laid out by the special counsel during a public hearing on January 17. The committee's recommendations before you today end 2 long years of work.

Throughout this process we never lost sight of our key goals: full and complete disclosure of the facts and a bipartisan recommendation. We accomplished both. Even though it would have been easy for Republicans or Democrats to walk away from the process at many stages, we did not, because we believed in this institution and in the ethics process.

The investigative subcommittee was ably chaired by Representative PORTER GOSS. Representatives BEN CARDIN, STEVE SCHIFF, and NANCY PELOSI, along with Mr. GOSS deserve the gratitude of this House for the extraordinary workload they shouldered and for their dedication to pursuing each issue until they reached consensus. Together with Mr. James Cole, the special counsel, they laid the groundwork for the bipartisan conclusion of this matter. I want to thank Mr. CARDIN, the current ranking member, as well, for working with me through difficult times to enable the bipartisan Ethics Committee process to succeed.

In the last 2 years the committee was forced to conduct its work against the backdrop of harsh political warfare. It is the first time ever that members of the Ethics Committee have been the target of coordinated partisan assaults in their districts. Coordinated political pressure on members of the Ethics Committee by other Members is not only destructive of the ethics oversight process but is beneath the dignity of this great institution and those who serve here.

□ 1215

Despite the pressures, we bring you today a bipartisan recommendation resolving the most complex charge against Representative NEWT GINGRICH. I ask for both my colleagues' rejection of the partisanship and animosity that has so deeply permeated the work of the House and for their support of the committee's resolution.

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

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The gentleman will suspend.

The Chair notes a disturbance in the visitors' gallery in contravention of the laws and the rules of the House. The Doorkeepers and police, the Chair believes, have already acted, but shall act to remove from the gallery those persons participating in a disturbance.

If there is an outburst from the visitors' gallery, the Chair will make this statement but will insist on order.

The Chair recognizes the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, as I have said, this is a sad moment for the House of Representatives. One of our Members has admitted to a serious violation of the House rules. This process and this admission affects not only that Member but each Member who serves in this body. While I believe that is true of any ethics proceeding, it is particularly true and particularly troublesome in this case because the offending Member is the Speaker of the House, the third ranking official in our Government.

We have received the report and recommendation from the special counsel. Mr. GINGRICH has agreed with the judgment of the special counsel. In addition to the report, the recommendation of sanctions represents the bipartisan work produced by our investigative subcommittee. The report in the recommendation of sanctions has been overwhelmingly approved by the full Committee on Standards of Official Conduct and deserves the support of this House.

Let me begin by saying how proud I am of the work of the investigative subcommittee. In my judgment, all four members of the subcommittee maintained their commitment to a process that was fair to the respondent as well as the House and its rules. I want to commend and compliment the work of our chairman, the gentleman from Florida [Mr. GOSS], for the extraordinary work that he did as well as the work of the gentleman from New Mexico [Mr. SCHIFF] and the gentlewoman from California [Ms. PELOSI] and the work of the subcommittee. I also want to recognize the extraordinary service performed by Jim Cole, our special counsel; Kevin Wolf, his assistant; and Virginia Johnson from the

Committee on Standards of Official Conduct.

Before commenting on the substance of the resolution before us, I feel obligated to point out the severe problems that have plagued the process. The 1-year delay in 1995 in enlisting the services of the special counsel was wrong. We have some evidence that this delay may have been part of the strategy by allies of Mr. GINGRICH. In sharp contrast to the good faith, bipartisan cooperation which governed the subcommittee's work, the orderly process collapsed on December 21, 1996, after the matter was forwarded to the full committee. Ignoring the advice of special counsel and the subcommittee, the Republican leadership in the House imposed an unrealistic deadline for the completion of our work to coincide with the Presidential inauguration. The schedule agreed upon by the full Committee on Standards of Official Conduct for full public hearings on the subcommittee findings was unilaterally and improperly canceled. These partisan actions were aimed at shielding Mr. GINGRICH from a full airing of the charges to which he has admitted guilt.

During the past 5 days the gentlewoman from Connecticut [Mrs. JOHNSON] and I have worked closely together to use these days as effectively as possible to achieve two objectives: First, in the face of an unrealistic time limit, to get the broadest possible public release of the information contained in the subcommittee's report; and second, to arrive at a fair, bipartisan recommendation on sanctions. We have achieved both objectives, and for that I would like to express my appreciation to the chairwoman. The report details the reason why the committee has found that Mr. GINGRICH has committed a serious violation of the House ethics rules. I urge each of my colleagues to read the report and the accompanying exhibits.

I will now briefly review the findings of the special counsel's report. First, we must disregard the notion that this case involves a college professor engaged in a normal academic classroom activity. The respondent in this case is not Professor GINGRICH, but Representative GINGRICH, a Member of the House, minority whip and then Speaker of the House, who had a vision to launch a political movement to change the country, in his words, from a welfare state to an opportunity society.

Second, over a 5-year period Mr. GINGRICH improperly commingled political activities with tax exempt organizations. When GOPAC ran short of funds, Mr. GINGRICH sought contributions from several tax exempt entities in order to continue his partisan political crusade.

Third, there is ample evidence that he did so in violation of tax laws. Celia Roady, the tax expert retained by the committee, has concluded that the tax laws were violated, and it is not even a close call. Our special counsel agrees with that judgment. In all, almost $1.5 million was spent by these tax exempt organizations, costing the U.S. Treasury hundreds of thousands of dollars in lost tax revenues that should have been paid.

Fourth, one need not reach a conclusion on the tax issues to find that Mr. GINGRICH has violated our ethical standards. From his involvement in the American Campaign Academy case, Mr. GINGRICH knew that pursuing these activities posed a risk of potential tax law violations. The ACA case established limits on political activities of tax exempt organizations.

It is important to understand that this case involved similar facts and some of the same parties as the matter investigated by the subcommittee. In fact, in response to a question from the special counsel, Mr. GINGRICH stated, and I quote: ''I lived through that case. I mean I was very well aware of what the ACA case did and what the ruling was.'' All experts agreed that he should have sought tax advice before using tax exempt organizations to pursue his political agenda.

In the words of our special counsel Mr. GINGRICH's actions suggest that ''either Mr. GINGRICH did not seek legal advice because he is aware that it would not have permitted him to use a 501(c)(3) organization for his projects,'' or he was ''reckless in an area that was fraught with legal peril.''

Finally, the House must make a judgment on the question of whether Mr. GINGRICH deliberately misled the committee. Mr. GINGRICH submitted two letters to the committee that he now admits contained information about GOPAC that was inaccurate. The facts surrounding these inaccuracies were well known to Mr. GINGRICH. Mr. GINGRICH had read the letters before submitting them to the committee. When the investigative subcommittee specifically called the contradiction in the letters to Mr. GINGRICH's attention, he once again defended them as accurate even though they were clearly wrong. The misleading letters were sent with the express intent of persuading the Committee on Standards of Official Conduct to dismiss the pending charges. They had the effect of misleading the committee. It stretches credibility to conclude that the repeated misstatements were innocent mistakes.

The linchpin of these findings is stated clearly in the report of special counsel: ''Of all the people involved in drafting, reviewing, or submitting the letters, the only person who had first-hand knowledge of the facts contained within them with respect to the Renewing American Civilization course was Mr. GINGRICH.''

The special counsel concludes: ''Either Mr. GINGRICH intentionally made misrepresentations to the committee or he was again reckless in the way he provided information to the committee concerning a very important matter.''

Mr. GINGRICH's defense is that he has always been very sensitive to ethics issues and he was embarrassed by the obvious inaccurate letters. He said he never intended to mislead the committee. But Mr. GINGRICH's actions with respect to the understanding reached with the Committee on Standards of Official Conduct belies his statement.

Mr. GINGRICH, through his attorneys, had entered into an agreement with the committee. That agreement provided ''Mr. GINGRICH agree that no public comment should be made about this matter while it is still pending. This includes having surrogates sent out to comment on the matter and attempt to mischaracterize it.''

I am sure that Members of this House are well aware of public comment since the release of our findings on December 21. As the special counsel States, ''In the opinion of the subcommittee Members and the special counsel, a number of press accounts indicated that Mr. GINGRICH had violated that agreement,'' the finding of the bipartisan committee and our special counsel. Mr. GINGRICH's violation of the no comment agreement raises serious questions about the extent to which he has deliberately sought to mislead the committee in other instances.

Beyond the events of December 21, 1996, Republican operatives close to Mr. GINGRICH conducted an ongoing campaign to disrupt the committee's work. It is relevant for this House to consider these circumstances in determining the degree of Mr. GINGRICH's culpability in providing the Committee on Standards of Official Conduct information that was not accurate, reliable, and complete. It is up to the Members of this House to determine the appropriate sanction for the violations committed by Mr. GINGRICH. This is not a vote on whether Mr. GINGRICH should remain Speaker of the House. Members need time to become familiar with the factual record presented in the special counsel's report and to consider the seriousness of these violations that have just come to light during the past 4 days.

In the days and weeks to come Mr. GINGRICH and each Member of this House should consider how these charges bear on the question of the speakership. The resolution before us, the House, today is a sanction for Representative GINGRICH for the ethics violations that he has committed. According to the House rules a reprimand is appropriate for serious violations of ethical standards. Sadly, Mr. GINGRICH's conduct requires us to confirm that this case involves infractions of at least that level of seriousness. He has provided inaccurate and misleading information to the Committee on Standards of Official Conduct and there is significant evidence that he intended to do so.

The recent history of congressional ethics sanctions indicate the House has imposed the sanction of reprimand when a Member has been found knowingly to have given false statements. But the earlier cases did not involve

giving false statements to the Committee on Standards of Official Conduct itself in response to an inquiry from the Committee on Standards of Official Conduct, and Mr. GINGRICH's case involves more than just giving false information to the committee. Mr. GINGRICH has also admitted to directing a political empire that made extensive use of tax exempt entities for political fundraising purposes. As a result of all these actions, the reputation of the House of Representatives has been damaged and tax dollars have been lost.

But there is still more. This is not the first time Mr. GINGRICH has had ethical problems that drew critical action by the Committee on Standards of Official Conduct. On other occasions he has been sighted by this committee for violating House rules. The American public has not forgotten the lucrative book advance contract that the incoming Speaker of the House was forced to renounce under public pressure. Our committee concluded in regards to that book deal: ''At a minimum this creates the impression of exploiting one's office for personal gain. Such perception is especially troubling when it pertains to the Office of the Speaker of the House, a constitutional office requiring the highest standards of ethical behavior.''

Because of all those factors, these violations require a penalty more serious than a reprimand. Considering all these matters, I urge this House to adopt the resolution before us. The resolution incorporates the recommendation of the special counsel, the investigative subcommittee, the full Committee on Standards of Official, and Mr. GINGRICH. The sanction we recommend is somewhere between a reprimand and a censure. It provides a reprimand plus a required $300,000 contribution by Mr. GINGRICH to the cost of these proceedings. In my view this payment should come from his personal resources because it is a personal responsibility.

Mr. Speaker, with today's vote I will have completed my service on the Committee on Standards of Official Conduct. Over the past 6 years and 1 month I have participated in many ethics matters. Among the issues that we had before the committee during my tenure has been not only this matter but the House bank and post office matters, both of which exposed many Members of this House, including its leadership, to embarrassment either for misdeeds or for mismanagement. I must say, however, that the matter before us today has brought a threat to the Committee on Standards of Official Conduct that far exceeded anything I have seen. The committee was subject to repeated attempts to obstruct its work and improperly interfere with its investigation. As I leave the Committee on Standards of Official Conduct, I hope that the incoming Members will find the process has survived and will continue to serve this House and the people of our Nation.

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

□ 1230

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. SCHIFF], a distinguished member of the subcommittee.

Mr. SCHIFF. Mr. Speaker, I first want to join in the compliments to the other committee members and to our staffs and special counsel because, even though we had many disagreements along the way, and obviously still have some disagreements, I think we made the best possible effort to get us here today.

I agree with the gentleman from Maryland [Mr. CARDIN] this is a sad day. It is a sad day when any Member is here because of a recommendation of the Committee on Standards of Official Conduct. Last time I was here it was because a Democratic colleague was here on our recommendations. I was not happier then because it was a Democrat and not a Republican then. I think it is a sad day when it is a Member of the House.

Nevertheless, I think the House can be proud of the fact there is accountability for its Members. I wish such accountability could be found from every area of our government.

Second, I am sorry that in the rendition of facts I just heard, there were certain partisan conclusions that eliminated other conclusions which I guess could be stated from the other side. For example, it was said that there was an attempt made by our chairwoman, the gentlewoman from Connecticut [Mrs. JOHNSON] who got us here, when many people expected along the way we could never get here; but through her leadership we are here today.

There was the accusation that our chairwoman deliberately tried to scuttle the information getting to the Members in order to mitigate any effect on Congressman GINGRICH. Quite the contrary. Our chairwoman and the rest of us had an agreed to up to 5 days of public hearings. Those were changed only when our Democratic colleagues on the Committee on Standards of Official Conduct held a press conference in which they said the most important product we could produce would be a written report that Members could consider before they vote.

That left our Chair, in my judgment, no alternative but to change directions and to postpone the public hearing, which we ultimately did have anyway, in favor of trying to produce the written report by this date which we have now accomplished.

There has been no mention of the fact that Members on the Republican side particularly were subject to enormous political attack in their districts. If I were still a district attorney, a career I had before I got to Congress, I would have certain leaders arrested for attempted jury tampering, because I think that is what they were doing. They were trying to use political pressure to get a result in what is essentially a judicial type of deliberative body. That was their intent.

That was one of the most unethical things I have seen since becoming a member of the Committee on Standards of Official Conduct.

What I want to emphasize now is why we are here today. I want to point out that the statement made, that there have been many new facts revealed in the last several days, in my judgment is not correct. We are here because of a statement of alleged violation found by the ethics subcommittee and released publicly on December 21, 1996, to which the Speaker acknowledged. And those violations have not changed.

What has changed is the reporting of those violations in the news media over the last several days. What I have seen in the news media in various forms is some significant misstatements of what the violations are. But I have to add that I do not believe that that was in this case the fault of the news media. It is their job to be critical of us, and it is our responsibility to respond if we think it is appropriate.

But I want to make it very clear what I think happened was an unfortunate matter of timing, that on Friday of last week, our hearing did not begin and our written report was not available until 3 o'clock on Friday afternoon. Some reporters have told me there were not enough copies to go around. So they are trying to form deadlines for their programs or for their newspapers with a report that is over 200 pages long. I think it is entirely understandable that some errors were made at first.

Nevertheless, I think some errors were made. They were made because Mr. Cole's report attempted to be a soup-to-nuts, beginning to end explanation of what we did in the ethics subcommittee to get to where we are today. In going through step by step, he quite properly, in my judgment, said we had this choice to make and we had this fact and we handled it as follows, and so forth. But what I have seen as reported as a final conclusion, certain excerpts from that report were intermediary at best.

The final conclusion of the subcommittee did not change. That final conclusion is, first, that Mr. GINGRICH should have sought competent legal, professional tax advice before he began his procedures that involved the use of a tax-exempt foundation, which under the law is called a 501(c)(3) organization.

Second, that materials were sent to the Committee on Standards of Official Conduct in response to questions from the Committee on Standards of Official Conduct that the Speaker should have known were inaccurate. That is the final finding, if you will, of the subcommittee.

The report goes through all of the events, and I heard the gentleman from

Maryland [Mr. CARDIN] make reference to a number of the events. But the findings did not change. All of the events would include things like we on the subcommittee interviewed everybody we could find who had anything to do with the preparation of those two letters that were inaccurate.

What we found, in my judgment, if it were not so serious, and I recognize how serious it is, it would really be called a comedy of errors.

What happened was the letters were prepared in Mr. GINGRICH's law firm that sent the letters first to a staff member in Mr. GINGRICH's office. The law firm thought that the staff member would correct any factual misstatements. The staff member thought the law firm had already checked out the facts. So nobody checked out the facts to see if they were accurate. But the most important thing is that Mr. GINGRICH was never involved in the preparation of those letters at any point until the very end where he acknowledges he signed them, he should have read more carefully, and he is responsible for that before this House of Representatives.

I would point out that in a letter of October 1996 that he prepared himself with his staff, he gave us entirely accurate information about the matters that are under consideration here. I think it is pretty obvious you do not give accurate information in October and then you can deliberately prepare information the following September and March that nobody would know the difference of.

Based upon the allegation, the violations we found, the Committee on Standards of Official Conduct on a 7-to-1 vote, full committee now, entire committee, recommended the following penalty: It recommended a reprimand and a cost assessment of $300,000. In some meetings earlier with members, I have heard some members say that that is unique and they are concerned about that penalty being unique because, although we have imposed cost assessments before, we have never done so in the past for the cost of the investigation.

That is basically what we did. We set $300,000 as the estimated cost of that portion of the investigation that dealt with clearing up the misstatements that we received, which may have begun to be prepared in Mr. GINGRICH's law firm, but for which he is responsible as a Member of the House.

I want to tell all Members that they do not need, in my judgment, to be concerned about the precedent value, because I believe everyone concerned understood that this is a unique penalty because the Speaker of the House is a unique official in our institution. In fact, that is the reason we decided to, on the subcommittee's part, propose a unique penalty, and we got word, I have to say ''got word,'' because we never met with the Speaker to discuss the penalty. All of the negotiations were by our special counsel on our behalf and the Speaker's attorney, Mr. Evans, on his behalf. So we got reports on it. But the report we got back was that Speaker NEWT GINGRICH agrees that because he holds a unique position in the House he should receive a unique penalty, so there is no doubt even the Speaker of the House is not above the rules.

I would hastily add, however, two things, and conclude with this. The first is that I think there is room for this to be made a standing procedure in certain cases. For example, I saw what in my judgment were a number of frivolous complaints filed with the Committee on Standards of Official Conduct which had no other purpose than to be leaked to the press and create bad publicity for whomever was the target of those complaints. It seems to me that the precedent we have established here should apply to those who are found by the committee to have filed frivolous complaints.

Finally, on how the funds should be paid if the House adopts the recommended penalty, we were deliberately silent on that. My colleague, the gentleman from Maryland [Mr. CARDIN], is most certainly entitled to his opinion, but the subcommittee and the committee made no determination.

Insofar as I have studied the precedents on financial remuneration to the Government, we have never established as a matter of law how these funds can be paid.

Mr. GINGRICH, if he does get this as a final penalty, understands all the ramifications, I am certain he does not need me to explain them to him or, for that matter, any of my colleagues on the other side. But the fact is the committee was silent deliberately on how any such funds should be paid. It is my understanding there are at least some precedents for campaign funds, for example, being used to reimburse the Government, and certainly we all know that the Chief Executive of the United States has a legal defense fund in which he raises money. So I am just saying that whatever the options are to NEWT GINGRICH as a Member of the House, they have not been precluded legally by the committee, and in my judgment they should not be.

With that, Mr. Speaker, I just want to again commend our chairwoman, the gentlewoman from Connecticut [Mrs. JOHNSON], my fellow members of the committee, and say I believe we have come up with an appropriate penalty, which some think is too harsh, some think is too lenient. That tells me we are about where we ought to be. I hope the House will adopt it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BEREUTER). The Chair will request that visitors in the gallery, in coming and going, refrain from any audible disruption of the proceedings.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume briefly to comment on some of the points raised by the gentleman from New Mexico [Mr. SCHIFF].

Mr. Speaker, the gentleman from New Mexico [Mr. SCHIFF] is correct, we are in agreement on the recommendation. We put different emphasis on some of the facts. Mr. GINGRICH clearly, in my view, had ample opportunity to know about the statements in his letters. He did indicate he hired an attorney in order to draft the two letters. Let me just read, if I might, from the transcripts as to the exchange between Mr. Cole and Mr. Baran, Mr. Baran being Mr. GINGRICH's attorney.

Mr. Cole: ''Would you have made sure that he had read it and approved it, or just the fact he read it is all you would have been interested in,'' referring to Mr. GINGRICH?

Mr. Baran said, ''No, I would have wanted him to be comfortable with this on many levels.''

Mr. Cole: ''Were you satisfied he was comfortable with it prior to filing it with the committee?''

Mr. Baran: ''Yes.''

Let me also point out that after this, after we pointed out to Mr. GINGRICH the inconsistency in the letters, Mr. GINGRICH wrote another letter back to the committee. Clearly he had time to review the inconsistencies by that time. The October 31, 1996, letter, in that letter he still maintains his innocence on inconsistencies in the letter, even though the letters were clearly inaccurate, he knew they were inaccurate, and he had a chance to reread the letters and correct the record.

Mr. Speaker, I yield 11½ minutes to the gentlewoman from California [Ms. PELOSI], my colleague on the Committee on Standards of Official Conduct, who was on the investigative subcommittee and who has made a great contribution to this process and has been an extraordinary member of our Committee on Standards of Official Conduct.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership and guidance throughout this process. Clearly without his involvement, we would not be here today with a bipartisan recommendation for a sanction for the Speaker of the House.

Mr. Speaker, as a member of the investigative subcommittee, I would like to take this opportunity to publicly thank the gentleman from Florida, PORTER GOSS, our Chair of the investigative subcommittee, again acknowledge the gentleman from Maryland, Mr. CARDIN, as ranking member for his service there, as well as to say how much I learned from the gentleman from new Mexico, Mr. SCHIFF, in the course of our service there.

Clearly, from the debate so far, you can see that we had many unresolved difficult issues to deal with, and under the leadership of the gentleman from Florida [Mr. GOSS], we went through that.

I want to also commend our special counsel, James Cole, for making us stick to the facts, the law, and the ethics rules as those elements that were

the only matters relevant to our decisions, and many thanks to Kevin Wolf and Virginia Johnson for their assistance and professionalism.

I heard my colleague, the gentleman from New Mexico [Mr. SCHIFF], say in his earlier days as a prosecutor he might entertain thoughts of bringing jury tampering charges. If he decides to do that, I hope that the gentleman will include in his package the dirty tricks memo that is now in the public record that is a written document about attempts to undermine the ethics process directly by the Republican House leadership.

Let me say though we did produce a bipartisan product. I hope our work will serve as a foundation for a bipartisan solution to be agreed to today.

Today, others have said it, is a sad day. I think it is a tragic day. Here in the House of Representatives we will sanction a sitting Speaker for the first time. It is an unwelcome task to pass judgment on any of our colleagues, but we have a responsibility to uphold ethical standards called for in the rules and expected by the American people.

I associate myself with the gentleman from Maryland, Mr. CARDIN's, remarks about the process. We should not have to choose to make the American people aware of either the hearing, a full hearing, or the report. But since we have a report, I urge everyone to read it. I think it is very instructive and gives lie to many of the mischaracterizations that have been made about the violations that the committee charged Mr. GINGRICH with and those which he admitted to.

□ 1245

The last few weeks have been dreadful. But we have an opportunity to say today to the American people that when we come to Washington, we do not check our integrity at the beltway, and that power is not a license to ignore ethical standards. We also have an opportunity to tell the American people that sanity can reign in the Congress by demonstrating our ability to agree and disagree in a respectful way. The American people gave us the privilege to serve; they expect us not only to make the laws and to obey the laws, but also to live up to a high ethical standard.

So today we are here to address the failure of Speaker GINGRICH with regard to the laws governing charitable contributions and GOPAC, and his failure to respond accurately and reliably to the Committee on Standards of Official Conduct.

I would like to just take a moment to refer to the book, because as I asked people to read it, I want to point out the statement of alleged violations which was originally set forth by the special counsel. This is on page 155.

Based on the information described above, the special counsel proposed a statement of alleged violations to the subcommittee on December 12. The statement of alleged violations contained 3 counts: Mr. GINGRICH's activities on behalf of ALOF in regard to AOW and ACTV, and the activities of others in that regard with his knowledge and approval, constituted a violation of ALOF's status under section 501(c)(3).

Second, Mr. GINGRICH's activities on behalf of Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the Renewing American Civilization course, and other activities in that regard, with his knowledge and approval, constituted a violation of those organizations' status under 501(c)(3).

And, third, Mr. GINGRICH had provided information to the committee, directly or through counsel, that was material to matters under consideration by the committee, which Mr. GINGRICH knew or should have known was inaccurate, incomplete, and unreliable.

These were not the alleged violations that were passed out at the committee because we did not come to agreement on them, but they are the original allegations by the special counsel. I think everyone is well aware that we have charged the Speaker in our statement of alleged violations that he did not ensure that the law was complied to in his activities, and that he gave information to the committee that was not accurate.

Think how much easier it would be if we could all use the 501(c)(3), not consult a lawyer, and build our political agenda around tax deductible considerations. The American people in their generosity give the opportunity to charitable institutions to do charitable work. That does not include subsidizing our political activity. At the grassroots level we have always had to comply with the law in relationship to political activity and 501(c)(3). If we have to do it at the grassroots level, so should the Speaker of the House.

As the counsel mentions in his statement, some members of the committee and the special counsel were in favor, as I mentioned before, of the original proposal. After much deliberation, all four of us could agree on a statement of alleged violations that despite, in quotes, ''Despite significant and substantial warnings, Mr. GINGRICH did not seek the legal advice to ensure that his conduct conformed with the provisions of 501(c)(3),'' with the law.

Why did he not? Why did he not? Either because Speaker GINGRICH knew what the answer would be no, from an attorney, ''No, you cannot do this,'' or he was reckless in conforming with the law. The committee decided that regardless of the resolution of the 501(c)(3) tax question, Speaker GINGRICH's conduct was improper, did not reflect credibly on the House, and was deserving of sanction, serious sanction, and Speaker GINGRICH agreed.

The next issue in my view is the most serious, that of not dealing honestly with the Committee on Standards of Official Conduct. It is interesting to me that Speaker GINGRICH has repeatedly stated that ethics are important to him. Why, then, did he say that he was too busy to respond to the committee accurately? Again, either he was trying to get complaints dismissed and an accurate answer would not achieve that end, or that ethics were not important enough for him to take the necessary time.

As our colleague, Mr. CARDIN, has pointed out, Mr. GINGRICH gave one answer in the earlier letter in order to respond to a complaint regarding use of official resources for his course, so he said GOPAC did it. Then when we asked the question if GOPAC and 501(c)(3) cannot be that cozy, then he said GOPAC did not do it; and then in the third communication to the committee, he stood by his previous letters.

The gentleman from New Mexico [Mr. SCHIFF] prefers to call it a comedy of errors. I think it is violating our trust that we have among Members. Every day that we speak to each other in this House, we refer to each other as the gentleman from Georgia, the gentlewoman from Connecticut, the gentleman from Maryland. We trust each other that we will deal truthfully with each other.

Unfortunately, in terms of Speaker GINGRICH's dealings with the committee on a number of occasions, and in his violation of the agreement under which we would go forward in bringing this issue to a conclusion, Mr. GINGRICH's statements lead me to one conclusion: that Mr. GINGRICH, in his dealings with the committee, is not to be believed. I conclude also that Mr. GINGRICH gave these different answers not because it was a comedy of errors, but because he thought he would get away with it.

I was particularly concerned about the ''too busy'' defense. We cannot say that ethics is important to us and then say we are too busy to answer the central question asked by the Committee on Standards of Official Conduct. Maintaining a high ethical standard is a decision, and it requires making it a priority. It is not just something we do when we are not too busy.

We expect the Speaker of the House to be busy. We also expect the Speaker of the House to be ethical. Speaker GINGRICH himself has stated that the Speaker must be held to a higher standard. I do not put any additional burden on the Speaker. I think all Members of Congress should be held to a higher ethical standard.

When new Members arrive in Congress, one of the first documents they receive is the House Ethics Manual. And one of the first responsibilities impressed upon all of us is to uphold a high ethical standard. Clearly, Speaker GINGRICH did not live up to his own professed ethical standards of the House, and, indeed, to the ethical standards in this book.

I urge my colleagues to read this report. I think when you do, you will see

that it gives lie to the mis characterizations of our Republican colleagues that the violations were nothing, or that they were like trespassing or double parking. Either our colleagues were ill-informed, and that is what I choose to believe, or they have a cavalier regard for the tragedy of the Speaker admitting bringing discredit to the House of Representatives which he wants to lead.

Now we come to the penalty. As you know, we have a financial penalty because we believe that the inaccurate statements that the Speaker said to us prolonged the process. There are other reasons why there is a financial penalty, but that was one of them. And the subcommittee concluded, and I quote, ''that because these inaccurate statements were provided to the committee, this matter was not resolved as expeditiously as it could have been. This caused a controversy over the matter to arise and last for a substantial period of time, it disrupted the operations of the House, and it cost the House a substantial amount of money in order to determine the facts.''

So I urge our colleagues, in light of all of that, to support the bipartisan recommendation of the committee. The $300,000 penalty I believe speaks eloquently to the American people, who may not know the weight of one of our sanctions or another, but they understand $300,000. And I hope that this money will not come from the Speaker's political campaign funds, because I think that will increase the cynicism of the American people about what goes on here in Washington.

Whether the Speaker remains Speaker is up to the Republicans. He is technically eligible. I hope you will make a judgment as to whether he is ethically fit.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS), the chairman of the subcommittee, and I want to recognize the outstanding job that he did chairing that subcommittee, as I recognize the remarkable service of the members of that subcommittee.

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

Mr. GOSS. Mr. Speaker, I thank the gentlewoman from Connecticut, the distinguished chair of our committee, for yielding me this time. She deserves our sincere gratitude for all she has endured, for her persistence, for her determination to bring this to a successful conclusion, and here we are today. It was certainly an unenviable and, I know, thankless task.

Today we have a conclusion. Today the House takes the final step in what has been a most difficult process, I think we all would agree. It is not just for those intimately involved in the day-to-day twists and turns in this tortuous case, but also for the entire House.

On Friday the full Committee on Standards of Official Conduct approved a recommendation which is today before this House, for an official reprimand and a $300,000 cost assessment to Mr. GINGRICH as sanction for his violation of House rules and as partial reimbursement for the costs of the inquiry that ensued. This is unquestionably a serious sanction, but one that is also fair and appropriate, in my view, as evidenced by the fact that indeed Mr. GINGRICH himself has agreed to it.

The Committee on Standards of Official Conduct, functioning independently of leadership on both sides of the aisle, is supposed to find the truth through an investigative process. It is not designed to protect errant Members, nor is it designed to permit partisan zealots to destroy Members or to score political points.

In this case, the committee's members were subject to frequent unfair and inaccurate partisan political attack. That is a matter of fact. Outsiders attempted to influence our activities, our deliberations, our schedule and our conclusions. That is truly a shame. It has caused harm, not just to the Members involved, but it has also brought discredit to this institution, in my view.

Friday, I urged the leadership on both sides of the aisle to tone down the rhetoric, cut the nonsense, and get back to work in repairing the damage that has come to this House. I repeat that exhortation today.

With regard to the matter at hand, I am very satisfied with the work done by our investigative subcommittee, whose recommendation was adopted by the full committee and is the recommendation all Members will consider today.

The four of us, working with the extraordinarily talented special counsel, Jim Cole, functioned in a spirit of bipartisan cooperation that did actually grow as we went along in the case. I say we started with different perspectives, but we started with open minds, and I am grateful for the very fine service, the unbelievable commitment of time of the members, their cooperation. I take my hat off to the gentleman from Maryland [Mr. CARDIN], the gentleman from New Mexico [Mr. SCHIFF], and the gentlewoman from California [Ms. PELOSI], all of whom in my view bring great credit to this institution.

Contrary to what has been reported, the statement of alleged violations that our subcommittee developed and passed and which forms the basis for the sanctioned recommendation did not, I repeat not, find that Mr. GINGRICH violated or did not violate tax law in his relationship with 501(c)(3) tax exempt organizations. And contrary to media reports, that statement of alleged violation of December 21st also did not charge Mr. GINGRICH with intentionally deceiving our committee with his correspondence in this case.

Nonetheless, I found it extraordinarily imprudent of Mr. GINGRICH not to seek and follow a less aggressive course of action in tax areas he knew to be sensitive and controversial. And even more troubling, I found the fact that the committee was given inaccurate, unreliable, and incomplete information to be a very serious failure on his part.

□ 1300

Now, it is certainly true that we had more than enough facts and extenuating circumstances to consider. We all know a Member of Congress wears many hats, for our official lives, our campaign lives, our private lives, our business lives or whatever, and knowledge of how careful we must be in wearing those hats is fundamental to our job. We all have an extra obligation to be sure our activities are appropriate, no matter which hat we are wearing. That is an obligation that each of us signs up for when we run to serve in this institution.

That is why the serious sanction we recommend is appropriate, in my view. The gentleman from Georgia [Mr. GINGRICH] has recognized his lapses and the problems they have caused for this House. He has apologized, forthrightly and sincerely. He has also accepted the unique sanction we proposed, one that includes a clear signal to all Members about the importance of providing accurate and grounded information to the Select Committee on Ethics, whether in response to a complaint or in filing a complaint.

I must point out to Members that our mission in the preliminary investigation was to find and examine the dark clouds. That is what investigations do. Mr. Cole is very good at that. He is a brilliant prosecutor. In his report he presented well those dark clouds. He did not, however, present all of the other clouds we looked at that turned out to be not quite so dark. So I found that his report would be well supplemented by reading the report of the Speaker's attorneys for balance, as well. I refer colleagues and interested parties to both reports to get the full picture.

In the end, I agreed with my subcommittee colleagues that Mr. GINGRICH's absence of diligence subjects him legitimately to charges of conduct reckless enough to constitute a violation of House rules. I sincerely hope with today's voting we can put this matter to rest.

I urge this House to adopt the recommendation of the Select Committee on Ethics and remember, the penalty is aimed at findings in response to the specific work of our subcommittee, no matter what feelings any particular Member may personally have about Mr. GINGRICH.

Some have said this is a sad day. Indeed it is, whenever we have this type of a situation. I will also say it is a day of victory. We have proved to the American people that no matter how rough the process is, we can police ourselves. We do know right from wrong in this institution. We can take the necessary steps.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BORSKI], a very valuable member of the Select Committee on Ethics, who has done yeoman's service for the House and for the Congress on that committee.

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

Mr. BORSKI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to start by commending the members of the investigative subcommittee, the gentleman from Maryland, Mr. BEN CARDIN, the gentlewoman from California, Ms. NANCY PELOSI, the chairman, the gentleman from Florida, Mr. PORTER GOSS, and, of course, the gentleman from New Mexico, Mr. SCHIFF, for the extraordinary job they have performed for this institution. They are all people of enormously high integrity, and they have done this committee and this House very proud.

I also want to commend the special counsel, Mr. Cole, who under the most difficult and trying of circumstances came through with a report that, again, I would urge all Members of the House to read; but again, under the most difficult and trying of circumstances, he performed an heroic deed for this House.

Mr. Speaker, let me state the obvious. No Member seeks or enjoys a position on the Ethics Committee, but the proper functioning of that committee is essential to the integrity of the House. It is a matter of personal and institutional honor that each of us has agreed to serve.

I remember distinctly when I received the phone call that any one of us never wants to get; a leader of my party, Speaker Tom Foley, asked me to serve on the Ethics Committee. I remember distinctly saying to Mr. Foley that I was reminded of the fellow who was tarred and feathered, put on a rail and run out of town, whose retort was that if it weren't for the honor, he would rather walk. I am on this committee, but it is as a reluctant member. On more than one occasion I have offered to step down when the removal of a member was necessary to maintain the political balance of the committee. But Mr. Speaker, I feel very strongly that it is our constitutional duty, and it was mine, to respond positively to Tom Foley's request. It was, again, certainly not a position that I wanted.

I hope to concentrate my efforts and energies on the work of the Committee on Transportation and Infrastructure, probably the most bipartisan committee in this House of Representatives, and where that bipartisan atmosphere has enabled us to turn out very important pieces of legislation.

It is always a grueling and distasteful task to investigate a fellow Member—all the more so in the case of the Speaker. Some have suggested that partisan attempts were made to derail the special counsel's efforts and render him less effective. I might say that I agree. The subcommittee released its statement of alleged violation on the Saturday before Christmas. The counsel's report was released on Friday afternoon, before inaugural weekend, with the vote firmly scheduled for this afternoon. Despite a prior agreement which allowed for a full week of public hearings, we were left with only a single afternoon's session. Mr. Cole, along with members of the full committee and subcommittee were troubled by the time line insisted upon by Republican leadership. The special counsel insisted with consistency that he would be hard pressed to complete a report detailing the 2-year investigation before February 4. Yet, Mr. Cole was denied the time he deemed necessary.

Despite these obstacles, however, the special counsel did release a report on Friday afternoon which included the subcommittee's recommended sanction of a reprimand and fine. In this report, Mr. Cole, along with Ms. Roady, the subcommittee's tax expert, and two members of the committee conclude that Mr. GINGRICH has violated the tax code in conjunction with 501(c)(3). However, the Committee agreed that the focus of the investigation should be on the conduct of the Member rather than the resolution of issues of tax law which would best be left to the IRS. What the report does say about the 501(c)(3), is the following:

"* * * the subcommittee was faced with a disturbing choice. Either Mr. GINGRICH did not seek legal advice because he was aware that it would not have permitted him to use a 501(c)(3) organization for his projects, or he was reckless in not taking care that, as a Member of Congress, he made sure that his conduct conformed with the law in an area where he had ample warning that his intended course was fraught with legal peril. The subcommittee decided that regardless of the resolution of the 501(c)(3) tax question, Mr. GINGRICH's conduct in this regard was improper, did not reflect creditably on the House and was deserving of sanction."

With respect to the letters containing inaccurate information that Mr. GINGRICH provided to the committee, the report goes on to say:

"The special counsel suggested that a good argument could be made, based on the record, that Mr. GINGRICH did act intentionally, however it would be difficult to establish that with a high degree of certainty * * * In determining what the appropriate sanction should be in this matter, the subcommittee and the special counsel considered the seriousness of the conduct, the level of care exercised by Mr. GINGRICH, the disruption caused to the House by the conduct, the cost to the House in having to pay for an extensive investigation, and the repetitive nature of the conduct."

"The subcommittee was faced with troubling choices in each of the areas covered by the statement of alleged violation. Either Mr. GINGRICH's conduct in regard to the 501(c)(3) organizations and the letters he submitted to the committee was intentional or it was reckless. Neither choice reflects creditably on the House. * * *"

Under the rules of the committee, a reprimand is the appropriate sanction for a serious violation of House Rules and a censure is appropriate for a more serious violation of House rules. This is the extent to which guidelines are in place for Members to make a determination of sanction. According to the special counsel, it was the opinion of the Ethics Subcommittee, after two years of investigation and inquiry, that this matter fell somewhere in between. As such, both the subcommittee and the special counsel recommended that the appropriate sanction should be a reprimand and a payment reimbursing the House for some of the costs of the investigation in the amount of $300,000. Mr. GINGRICH has agreed that this is the appropriate sanction, as has the full Ethics Committee.

Mr. Speaker, I say to my colleagues, particularly my colleagues on the Democratic side of the aisle, this is not about who should be the Speaker of the House. Democrats have no say in who should be the Speaker of the House. That is up to the majority party.

This is not about process. There were parts of this process that I find extremely disturbing, and parts that I think need to be dealt with further at an appropriate time. This is not that time.

This is not about whether the existing tax code in question is arcane. I asked the special counsel, Mr. Cole, at our Friday afternoon public hearing whether the law was in fact arcane, and Mr. Cole responded in the strongest possible language that the law was not arcane. In fact, it is a headline issue that politics and tax-exempt organizations should not mix. Even Mr. GINGRICH's tax attorney agreed with that statement.

I also asked the special counsel to respond to the spin that we are all familiar with, and it goes like this: "I saw the course, I watched the tape. There is nothing political about them." Mr. Cole's response was that the issue in question was not so much the content of the course, but, rather, the intent and the way in which it was distributed.

The report states, "Mr. GINGRICH applied the ideas of the course to partisan political purposes." Mr. Speaker, this is not about determining the innocence or the guilt of Mr. GINGRICH. He has already admitted that guilt, that he has brought discredit to this House. This is about the ability of the House of Representatives, under the most trying of circumstances, to judge one of its own Members, an extremely controversial Member, one who has led his party to the majority. It is our duty to determine the appropriate sanction to that Member.

The subcommittee, aided by the special counsel, has conducted an investigation and made its recommendation to the full committee, which in turn has made that recommendation to the full House.

Those are the processes we have adopted and those are the processes we have followed. We are giving every Member, independently, the opportunity to put aside partisan politics and follow the recommendation offered by the special counsel, the subcommittee, and the full committee upon completion of a 2-year inquiry. It is right and it is just. We were asked as Members of Congress to put aside our partisan beliefs and serve on this committee out of a sense of duty and honor.

Now, we are asking you to honor our recommendations with dignity.

I ask my colleagues to honor the work of the Ethics Committee and to vote yes for this very strict sanction.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I thank the chair of the Ethics Committee for yielding time to me.

Let me say at the outset that you can clearly disagree and have great respect for your colleagues on the Ethics Committee, as I do, and still reach different conclusions, as I do.

My conclusion is that the penalty that has been assessed by the Ethics Committee is way too severe when you look at the actual findings of the committee and when you look at the precedent that has been established by this House.

Let us look at the actual findings. There have been two here. The first finding is that the Speaker should have consulted an attorney about tax laws. The second is that he submitted two inaccurate letters to the Ethics Committee. These are real mistakes, but they should not be hanging offenses, especially when we consider that there was no finding of any law that was broken, there was no finding of any intent to mislead the Ethics Committee, and there was no finding that the Speaker received any personal financial gain.

The special counsel to the Ethics Committee once described it this way. He said that the Speaker had ''run some very yellow lights.'' But you do not get ticketed, or you should not, for running a very yellow light, no matter how close it is to becoming a red one.

If we look at the precedents that have been established here as well, we see that there is no justification for this severe a penalty. The Ethics Committee staff has researched this issue, and there is simply not a single case where there has not been a finding of an intent to mislead the committee that has resulted in a penalty of reprimand, not a single case.

In fact, all of the precedents are to the contrary. Wherever there has not been a finding of intent to mislead the committee, the penalty has always been either a Letter of Reproval, or the case has been dismissed against the individual involved.

I might say here, we all know that the Speaker has agreed to the penalties, but that does not mean that the agreement is a fair one. It does not mean that that is a penalty that we have to support.

Remember the speech by Teddy Roosevelt called the man in the arena speech. He said that we can either grapple in the political arena, or we can be one of those ''timid souls who know neither victory nor defeat.''

How much better it would be for us today to have the victory of conscience, and vote against a penalty that we know is too severe.

The report of counsel and article follow:

IN THE MATTER OF SPEAKER NEWT GINGRICH

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: REPORT OF COUNSEL FOR THE RESPONDENT

This is the Report of Counsel for the Respondent Speaker Newt Gingrich. This Report is being submitted in connection with the Sanction Hearing specified in Rule 20 of the Rules of the Committee on Standards of Official Conduct (''Rules'') regarding written submissions by counsel.[1] The Report is subject to two limitations. First, the Report has been prepared without the access to all of the information collected by the Investigative Subcommittee. Respondent was limited to certain exhibits made available by the Committee; selected transcripts made available by the Committee; and public documents. Second, Respondent has not been afforded the opportunity to conduct discovery or otherwise develop information relating to the matter before the Committee.

OVERVIEW

On December 21, 1996, the Investigative Subcommittee issued a Statement of Alleged Violation. The Statement was the product of an investigation by the Investigative Subcommittee and Special Counsel. It is important to note that the process was one-sided: Witnesses were not subject to cross-examination; documents were not subject to pertinency or admissibility standards; and traditional rules establishing standards for admissibility, pertinency and reliability of evidence were not applied. Respondent was not permitted to participate in the examination of witnesses or documents.

Also on December 21, 1996, Respondent submitted an Answer admitting the alleged violation. Pursuant to Rule 19(c) of the Rules, Respondent's admission relieved the Committee of determining through an adjudicatory subcommittee at a Disciplinary Hearing whether the single count in the Statement of Alleged Violation was proven by clear and convincing evidence. At such a Disciplinary Hearing, Respondent would have been afforded the opportunity to cross-examine witnesses, challenge documents and obtain discovery.

With the Statement of Alleged Violation and the Answer, the next process contemplated by the Rules is a Sanction Hearing pursuant to Rule 20. This process does not entail a trial on the merits of the alleged violation. Instead, the process is limited to determining the appropriate sanction, if any, for the violation.

This Report is submitted for that purpose. This is not a report in response to the Special Counsel's Report. It does not contain a fact by fact, argument by argument response to the Special Counsel's Report. Respondent does not accept as true the asserted factual statements and characterizations thereof beyond the facts contained in the Statement of Alleged Violation admitted by Respondent's Answer. It is relatively easy for an attorney, such as the Special Counsel, to piece together testimony and documents, free from the tests of cross-examination, hearsay limits and other evidentiary standards to assure accuracy, and free from the boundaries of reality, to reach virtually any conclusion through clinical forensic reconstruction. The Report is designed to put the facts before the Committee in the context of the real world so that the Committee can determine the appropriate sanction, if any, for the violation, in the absence of an adversary process.

Let there be no mistake, Respondent has accepted the Investigative Subcommittee's Statement of Alleged Violation. In doing so, Respondent has accepted the facts contained therein. This does not mean, however, that Respondent accepts as true those asserted facts not contained in the Statement of Alleged Violation. To assist the Committee in its decision-making process, attached hereto as Appendix A is a timeline of the events relating to the Renewing American Civilization course. This Report is submitted to place the general body of facts in the context of reality as opposed to a version of the facts viewed with hindsight that could only exist in a laboratory free from the dynamics of the real world. For assistance in placing the facts in context, please see Appendix B.

SCOPE OF HEARING

There have been a myriad of charges and allegations made against Respondent. With the exception of the single violation contained in the Statement of Alleged Violation, those charges and allegations are untrue and groundless. The only violation before this Committee for purposes of determining the appropriate sanction, if any, is the violation contained in the Statement of Alleged Violation. The Statement of Alleged Violation describes conduct which violates Rule 43(1) of the Rules of the Committee on Standards of Official Conduct. Rule 43(1) provides as follows: ''A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.'' Rules of the Committee on Standards of Official Conduct, Rule 43, clause 1.

Paragraph 52 of the Statement of Alleged Violation contains the only violation found, and states that:

''[R]egardless of the resolution of whether the activities described in paragraphs 2 through 41 constitute a violation of section 501(c)(3) of the Internal Revenue Code, *by failing to seek and follow legal advice* described in paragraphs 15 and 40, *Mr. Gingrich failed to take appropriate steps to ensure that the activities* described in paragraphs 2 through 41 *were in accordance with section 501(c)(3)* of the Internal Revenue Code; and on or about March 27, 1995, and on or about December 8, 1994, *information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.*'' Statement of Alleged Violation, ¶52, p. 22 (emphasis added).

The standard relating to the adoption of a Statement is contained in Rule 17(d) of the Rules of the Committee on Standards of Official Conduct and provides:

''Upon completion to the Preliminary Inquiry, an investigative subcommittee, by majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is *reason to believe* that a violation has occurred.'' (emphasis added). Rules of the Committee on Standards of Official Conduct, Rule 17(d).

Given the false information which has been disseminated regarding the violation, it is important to note that the Investigative Subcommittee:

did not charge Respondent with any violation of U.S. tax law;

did not charge Respondent with intending to deceive the Committee;

did not charge Respondent with illegal activities or criminal tax violations; and

did not charge Respondent with money laundering.

Indeed, based on the standard applied by the Investigative Subcommittee, there is no reason to believe that any such allegations

[1] Footnotes at end of document.

are true. All statements to the contrary are not only false, but maliciously false, as established by the language of the Statement of Alleged Violation.

THE REAL WORLD

In the real world, Members of Congress necessarily confront many issues incidental to their multiple responsibilities. Chapter 9 of the House Ethics Manual itself addresses ''Involvement With Official and Unofficial Organizations.'' On page 307, the House Ethics Manual state: ''Members and employees of the House need to distinguish carefully between official and unofficial activities when they interact with private organizations.''

Also in the real world, Members interact with a variety of organizations. Some are political action committees; some are charitable organizations (Section 501(c)(3) entities); and others are lobbying organizations (Section 501(c)(4) entities.[2] It is neither illegal nor inappropriate for Members to participate as directors, officers or trustees of these political action committees, charitable organizations and lobbying organizations. According to The Exempt Organization Tax Review, ''a review of Members' 1988 financial disclosure forms . . . showed that 51 Senators and 146 House Members were founders, officers or directors of tax-exempt organizations.'' See, Exhibit A: The Exempt Organization Tax Review, Dec.–Jan. 1990, p. 680. Indeed, ''five candidates in the 1988 presidential contest had tax-exempt groups ostensibly doing research and educational activities in the months preceding their campaigns.'' Id.

The Internal Revenue Service specifically contemplated such structures. As described by the IRS:

''A number of IRC 501(c)(3) organizations have related IRC 501(c)(4) organizations that conduct political campaign activities, usually through a PAC (an IRC 527(f) separate segregated fund). So long as the organizations are kept separate (with appropriate record keeping and fair market reimbursement for facilities and services), the activities of the IRC 501(c)(4) organizations or of the PAC will not jeopardize the IRC 501(c)(3) organization's exempt status. 1992 IRS CPE, at 439.''

In addition, it is not unusual that the political action committees, charitable organizations and lobbying organizations share the same address and operate out of the same offices. For example, the National Organization of Women (a section 501(c)(4)), National Organization of Women Foundation Inc. (a section 501(c)(3)), and the National Organization of Women Political Action Committee (a political action committee) all list as their address 1000 16th St. NW 700, Washington, D.C. For a further listing of multiple, affiliated Political Action Committees/Section 501(c)(3) entities/Section 501(c)(4) entities sharing the same address, *see* Exhibit B and Appendix D.

Finally, it is common for these multiple-entity organizations to engage simultaneously in activities that have political implications. For example, the Sierra Club operates a section 501(c)(3) entity designated as Sierra Club Fund; a section 501(c)(4) entity designated as Sierra Club; a political action committee designated as Sierra Club Committee on Political Education; and a section 501(c)(3) entity designated as Sierra Club Legal Defense Fund. All of the entities list as their address 730 Polk Street, San Francisco, CA. The internet home page of Sierra Club reflects its broad-ranging purposes, including those which are political. The home page states as follows:

''The Sierra Club has played an increasingly active role in elections in recent years. Candidates who can be counted on to preserve the environment can count on our support—in the form of endorsements, contributions, publicity, and volunteer support. Candidates who try to deceive the public by supporting efforts to eliminate or weaken our basic environment safeguards will be called to account for their actions. In 1996, concerned citizens have the opportunity to reverse the tide of the last election. We have no choice, as the 21st century nears, but to send to Washington elected officials who have a genuine commitment to preserving and protecting the Earth. With your help, the 1996 elections can set a new course for our nation.'' See Exhibit C for other similar home pages involving multiple entity organizations with tax exempt affiliates.

RENEWING AMERICAN CIVILIZATION MOVEMENT

The movement to renew American civilization had its genesis in Respondent's belief that American civilization is decaying and must be renewed. Respondent believes that the act of renewing American civilization involves far more than politics, politicians and votes. It involves what is being taught in local schools and colleges, what is heard on radio and television and what happens in local clubs and organizations, in addition to what government and politicians are doing. Respondent believes that the renewal must be cultural, societal, educational, economic, governmental and political. More importantly, to achieve the degree of change necessary to renew American civilization, there would have to be a movement that transcends any single vehicle of change.

Looking toward the 21st Century, Respondent developed an approach which he referred to as the ''five pillars'' of renewing American civilization: (1) quality; (2) technological advancement; (3) entrepreneurial free enterprise; (4) principles of American civilization; and (5) psychological strength. Based on these principles, Respondent sought to initiate a movement to replace the welfare state and renew American civilization to occur at every level of American society. Renewal would require the accomplishment of various goals including the education of the general population and creation of a majority of citizens committed to reform, thereby spawning activism; education of business leaders; and education of the media as to the ideals and concepts of renewal. In effect, Respondent sought to create a national dialogue for reform and a methodology by which citizen activists could accomplish the stated goals of the movement.

Respondent envisioned many methods to initiate the movement through simultaneous efforts utilizing Respondent's various public roles. First, as a Member of Congress and a member of the Republican leadership. Respondent envisioned utilizing the legislative process through speeches, such as special orders presented to the House, votes and legislation. Second, as an educator, Respondent envisioned refinement of his message and delivering it to foster healthy debate on the issues of reform. Third, as Chairman of GOPAC, Respondent envisioned recruiting and training Republican candidates. Respondent believes that every citizen, regardless of partisan affiliation, should participate in the renewal, and that, through education in the principles of civilization, debate will ensue and every citizen can become a pro-civilization activist to ensure that American civilization can be renewed.

During a December, 1992 meeting with GOPAC contributor Owen Roberts, Respondent described the movement as ''articulat[ing] the vision of civilizing humanity and recivilizing all Americans.'' GDC 11363. He sought to: ''[d]efine, plan and begin to organize the movement for civilization and the effort to transform the welfare state into an opportunity society to help people achieve productivity, responsibility and safety so they can achieve prosperity and freedom so they can pursue happiness.'' GDC 11363; HAN 2123.

Respondent further described the movement as follows: ''The challenge is not Republican or Democrat, liberal or conservative. The challenge is to our civilization's survival.'' GDC 1066; see also, GDC 10729.

Jeffrey Eisenach, Project Director for the Renewing American Civilization course, described the movement as follows: ''The potential movement to renew American civilization and replace the welfare state is bigger than and in some ways different from the Republican Party.'' Eisenach 2767.

When questioned by Special Counsel, Respondent states as follows:

Q: ''Is that [the movement] to be conducted in a political framework?

A: ''There is a political framework within the movement. The movement itself is cultural, not political.

Q: ''Is the movement intended to be Republican identified?

A: ''No.'' Gingrich July 17, 1996 Tr., p. 28.

When Respondent was asked by Special Counsel whether the goal of the movement was to recruit a Republican majority, he answered as follows:

A: ''No. Just the reverse. That is the movement is large. You might or might not have a Republican majority within this movement. If the movement succeeded without a Republican majority, that would still be a success. We thought, the times we talked this out, the Republican majority was the most logical step in this country——

Q: ''I understand that it may not result, but was it a goal?

A: ''It was a not a goal of this movement. It was a goal of my activities.'' Gingrich July 17, 1996 tr., pp. 49–50.

It is against that backdrop that Respondent and his advisors conceived of the Renewing American Civilization course, one of several tools to be utilized in initiating this movement. See Exhibit D: chart illustrating, in part, the dynamics of initiating the movement.

THE RENEWING AMERICAN CIVILIZATION COURSE

The Renewing American Civilization course was offered for academic credit at over 20 colleges and universities across the United States, including the University at Berkeley, Vanderbilt University, Clemson University, Emory University, the University of Mississippi, Kansas State University, Colgate University, Auburn University, the University of South Carolina and Penn State University. FIC 00108; FIC 00148–49.

The basic format of the Renewing American Civilization course consisted of ten lecture topics, discussing various aspects of renewing American civilization. Some key elements of those ten lectures can be summarized as follows:

1. ''Understanding American Civilization''—America is the only country in a position to lead the world into a new age, and must strive to replace its welfare state with an opportunity society, based on the five principles of American civilization: personal strength, entrepreneurial free enterprise, the spirit of invention and discovery, quality and the lessons of American history.

2. ''Personal Strength''—Personal strength is a basic principal of American civilization vital to establishing safety, family, work, health and learning. Existing frameworks weaken personal strength by discouraging work, undermining family and integrity and discouraging self-reliance.

3. ''Entrepreneurial Free Enterprise''—The role of the entrepreneur is vital to American civilization. Bureaucratic credentialism stifles entrepreneurial free enterprise, and government regulation distorts the market's ability to reinforce success.

4. ''Spirit of Invention and Discovery''—The welfare state cripples progress through bureaucracy, litigation and taxation. A pro-spirit of invention and discovery America will create a better future through better ideas.

5. ''Quality and Deming's Profound Knowledge''—With a culture of quality, Americans can compete against anyone in the world. Consumers define value. To improve results, you must improve the process that generates them. People want to do a good job. Every person is part of a larger system. Continual learning is the basis for continual improvement.

6. ''Lessons of American History''—History is a collective memory and a resource to be learned from and used. America is exceptional and its history teaches us how exceptional. The religious and social tenets of puritanism are diffused throughout American values today.

7. ''Economic Growth & Job Creation''—The welfare state's despised low-paying job is the entrepreneur's opportunity. It is not who you are today, it is who you want to be tomorrow that counts in America. A successful America will have the highest value added jobs with the greatest productivity leading to the greatest take home pay and the greatest job security.

8. ''Health and Wellness''—Our challenge is to create a vision of a healthy American focusing on lower costs, higher quality, more choices and greater access. The five principles of American civilization should help us brainstorm a better way of life.

9. ''Saving the Inner City''—American reform movements have emerged quickly and have had powerful impacts. Saving the inner city can be accomplished through individual, decentralized efforts. The vicious circle of the welfare state should be replaced with the virtuous circle of American civilization to help people create new hope and new opportunities.

10. ''Citizenship for the 21st Century''—Citizenship may be defined as the duties and obligations, rights and responsibilities necessary to maintain community. The genius of America lies in liberating each citizen to seek community and define citizenship in the broadest possible way.

These lectures would also include a list of suggested readings to allow for a more complete explanation of the issues covered. These readings included works written by Democrats such as Al Gore and Max Cleland, as well as works by Alvin Toffler, a Futurist. During each class section, Respondent would lecture for his two-hour period and the faculty representative or site representative would then make a presentation involving group discussion which Respondent did not control.

Respondent himself was, prior to election to Congress in 1978, a professor of history who served on the faculty of West Georgia College for eight years. He was awarded a B.A. from Emory University in 1965 and a Ph.D. in European History from Tulane University in 1971.

The course itself was taught at Kennesaw State College, a senior college within the University System of Georgia, and, later, at Reinhardt College, a private, accredited college located in Waleska, Georgia.

Periodically during course lectures, Respondent made references to individuals, entities and companies which in their own way exemplified his notion of American exceptionalism. A total of 46 videotape inserts—typically three to four minutes in length—were used in the course to illustrate various points. GDC 2619. The inserts from the ''Personal Strength'' lesson are typical of these: Former Georgia Secretary of State and now U.S. Senator Max Cleland on overcoming his injuries in Vietnam; Congressman John Lewis about the role of personal strength in the civil rights movement; Nationally-recognized teacher Marva Collins on teaching personal strength; Supreme Court Justice Clarence Thomas' journey from Pinpoint, Georgia to the Supreme Court; and A story about the Paralympics. GDC 2619.

During the course, Respondent also prominently featured Franklin D. Roosevelt, John F. Kennedy, Rev. Martin Luther King, Jr. and Jimmy Carter in his discussions and videotape presentations. Respondent discussed both Democrats and Republicans favorably.

In developing the Renewing American Civilization course, Respondent invited Members of Congress from both parties to contribute ideas to the course. WGC 07084. Prior to the time Respondent taught the course, he described his course development to the Committee as follows:

''I expect that we will invite many people to comment on the content of the course, at every stage of the four-year process. Commentators will include people involved in state and local government, including Congressional staff (my own and others). These commentators will also include members of both major political parties. (For example, I have recently talked with both Pat Moynihan and John Lewis, who have agreed to serve in this capacity.)'' Gingrich July 21, 1993 letter to Rep. McDermott.

Respondent later described his course development as follows:

''I have invited many people in many backgrounds to submit material for consideration and to assist in reviewing the course. These include President Clinton and Secretary of Labor Robert Reich.'' Gingrich September 7, 1993 letter to Barry Phillips, Chairman of the Georgia Board of Regents, GDC 2607.

Several prominent scholars reviewed the content of the Renewing American Civilization course. David King, an assistant professor of public policy at Harvard University's John F. Kennedy School of Government, concluded that the course is ''not partisan. . . . It touts conservative ideas, but those ideas are never explicitly linked to the Republican Party.'' Peter Applebome, ''Educators Divided on Course by Gingrich,'' New York Times, Feb. 20, 1995 at A12. Professor King also concluded it is impossible to teach a political science or history course ''without someone interpreting what you say in partisan terms.'' Kathy Alexander, ''Gingrich's Notorious Course at End: For Now Students Praise Teachings and Teacher as he Takes Two-Year Break,'' Atlanta Journal-Constitution, Mar. 11, 1995, at C1.

The vast majority of those persons who attended the course, or were otherwise associated with the course, found it to be academic and non-partisan. For instance, Dr. Tim Mescon, dean of the business school at Kennesaw State College where the course was first taught, characterized the philosophical approach of the Renewing American Civilization course as follows:

''This course . . . is by no means constructed as a political platform or forum for unidimensional ideologies. . . . Today, citizens of the United States are immersed in conversations pertaining to reform. . . . Regardless of political philosophies, this country is engaged in lively debate over the need to reform and the methodology required to implement change. This course has been designed by contributors from various political platforms, socioeconomic backgrounds, and academic and professional institutions. The intention is to incubate dialogue, discourse and discussion all focused on renewing American civilization. . . . Kennesaw State students should be encouraged to participate in pensive discussions on such timely issues, and it is my intention that this course create a dynamic forum for these interchanges.'' July 28, 1993 Memo from Mescon to Faculty Colleagues, FIC 00185.

Many of the students who took the Renewing American Civilization course for academic credit at Reinhardt College, one of the host sites, were highly enthusiastic about the course and regarded it as one of the most challenging classes of their college careers. See Reinhardt College Student Evaluation Forms, GDC 12454–12546. Some students viewed Renewing American Civilization as an excellent course for people with a ''true interest in history,'' while other students saw it as ''really a business course.'' Id. at 12472. Another student commented, ''I really was ready to argue political points, but I'm glad that [Respondent] stayed away from those.'' Id. One student was ''disappointed'' because he or she did not ''learn more about politics.'' Id. at 12499. Another student wrote, ''this has not been political grandstanding.'' Id. at 12517. One student wrote, ''it had no politics whatsoever.'' Id. at 12487.

Although the Renewing American Civilization course was promoted among a wide array of Republican organizations, non-partisan or Democratic-oriented organizations were also solicited, including the American Political Science Association. Of the 36 contributors to the course, only 14 were associated with GOPAC or its efforts. GDC 2621. Respondent only mentioned four of the 36 contributors in the course lectures.

One course memorandum reflected Respondent's firm desire to maintain the course as a non-partisan, apolitical endeavor, stating as follows:

''Obviously, we also need to design a process which is legally appropriate and as immune as possible from criticism from those who oppose what we are doing. In particular, we need to ensure that Kennesaw State College and Kennesaw State College Foundation resources are not used to help partisan organizations (e.g., GOPAC) or political candidates (e.g., Newt).'' Aug. 25, 1993 Eisenach Memorandum, WGC 07080.

Much has been written regarding GOPAC's involvement in the Renewing American Civilization course. The critical inquiry in this regard is whether the Respondent took steps to maintain the division of capacities between his capacities as a Member, a teacher in a section 501(c)(3) setting and a partisan politician in connection with a political action committee. Whether those efforts were completely successful necessarily depended on others. The Respondent's activities, however, reflect that he attempted repeatedly to ensure that his partisan and non-partisan activities were properly segregated.

For example, as reflected in the February 15, 1993 Agenda to a GOPAC planning session, Respondent viewed the Renewing American Civilization course as separate and apart from GOPAC. On the agenda, item I. is ''General Planning/Renewing American Civilization'' and item II. is ''Political/GOPAC Issues.'' JR 645.

Finally, Nancy Desmond, the Renewing American Civilization Course Coordinator, stated Respondent's position succinctly when she wrote to Barry Hutchison of Friends of Newt Gingrich (''FONG'') on July 11, 1993:

''In a recent conversation with Newt, he expressed the concern that my involvement in both the Congressional Club and the Renewing American Civilization course at Kennesaw might suggest to some that there is a possible connection between the course and the campaign. As you know, Newt is adamant about keeping the two separate and wants it to be clear to everyone that the course is, in no way, connected to his political campaign. The firmness of this resolve on his part and the absolute commitment to

maintaining a clear and unequivocal separation between the course and his campaign leave me no alternative but to withdraw from my volunteer post with the Club.'' PFF 38289.

Two tax-exempt organizations, Kennesaw State College Foundation (''KSCF'') and Progress & Freedom Foundation (''PFF''), collected the funding for the Renewing American Civilization course at Kennesaw State College and Reinhardt College, respectively. Regarding KSCF, Respondent taught the course at Kennesaw. The KSCF was the funding repository for activities at the Kennesaw campus, and it existed before Respondent had any relationship to the college.

In relation to PFF, Jeffrey Eisenach described Respondent's lack of involvement with PFF as follows in his Attachment to his 1995 Statement:

''[Respondent] is not and has never been a board member, officer or employee of the foundation. He was not aware of plans to create the foundation until after they were well advanced; did not participate in key planning meeting leading to its creation; has never served in any official capacity with the Foundation; did not review or participate in the development of its application to the IRS for tax exempt status or other key founding documents; did not participate in the selection of or make recommendations for membership on its founding board of directors; was not consulted on the naming of new board members; has not, with the exception of his Renewing American Civilization project, participated in fundraising activities; and, he has always understood the Foundation to be an independent entity, created for the non-partisan research and educational purposes stated in its application for tax exempt status and subsequent IRS filings.'' GDC 12176.

''FAILING TO SEEK AND FOLLOW LEGAL ADVICE''

The Statement of Alleged Violation alleges that, ''by failing to seek and follow the legal advice'' or tax counsel to ensure that the activities described in the Statement of Alleged Violation ''were in accordance with section 501(c)(3) of the Internal Revenue Code'', Respondent's conduct constituted a violation of Rule 43(1) of the Rules of the United States House of Representatives. (S.A.V., T52–53). It is important to note that, contrary to the statements of some, the Investigative Subcommittee did not find that Respondent's activities violated federal tax law or caused the tax-exempt organizations to violate their tax exempt status. The fact is that a violation of law may not, in and of itself, be a violation of the Code of Official Conduct. As noted on page 12 of the Ethics Manual, ''[d]uring the floor debate preceding the adoption of the Code, Representative Price of Illinois, Chairman of the Select Committee on Standards of Official Conduct, rejected the notion that violations of the law are simultaneous violations of the Code . . .''

Certainly, a knowing violation of law could constitute conduct that did not reflect creditably on the House of Representatives in violation of Rule 43(1). Here, there has been no finding of a knowing violation of law.[3] In fact, such a finding would be directly contradicted by the findings in the Statement of Alleged Violation itself.

The Statement of Alleged Violation notes that tax counsel retained by the Investigative Subcommittee and tax counsel retained by Respondent disagree regarding whether the activities at issue constitute a violation of the tax-exempt organizations' section 501(c)(3) status. The only clear conclusion from the findings and the testimony before the Investigative Subcommittee is that there is no clear answer. In the absence of a clear answer, there could be no knowing violation of law.

Although there appears to be no precedent for it,[4] the issue then becomes whether there is a violation when a Member is actually aware that the law is unsettled, but nonetheless proceeds with the activity with knowledge that a public controversy may ensue, resulting in discredit to the House of Representatives. In this case, the hindsight conclusions of the tax counsel who appeared before the Investigative Subcommittee are that any counsel presented with the facts alleged in the Statement of Alleged Violation ''would have advised that it not be conducted under the auspices of an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.'' (S.A.V., T15,40). After two years of public controversy driven largely by interests totally unrelated to the tax-exempt status of the organizations, the tax attorney's position is a relatively obvious conclusion for attorneys operating with the benefit of hindsight. Respondent's conduct must, however, be evaluated in the real world, real time context of what was the generally accepted practice in 1993 when the course was established.

THE USE OF CHARITABLE FUNDS IN SUPPORT OF NONPARTISAN POLITICAL EDUCATION WAS AN ACCEPTED PRACTICE IN 1992 AND 1993

First, the Respondent's activities were not inconsistent with clear federal tax law in the opinion of all tax practitioners at the relevant time. The practice in the real world at the time was that the conduct engaged in by Respondent was in accord with the conduct of many well-advised contemporary charitable educational entities, the comment of legal scholars, and the practice of other Members of Congress.

Nonprofit organizations, to qualify for tax exempt status, must satisfy the basic criteria established by section 501(c)(3) of the Internal Revenue Code (''IRC'' or ''the Code''), regulations promulgated thereunder, judicial interpretation of the law and its regulations, Internal Revenue Service (''IRS'') Revenue Rulings, IRS Letter Rulings, tax notices, and the various other means such as IRS press releases and announcements by which citizens can attempt to anticipate IRS interpretation of their conduct under the law.

SECTION 501(C)(3) AND THE REGULATIONS PROMULGATED THEREUNDER

In essence, section 501(c)(3) of the Internal Revenue Code provides that entities must satisfy several basic criteria to qualify for exempt status. First, the entity must be ''organized and operated exclusively for'' one or more of several enumerated charitable, religious or educational purposes,[5] second, ''no part'' of the net earnings of the entity may inure to the benefit of any private shareholder or individual; third, ''no substantial part of the activities'' of that entity may be ''carrying on propaganda, or otherwise attempting to influence legislation''; and fourth, the entity must not ''participate in, or intervene in . . ., any political campaign on behalf of (or in opposition to) any candidate for public office.'' IRC § 501(c)(3).

The legislative history of the campaign intervention rule reflects the difficulties practitioners have encountered in applying these provisions. This provision of the Code was added to the federal tax law when then-Senator Lyndon B. Johnson offered the provision by way of a floor amendment to the Revenue Act of 1954 without congressional hearings out of concern that funds provided by a charitable foundation had been used to finance the campaign of a primary opponent. B. Hopkins, The Law of Tax-Exempt Organizations, p. 327 (6th ed. 1992); Lobbying and Political Activities of Tax-Exempt Organizations: Hearings before the Subcommittee on Oversight of the House Committee on Ways and Means, 100th Cong., 1st Sess. 19–20, 423 (1987) (Statements of Bruce Hopkins, Baker & Hostetler and the United States Catholic Conference). In offering the amendment, Senator Johnson stated that the purpose of the amendment was to ''den[y] tax exempt status to not only those people who influence legislation but also to those who intervene in any public campaign on behalf of any candidate for any public office.'' 100 Cong. Rec. 9604 (1954).

Section 1.501(c)(3)–1 of the Income Tax Regulations (''the Regulations'') marked a retreat from the ''exclusively for'' language of section 501(c)(3) by providing that ''[a]n organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.'' 26 C.F.R. 1.501(c)(3)–1(c)(1). Thus, contrary to the language of section 501(c)(3), the IRS has indicated that conduct not consistent with articulated exempt purposes will not jeopardize exempt status as long as such conduct constitutes only an ''insubstantial part'' of its overall activities. Id.

The Regulations further provide that an entity will not be regarded as being operated exclusively for exempt purposes if it satisfies the IRS' definition of an ''action'' organization. 26 C.F.R. 1.501(c)(3)–1(c)(3). An ''action'' organization is defined as one that devotes ''a substantial part of its activities [to] attempting to influence legislation by propaganda or otherwise.'' 26 C.F.R. 1.501(c)(3)–1(c)(3)(ii). Likewise, ''[a]n organization is an 'action' organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.'' 26 C.F.R. 1.501(c)(3)–1(c)(3)(iii).

APPLICATION OF REVENUE RULINGS APPLYING 501(C)(3) AND ITS REGULATIONS

In 1978, the IRS issued a Revenue Ruling revoking a prior such ruling to hold that ''[c]ertain 'voter education' activities conducted in a nonpartisan manner by an organization recognized as exempt under section 501(c)(3) of the Code will not constitute prohibited political activity disqualifying the organization from exemption.'' Rev. Rul. 78–248, 1978–1 C.B. 154. According to the IRS ruling, the determination of whether an organization is participating or intervening in a political campaign as proscribed by regulation 1.501(c)(3)–1(c)(3)(iii) ''depends upon all of the facts and circumstances of each case.'' Id. Revenue Ruling 78–248 then sets forth four hypothetical ''situations'' describing activities which the IRS deemed to be either permitted or prohibited under 501(c)(3). Ultimately, the factual analysis provided by the IRS with respect to each situation was whether, under the specific facts of the hypothetical, the activities ''evidenced a bias or preference'' with respect to the views of the entity towards issues, a candidate or a group of candidates. Id.

Two years later, the IRS applied Revenue Ruling 78–248 to conclude that an entity's publication of a newsletter reporting Congressional voting records did not violate the entity's tax exempt status. Rev. Rul. 80–282, 1980–2 C.B. 178. The IRS so held, notwithstanding its conclusion, that ''the format and content of the publication are not neutral, since the organization reports each incumbent's votes and its own views on selected legislative issues and indicates

whether the incumbent supported or opposed the organization's view.'' Id. The IRS based its ruling on a factual conclusion that ''the organization will not widely distribute its compilation of incumbents' voting records . . . [and that n]o attempt will be made to target the publication toward particular areas in which elections are occurring nor to time the date of publication to coincide with an election campaign.'' Id. Accordingly, the IRS opined, the issues presented in Revenue ruling 80–282 presented sufficient factual distinctions from the hypothetical prohibited situations set forth in Revenue Ruling 78–248 to permit the IRS to conclude that this entity's proposed activities, ''in the manner described above, will not constitute participation or intervention in any political campaign within the meaning of section 501(c)(3).'' Id.

EFFECT OF THE IRS' FACT-BASED ANALYSIS ON PUBLIC BEHAVIOR

As a consequence of the IRS' indications that it would apply fluid, fact-specific analysis to charitable efforts to educate the public on political matters, the late 80's and early 90's marked a period of wide-ranging opinion among tax practitioners as to the extent that political education by charitable entities would be permitted by the IRS. Specifically, this period marked an era when tax exempt entities were being called upon by sophisticated practitioners to educate and motivate the public on an ever-widening range of issues. As would be expected, the legal literature of this period reflects the lack of guidance provided by the IRS with respect to political education by tax exempt entities. See e.g., Lobbying and Political Activities of Tax-Exempt Organizations: Hearings before the Subcommittee on Oversight of the House Committee of Ways and Means, 100th Cong., 1st Sess. 6 (Opening remarks of Chairman Pickle) (''I am concerned that the public sees and hears a steady stream of media reports about abuses in this area, and the IRS seems to be taking little or no action. The public gets the impression that the Internal Revenue Service is just looking the other way.''); Maxwell Glen, ''Battle Looming over Partisan Activities of Tax-Exempt Nonprofit Organizations,'' The National Journal, p. 2294 (Dec. 1, 1994) (''In fact, since the early 1970s, when it was accused of harassing Nixon Administration opponents, the IRS has seldom policed the nonprofit sphere for political partisanship, tax specialists say. 'What you see now is a testing,' and Washington lawyer Thomas A. Asher, 'because the IRS has been remarkably reticent on the subject of the line between charity and the partisan activity of charitable organizations.''); Frances R. Hill, ''Newt Gingrich and Oliver Twist: Charitable Contributions and Campaign Finance,'' Tax Notes, p. 237, 238 (Jan. 9, 1995) (''While [the prohibition against participation in political campaigns] is absolute, it is far from clear what activity it prohibits short of direct endorsement of a particular candidate by an official speaking on behalf of the organization. In all other cases, the law offers little guidance and perhaps even less restraint.'').

Apparently, this concern among leading tax practitioners regarding the lack of guidance provided by the IRS with respect to political education by tax exempt entities was shared by Celia Roady,[6] the tax expert retained by the Special Counsel to testify in favor of sanctioning Respondent. On September 28, 1994, the Exempt Organizations Committee of the American Bar Association's Section on Taxation presented a memorandum to Mr. Leslie B. Samuels, Assistant Secretary for Tax Policy at the Department of the Treasury, suggesting clarification of numerous issues facing tax practitioners under section 501(c)(3) for which the Exempt Organizations Committee believed there ''currently is no authority, or there is unclear precedential authority.'' ''ABA Tax Section Members Suggest Exempt Organization Areas in Need of Precedential Guidance,'' 94 Tax Notes Today, 207–14 (Oct. 21, 1994). Celia Roady is presented first on the list of those upon whom principal authority for the preparation of the memorandum rested and she is listed as the Committee's ''Contact Person'' on the memorandum. Id. In that memorandum to the Department of the Treasury, Ms. Roady observed:

''During the past two decades, there has been significant growth in our country's tax-exempt sector and a corresponding proliferation in the number of new legal issues confronting tax-exempt organizations. Signifying this development, the number of tax-exempt organizations included in the Cumulative List has increased from approximately 806,000 in 1974 to approximately 1,083,000 in 1994. Many of these organizations * * * have adopted evermore complex corporate structures, and many have become involved in new investment activities made possible by the evolution of financial markets. As tax-exempt organizations have grown in number and ventured into new areas, their activities have raised numerous federal tax law questions that are not adequately addressed by existing precedential authorities. Answering these questions has proved very difficult because at the same time as this expansion of organizations and issues has been taking place, the amount of precedential guidance issued by the Internal Revenue IRS has decreased dramatically.

* * * * *

''. . . Issuing precedential authority on the items described below that have already been the subject of non-precedential IRS guidance would greatly assist tax-exempt organizations in complying with the law.

''PUBLIC CHARITY ISSUE—POLITICAL ACTIVITIES

''One of the most important areas in which additional precedential guidance is needed is clarification of the prohibition on political activities by section 501(c)(3) organizations. . . . Illustrative of the political activities issue in the first category is the question of when will the acts and statements of the religious organization's minister be treated as the acts and statements of the religious organization for purposes of determining whether the organization has violated the prohibition against political campaign activities contained in section 501(c)(3). The statement issued by Jimmy Swaggart Ministries and endorsed by the Service when Ministries entered into a closing agreement with the Service articulated a clear and reasonable position on this issue. It would be helpful to know as well whether that position would apply for purposes of section 4955. As noted, the Subcommittee report also addresses a number of other ''Category One'' issues on which precedential guidance would be quite helpful.'' Id.

In a subsequent document submitted by Ms. Roady's A.B.A. Committee on Exempt Organizations (for which Ms. Roady was again designated as the ''Contact Person'') to the Commissioner of the IRS on February 21, 1995, Ms. Roady and the American Bar Association Section on Taxation observed:

''Our most serious concern is that the IRS is facing a crisis of credibility with respect to the Section 501(c)(3) political prohibition. Despite some publicized enforcement actions, such as the Jimmy Swaggart Ministries settlement, there is still widespread confusion as to what constitutes 'participation' or 'invervention' in a political campaign. As a consequence, compliance within the charitable sector is highly uneven. Some organizations openly flout the rule; others are reluctant to engage in legitimate educational activities during an election period.

* * * * *

''Up to now, it appears that the IRS has been using a ''smell'' test to determine whether prohibited political activities have occurred. This has created a string of precedents applying the general rule to particular fact patterns, without any unifying principle being stated. We believe that it will be significantly simpler for practitioners to advise clients about, and for organizations to comply with, the statutory rule if the IRS develops a concrete, unifying definition for political intervention, just as it has done for direct and grass roots lobbying activities.'' ABA Committee on Exempt Organizations Recommends ''Reasonable Person'' Standard for Determining Whether a Charity Participates in Political Activities, 95 Tax Notes Today 53–11, Mar. 17, 1995.

Not surprisingly, therefore, in light of this recognized lack of guidance from the IRS, the public record is replete with examples, in the time period leading up to the organization of the renewing American civilization course of charitable entities—entities that are well represented and advised as to the current state of the law—participating in the political arena unmolested by the IRS. For example, in 1986 and 1987, the IRS conducted a ten-month review of a tax exempt educational entity known as ''Project Vote,'' a national voter registration campaign that enrolled more than 500,000 potential voters. Critics of Project Vote's activities alleged that the entity's true objective was to accomplish the partisan objective of increasing the Democratic vote. After reviewing Project Vote's activities, however, the IRS concluded that the organization complied with the nonpartisan requirements of its tax-exempt status. ''Raising Money to Register More Voters,'' The Exempt Organization Tax Review, p. 679 (Dec.–Jan. 1990);[7] see also, ''Old Softie: Alan Cranston's Soft Money Machine; Campaign Fund Ethics,'' The New Republic, p. 17 (Dec. 11, 1989) (''Though Project Vote mixed contributions from labor, corporations, foundations, and individuals, some of which may have been motivated by partisan goals, the IRS found its voter registration activities to be perfectly legal.''). Thus, it is not surprising that, as early as 1984, charitable institutions which consulted with tax counsel abandoned 501(c)(4) affiliates (which are expressly permitted by the Code to adopt partisan political positions) by merging those affiliates' activities into 501(c)(3) entities as a means of reducing 501(c)(4) record keeping requirements. See e.g., Glen, at p. 2294 (Dec. 1, 1994) (''I've had more than one client get rid of its C–4 [affiliate] by merging it into [the client's] C–3,' said Gail Harmon, an attorney who represents about 30 nonprofit organizations, including NARAL. 'The fact of having to keep separate records does discourage' having both.'').

Historically, the IRS' reticence to conclude that political activity does not violate the political intervention doctrine is not limited to political education activities. See, e.g., Wimmer, ''Curtailing the Political Influence of Section 501(c)(3) Tax Exempt Machines,'' 11 Va. Tax Rev. 605, 606 (1992) (''Many of the groups that successfully opposed [Judge Robert] Bork's nomination to the high court were section 501(c)(3) tax-exempt organizations, entities prohibited from intervening in any political campaign and prohibited from carrying on substantial activities designed to influence legislation. These organizations took full advantage of the 'particularly murky' rules governing how tax-exempt organizations could influence the Senate's confirmation of judicial nominations.'').

As a consequence of the IRS' lack of guidance in this arena, participation in charitable education activities by Members of Congress was commonplace in the time leading up to the organization and formation of the renewing American civilization course. For example, a National Journal review of Members' 1988 financial disclosure form revealed that 51 Senators and 146 House Members were founders, officers or directors of tax-exempt organizations. The Exempt Organization Tax Review, p. 680, Dec.–Jan. 1990; see also ''Members of Congress Insist Foundations Aid Causes, Not Politics,'' Washington Post, February 22, 1990, at A21 (identifying tax exempt groups associated with Members of Congress). In 1993 Financial Disclosure Forms, at least 93 Members of Congress were founders, directors, officers or trustees of at least 210 tax-exempt organizations, including at least 109 section 501(c)(3) entities. See, Financial Disclosure Reports of Members of the United States House of Representatives of the 105th Congress. Likewise, five candidates in the 1988 Presidential election contest employed tax-exempt groups to perform research and educational activities in the months preceding their campaigns. The Exempt Organization Tax Review, p. 680 (Dec.–Jan. 1990).

The prevailing attitude among tax specialists in the early 90's is encapsulated in the comments of Washington fund-raiser Jan Scott Brown as reported in the National Journal: ''Every nonprofit puts a Congressman on their committee. That's the first thing I think of with a nonprofit client—how can I work in some political angle? That's the name of the game in town.'' Maxwell Glen, ''Battle Looming over Partisan Activities of Tax-Exempt Nonprofit Organizations,'' The National Journal, p. 2294 (Dec. 1, 1994)

Indeed, the criticism of the Special Counsel's tax expert, Ms. Roady, of Respondent's activities on this issue appears disingenuous at best. In February of 1995, the Exempt Organizations Committee of the American Bar Association—for which Ms. Roady was identified as the Committee's ''Contact Person''—requested that the Internal Revenue Service formally approve of activity under existing precedent virtually identical to Respondent's Renewing American Civilization course; the only difference being that Ms. Roady's expressed preference would be that it be only ''politically disadvantaged groups,'' rather than the American citizenry as a whole, that is encouraged to participate more actively in the grass-roots political process:

''One could argue that the general rule we propose appears to be overbroad, since it states that a 501(c)(3) organization cannot intentionally help ANY group of people to seek public office. What if the group is an indefinite class of persons that has been systematically under-represented in elective office, such as African-Americans or people with disabilities? Why couldn't a charity operate a campaign training school to assist, for instance, Spanish-speaking people to become effective campaign operatives or even candidates themselves?

''It is clear that the IRS has been willing to permit VOTER-ORIENTED activities such as registration drives, get-out-the-vote, and voter education, where a certain group of voters is encouraged to participate more actively in the political life of the country. For instance, the IRS concluded in PLR 9223050 that voter registration of homeless people, coupled with education about the electoral process, was a valid, nonpartisan, charitable activity that did not violate Section 501(c)(3). This is consistent with the position generally taken by the IRS that charities may engage in activities to increase the levels of voter participation among minorities, low-income people, or other politically disadvantaged groups.

''However, those rulings do not appear to contemplate activities benefiting an under-represented group of POTENTIAL CANDIDATES. As a consequence, it is not clear whether a charity which runs an educational program to train individuals in political campaign skills must offer it to the general public, rather than to any limited group. Our impression is that such a program must be conducted in a thoroughly nonpartisan manner with respect to recruitment of instructors and students, curriculum, placement of graduates, and all other aspects of operation. Existing precedents, such as the American Campaign Academy decision, speak more to what is prohibited than to what is permitted, and thus offer little helpful guidance on this score.

''We urge the IRS to state explicitly that charitable organizations are permitted to organize and operate certain types of campaign schools that serve indeterminate groups of persons who have been under-represented in the political life of our society. This would be consistent with the current IRS position on nonpartisan, voter-oriented educational activities.

''We think that IRS approval of candidate campaign schools benefiting politically disadvantaged groups, like its long-standing approval of voter participation activities directed at a variety of charitable and other diverse groups, would be consistent with the general definition we propose. In essence, the IRS has embraced voter registration and similar activities as a valuable public service, recognizing that low voter participation rates seriously undermine the functioning of our democracy. Therefore, a charity should be able to develop a voter education program directed at under-represented sectors of our society without violating the political prohibition, so long as it makes no suggestion to anyone on how to vote or what office to seek. In other words, voter participation programs (and, we believe, disadvantaged-candidate education programs) have an inherent educational value (''some other reasonable explanation'') that outweighs any implication that they were undertaken for a prohibited political purpose (''to improve or diminish'' someone's chances of getting elected). So long as the program is not a disguised effort to promote a candidate, party, or other private interest (as in the American Campaign Academy case), simply providing people with the tools to participate in the political process should not violate the Section 501(c)(3) prohibition.'' ABA Committee on Exempt Organizations Recommends ''Reasonable Person'' Standard for Determining Whether a Charity Participates in Political Activities, 95 Tax Notes Today 53–11, Mar. 17, 1995.

ABRAHAM LINCOLN OPPORTUNITY FOUNDATION (''ALOF'')

In 1984, Colorado Republican Party Chairman Howard ''Bo'' Callaway received tax-exempt status from the IRS for ALOF, an entity organized to conduct oratory contests throughout Colorado secondary schools, lend care and assistance to the needy ''and to provide educational services to the public.'' ALOF's officers consisted of Howard ''Bo'' Callaway, who was the Chairman of GOPAC, and Kay Riddle, Executive Director of GOPAC. Upon Mr. Callaway's resignation from the Colorado Republican Party, ALOF entered a period of dormancy in June of 1988. As described in a January 2, 1997 letter from Mr. Callaway to the Honorable Christopher Shays and distributed by Mr. Shays to other Members of Congress (attached hereto as Exhibit F and referred to as ''Callaway Letter''), in the Spring of 1990, Mr. Callaway revived ALOF as a means of sponsoring the American Citizens' Television (''ACTV'') program. At the time, there was only $486.08 in the ALOF bank account. Recognizing that ACTV's goal of increasing community involvement and citizen understanding of government and democracy presented a logical extension of ALOF's original educational mandate to motivate people and get them involved in their community, Mr. Callaway offered ALOF as ACTV's sponsor. Callaway Letter, p. 1–2.

ACTV, like a project previously run by GOPAC known as ''American Opportunities Workshop'' (''AOW''), was a self-described non-partisan project ''based on the three tenants [sic] of Basic American Values, Entrepreneurial Free Enterprise, and Technological Progress and involved the recruiting of activists to set up local workshops around the broadcast to recruit people to the citizens' movement.'' (S.A.V., T9). Respondent participated in two ACTV broadcasts produced by ALOF; aired on July 21, 1990 and September 29, 1990. Id., T10.

Mr. Callaway has several times expressly stated that ''Dan Swillenger [sic], our attorney, approved ACT as an appropriate activity for a 501 c) 3) foundation and in accord with the ALOF charter. I gave explicit instructions that there be no politics involved in the ACT programs and to the best of my knowledge there was none.'' Callaway Letter, p. 2–3.

The statements made in the Callaway Letter were repeated in an interview that Mr. Callaway gave to the Boston Globe. According to that article,

''Callaway stressed that he and Gingrich had been told by a lawyer that it was legal because the shows were ''educational,'' not political.

* * * * *

''According to Callaway, Gingrich and his associates looked to a nonprofit corporation that could accept tax-deductible donations. In contrast, contributions to political action committees are not deductible.

''Callaway thought it would take too long to get IRS approval to set up a new nonprofit corporation to fund Gingrich's television shows, so he revived the Lincoln Foundation, which had been dormant for years.

''Callaway said Daniel Swillinger, a GOPAC lawyer, told them the foundation's charter allowed it to pay for Gingrich's television show.'' Ex-foundation Director Says Gingrich OK'd Use of Funds, The Boston Globe, Nov. 22, 1996, at A1.

Of the two tax experts to appear for the purposes of Preliminary Inquiry before the Subcommittee, one opined that the described activity would not violate ALOF's status under section 501(c)(3). The expert, retained by the Special Counsel, opined to the contrary. That same expert, Celia Roady, is the same attorney who prepared a memorandum[8] to the Department of the Treasury bemoaning the IRS's lack of guidance available to practitioners called upon to provide counsel to non-lawyers, such as Respondent, who desire to use tax exempt charities for the purpose of providing political education to the public.

There are several important facts which should be noted regarding ALOF. First, Respondent was not at any time a member of the Board of Directors or an officer of ALOF. Second, contributors to ALOF always knew the purpose of their donations. ALOF began to pay for the ACTV programs in June of 1990. On May 30, 1990, there was only $486.08 in the ALOF bank account. With the exception of this small sum, which was used just to keep the bank account open, all of the money used to produce ACTV was raised specifically for ACTV with money contributed

from people who knew what their money was going to be used for and who fully supported the ACTV programs. Third, the Articles of Incorporation of ALOF, submitted to the IRS when ALOF applied for tax exemption stated in part that the purposes of ALOF were:'' ''. . . to provide educational services to the public. . . .'' The Bylaws passed pursuant to the Articles of Incorporation stated that the purposes of ALOF, in part are to: ''. . . provide education services to the public, and to engage in any and all lawful activities incidental to the forgoing purposes. . . .'' The Bylaws further stated that ''The purposes of the Corporation are promoted and developed through public discussion groups, panels, lectures, conferences, projects, publications and program. . . .'' Fourth, money given to ALOF was kept separate from and not commingled with GOPAC funds. Consistent with IRS rules and common practice, ALOF's expenses were separately allocated and paid. Anyone who worked on both projects had salary allocated based on the time spent on each.

Within this context, Respondent has admitted the violation contained in the Statement of Alleged Violation. Notwithstanding the common practice at the time, it was incumbent on the Respondent to engage qualified tax attorneys to assure that his activities in the furtherance of a movement would not jeopardize the tax-exempt status of the organizations involved and would not unnecessarily engender public controversy that would bring discredit on the House. This is true as to both the Renewing American Civilization course and the Abraham Lincoln Opportunity Foundation.

THE ABSENCE OF PRECEDENT MITIGATES IN FAVOR OF RESPONDENT

The Committee is urged to consider, as a mitigating circumstance, the unprecedented nature of the charge relating to the creation of a ''public controversy.'' No Member of Congress could reasonably have known that such a standard might be imposed. As early as November 15, 1994, Representative Bob Michel wrote a letter to Representatives McDermott and Grandy indicating his strong belief that the information requested by the Committee on October 31, 1994 regarding tax-exempt entities was beyond the Committee's jurisdiction to sanction. Specifically, Representative Michel commented: ''. . . [T]he information you request goes to the legal status of a 501(c)(3) entity, an entity that I believe is outside of the jurisdiction of the Committee on Standards. To my knowledge, there is no precedent for such an inquiry. The Committee has never launched a formal or informal investigation of such an entity. The Internal Revenue Service might be interested in the tax status of this particular group but it appears outside of your jurisdiction.'' (Letter of Rep. Bob Michel to Reps. Jim McDermott and Fred Grandy, November 15, 1994 at 1).

Indeed, this view was echoed by a Member of the Committee's own legal counsel's office, David McCarthy, when Respondent and his staff first consulted with McCarthy in June of 1993 regarding the Renewing American Civilization course. (See Letter of David J. McCarthy to Rep. David Hobson, December 1, 1994). The sound policy reasons for placing such matters outside the Committee's jurisdiction have been borne out by the present proceeding which has been costly not only in financial terms, but also in terms of the integrity of the House ethics process.

The power of both Houses of Congress to discipline their Members for ''disorderly Behavior'' is recognized by the Constitution itself.[9] House precedent recognizes the power of this body to discipline its Members for ''conduct unworthy of a representative of the people''[10] or other conduct which creates an appearance of impropriety. Such a standard is currently embodied in House Rule 43(1), which provides: ''A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.'' However, the application of this standard is limited, or should be, to those cases where the conduct is wrong in and of itself or where a violation of the law has already been found by a proper adjudicatory body.[11] The House Ethics Manual observes that ''[a] review of these cases indicates that the Committee has historically viewed clause 1 as encompassing violations of law and abuses of official position.'' House Ethics Manual at 14 (footnote omitted). In such cases, Members are well-placed to pass on the conduct of their colleagues, as, indeed, is any citizen, as such conduct so clearly transgresses the acceptable bounds placed on individuals in our society.

By contrast, the basis for the investigation in the present proceeding relates to a complex and difficult question of tax law relating to the permissible activities of tax-exempt entities. Such questions should not form the basis for a finding that a Member has violated the Code of Official Conduct unless a properly constituted administrative or judicial authority has previously found that the Member has in fact committed acts prohibited by the tax code. To punish a Member for creating a public controversy involving the legality of a Member's involvement with organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code without any violation of the law having been found by the Internal Revenue Service or this Committee is not only unprecedented, but unwise.

In establishing a bright-line rule to distinguish between those matters properly governed by the standard set forth in House Rule 43(1), it is helpful to refer to the long-recognized distinction between and mala in se (literally, ''wrongs in themselves'') and mala prohibita (''prohibited wrongs''). See, *Morisette* v. *United States*, 342 U.S. 246 (1952); *United States* v. *Park*, 421 U.S. 658 (1975). Mala in se are aggravated wrongs and injuries in derogation of public morals and decency. Examples include killing and stealing. While such offenses may or may not violate a specific law, we all know that such acts are inherently wrong and we punish those who commit such offenses. The Committee on Standards of Official Conduct can, and should, recommend appropriate punishment for the commission of mala in se even if the Committee finds that there has been no violation of the law.

Mala prohibita, on the other hand, are acts that are wrong only in the sense that they are specifically prohibited by the state. In many instances, determining whether a malum prohibitum has been committed requires the application of specialized expertise as to the state's technical prohibition. If it is found, by a properly constituted administrative or judicial tribunal with the expertise to comprehend and adjudicate the alleged violation, that a Member has violated such a law then sanctioning the Member pursuant to Rule 43(1) is perfectly appropriate as such conduct does not reflect creditably on the House. In the absence of such a finding, however, the Committee should abstain from becoming involved in investigating and attempting to resolve such questions.

The Committee's investigation of Respondent in the present case has attempted to apply Rule 43(1), in an unprecedented manner. The conduct being investigated in this proceeding—using charitable funds for educational or allegedly partisan political activities—is not a wrong in and of itself. It is only wrong if the conduct in question violates the technical parameters set out by the Internal Revenue Code. Furthermore, this is not even a case in which it is alleged that a Member violated the law; but rather it is one step further removed. This is a case in which a Member is alleged to have failed to appreciate fully his need for technical guidance so as to avoid the controversy generated by the divergence of expert opinion with respect to his conduct.

The dangers of such a precedent lie in the fact that: ''appearance'' standards are so vague as to have little content, thus providing scant guidance to members and their staffs in shaping their conduct and, at the same time, exposing them to the possibility of manipulable complaints and prosecution. In the words of the ABA Committee on Government Standards, ''beyond [an] initial role in rule formation, 'appearance of impropriety' is too vague and contestable a concept to function effectively as an independent benchmark in a system of ethics regulations.''[12]

Such a precedent would undoubtedly have a chilling effect on Member participation in charitable or educational organizations now expressly permitted by the Committee.[13]

The subcommittee has created a new wrong not heretofore known to law: conduct which creates a ''public controversy.'' Let us be clear that this new hybrid is substantially different from sanctioning a member for the commission of a malum in se involving infamy for clearly immoral or unjust conduct. Furthermore, the subcommittee seeks to punish Respondent for failing to engage counsel to avoid such controversy. Yet the practical implications of this newly-created offense make it difficult to understand how engagement of counsel would serve as a defense as the subcommittee's Statement of Alleged Violation suggests. Is it a ''public controversy'' if experts disagree and there is little or no media attention, or is it only a ''public controversy'' if experts disagree and there is substantial media attention? Is it a perfect defense to have consulted counsel? What if counsel is diligent but mistaken? What if counsel renders incorrect advice? Does the Member have to seek Board certified counsel? These and a panoply of other practical problems present themselves if a sanction is predicated upon this as yet untrodden minefield.

The policy reasons for declining to create such a precedent are numerous. First, allowing the mere allegation of violations of the law to become a basis for ethics charges will encourage political opponents to use the law and the ethics process as tools of political strategy. The controversy surrounding the Federal Election Commission's complaint against GOPAC filed in the Federal District Court for the District of Columbia provides a case in point. See, *Federal Election Comm'n* v. *GOPAC, Inc.*, 917 F.Supp. 851 (D.D.C. 1996). In April, 1994, the FEC filed a civil action against GOPAC alleging that, in 1989 and 1990, GOPAC had failed to register as a ''political committee'' as required by the Federal Election Campaign Act, 2 U.S.C. §§433(a) and 434(a). One of the primary contentions made by the FEC was that GOPAC funds to support Respondent as chairman of GOPAC were utilized by Respondent's election campaign. The filing of the case prompted great speculation among the press and generated headlines such as ''Another Ethical Problem for Newt,''[14] ''FEC Says GOPAC Aided Gingrich Race Despite Law; Group Barred From Federal Campaigns in 1990''[15] and ''GOPAC secretly aided Gingrich in 1990, election officials charge.''[16] However, the FEC's complaint was disposed of by the district court on summary judgment. The parallels to the present case are apparent. Despite the vast

number of allegations regarding Respondent's violations of federal election laws in the press, when a ''controversial'' claim was exposed to rigorous examination in proper a judicial forum the claim was found insufficient to survive a motion for summary judgment. Yet if allegations alone that ''controversy'' had been generated provided a sufficient basis for an investigation and discipline under Rule 43(l), Respondent might have been once again forced to expend great amounts of effort and money in defense and the Committee might have been forced to consume a great deal of its time in investigating claims that proved to be baseless when subjected to judicial scrutiny. For this reason, cases involving mala prohibita such as violations of federal elections law or the tax code ought to be left to regulators and the courts who are ultimately better equipped to address technical aspects of the law.

Not only is this Committee ill-equipped to address allegations that such laws have been violated, but to do so ultimately undermines the administrative enforcement process of many of these laws that Congress itself created and creates, in effect, a highly politicized system parallel to the enforcement mechanisms of the FEC and IRS that is applicable only to Members of the House. Under such a system, Members may be investigated for alleged violations of highly technical laws and forced to endure great time and expense only to reach a conclusion that the Committee simply is not qualified to resolve such questions.

In discussing the merits and benefits of a disclosure-based ethics system for Members of Congress, one commentator highlighted the unique concerns presented by claims that a Member has violated a highly technical prohibition and the need for particularized expertise to make such a determination. Specifically, ''disclosure is not the most effective tool to employ against conduct that violates highly technical regulations or is itself composed of a complex or highly nuanced series of events. In such circumstances, it seems that the risk of manipulation and/or voter misunderstanding would be high; accordingly, entrusting an entity such as the Federal Election Commission with the responsibility to police such areas as technical campaign regulations might be preferable. In this regard, it is important to recognize that the question of whether a violation has occurred can be separated from the question of whether a sanction should be imposed.[17]

From a policy standpoint, it would be far preferable for the Committee to take action with respect to allegations of this nature only after it has been found that a Member has violated the law by an administrative agency or court subject to judicial review. Indeed, this Committee has on several occasions deferred action pursuant to a request from the Department of Justice.[18] Such an approach in no way diminishes the authority of this Committee to regulate the conduct of Members on behalf of the House as once a violation has been found by a competent tribunal as House precedent clearly establishes that the Committee may investigate or sanction the Member for conduct which does not reflect creditably on the House.[19]

Yet to expand dramatically this Committee's jurisdiction to consider technical violations of statutes not governing mala in se is to open a Pandora's box which it may be impossible to close again. If this path is taken, this Committee will become a special tribunal which tries to hear and decide, without right of appeal, every conceivable allegation that might be levied against a Member regardless of whether it is malum prohibitum or malum in se. Such an action is neither an efficient nor a wise use of the resources of this great body. While the Committee should not engage in deciding whether Members have committed mala prohibita, it should continue its traditional and proper role of disciplining Members for committing mala in se. For such offenses the House is, and should be, the court of last resort.

These arguments are not a challenge to this Committee's jurisdiction for that time has passed. Rather, the Committee should carefully consider the lack of guidance available to Members, including Respondent, during the period in question as a mitigating factor in considering its recommendation to the Full House. In addition, the Committee should carefully consider the troubling concerns raised by this application of Rule 43(1) as other members attempt to conform their conduct to the Code of Official Conduct.

DECEMBER 8, 1994 AND MARCH 27, 1995 LETTERS

As background, it is important to note that the Respondent has been proactive, as opposed to reactive, with the Committee in connection with the Renewing American Civilization course and any potential ethics issues which it might present. Respondent has waived attorney-client privileges, produced thousands of documents and met with the Investigative Subcommittee at its convenience. The proactive involvement began with his letter dated May 12, 1993 in which he specifically inquired if ''the committee [had] any concerns about this project.'' Then, in June of 1993, Respondent, Jeffrey Eisenach, Annette Meeks and Linda Nave met with then Committee counsel David J. McCarthy. (See Letter of Speaker Gingrich to Reps. Goss and Cardin, October 31, 1996 with attachments (including Letter of David J. McCarthy to Rep. Hobson, December 1, 1994)). During the course of that meeting, Mr. McCarthy recalls that:

''The discussion eventually turned to fundraising for the course. Jeff Eisenach began to volunteer details of how he contemplated fundraising, and I interrupted his explanation with a question, ''are you on the House payroll?'' When he answered that he was not, never had been, and did not ever expect to be I shifted the focus of the discussion by explaining that I was not interested in what Eisenach was planning to do, I was only interested in what Mr. Gingrich and any House employees were going to do * * *.

* * * * *

''Then Mr. Gingrich again brought up Eisenach and asked whether he should not get the Committee's written advice that Eisenach would be permitted to engage in the fundraising. His concern seemed to be that Eisenach's identity with GOPAC, along with his fundraising for the course through the college foundation, could open him to criticism that the motivation for the course was political. I replied that, in my judgment, Mr. Gingrich should not ask the Committee to pass on the activity of Eisenach.

''First, I explained that because Eisenach was not a Member, officer or employee of the House his activity was really outside of the Committee's jurisdiction. Secondly, I told him that, to my knowledge of tax law, the issue of whether the contributions in support of the course would keep their tax-deductible status would turn not on who did the fundraising but on how the funds were spent, and that the educational nature of the course spoke for itself. I told him that I was aware of no law or IRS regulation that would prevent Eisenach from raising charitable contributions, even at the same time that he was raising political contributions. In any event, I advised him, I expected the Committee to stick by its advisory opinion in the Ethics Manual and not get into second-guessing the IRS on its determination of tax-exempt status,

''I also felt that because the Committee's written answer might decline to offer advice on Eisenach's fundraising activity—it being outside the Committee's purview—he might be just as well off not to raise the question in his letter. My experience was that Members found it annoying when the Committee in a written advisory opinion would explicitly decline to answer a question. I believe that there was some brief discussion about Eisenach leaving GOPAC, in any event, to focus on the course fundraising.'' (Letter of David J. McCarthy to Rep. David Hobson, December 1, 1994 at 1–2).

The significance of these passages from McCarthy's letter is twofold. First, they demonstrate that Respondent expressly referenced GOPAC and the involvement of Eisenach in course fundraising in his consultations with Committee counsel.[20] Secondly, these passages explain that Respondent did not make reference to GOPAC involvement in the course in his letter of July 21, 1993 providing additional information to Representative McDermott as Committee Chairman on the express advice of Committee counsel. (See Letter to Rep. Jim McDermott, July 21, 1993; see also, Letter from Committee to Speaker Gingrich, October 31, 1994 at 2).

Then, on September 7, 1994, Ben Jones, Respondent's electoral opponent, filed his first ethics complaint against Respondent. Respondent's initial responsive submission to the Committee dated October 4, 1994, prepared by a member of Respondent's staff, expressly refers to GOPAC's involvement in the course. In particular, the letter states:

''I would like to make it *abundantly clear* that those who were paid for course preparation were paid by either the Kennesaw State Foundation [sic], the Progress and Freedom Foundation or GOPAC . . . Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamla Prochnow, Dr. Steve Hanser, Joe Gaylord and Nancy Desmond.'' (Letter to Rep. Jim McDermott, October 4, 1994 at 2). (emphasis added.)

As the above-quoted passage indicates, Respondent expressly referred in correspondence with the Committee to the involvement of GOPAC in the course and the use of GOPAC funds to pay individuals for course preparation. Indeed, there is no question that the Committee was aware of involvement by GOPAC. This knowledge was confirmed in the Committee's letter dated October 31, 1994 to Respondent. Significantly, the Committee's letter notes that Respondent's October 4, 1994 letter ''sufficiently answer[ed] most of the allegations raised in Mr. Jones' complaint.''

Eliminating any issue regarding the Committee's awareness of GOPAC' involvement, however, the Committee's October 31, 1994 letter went on to state: ''A number of documents reflect the involvement of GOPAC and GOPAC employees in developing and raising funds for the course.'' The letter continues: ''In addition to the above, various other documents related to the course were sent out on GOPAC letterhead, were sent from GOPAC's fax machine, used GOPAC's address as a place to mail materials related to the course, and referred to registration materials being included in GOPAC Farmteam mailings.'' In all, the Committee's October 31, 1994 letter makes reference to GOPAC no less than 46 times and cites extensive documentation referring to GOPAC. (See, Letter from Committee to Speaker Gingrich, October 31, 1994). Interestingly, from the original complaint to the October 31, 1994 Committee correspondence, GOPAC is mentioned by name 92 times in correspondence to and from the Committee.

DECEMBER 8, 1994 LETTER

As reflected above, the Committee's request for information was dated October 31, 1994. On November 8, 1994, election day, Republicans captured a majority of seats in the U.S. House of Representatives. The process of transition began immediately. In the context of these events Respondent retained counsel on November 15, 1994 to represent him in connection with the ethics investigation.

Counsel began preparation of the response. An associate was assigned to prepare an initial draft of the response. The attorneys coordinated their efforts with a member of Respondent's staff. Subsequently, the December 8, 1994 letter was presented to Respondent for review and signature. It does not appear that there was any communication between the attorneys and the Respondent until after December 8, 1994.

Regarding the response, Respondent testified that he would have turned and said ''I want this done....'' (Gingrich Tr., 11/13/96, at p. 28) Respondent testified that, in November, ''we, in effect, had decided to go from [the staff member] being in charge to [the staff member] coordinating with the law firm and the law firm being in charge.'' Respondent testified that it was his understanding that the law firm was primarily responsible for drafting the December 8th letter. (Gingrich Tr. 11/13/96, at 28).

The firm partner recalls that his role and that of his firm in the preparation of the December 8, 1994 letter was to prepare a response working with the staff member. (Baran Tr. at 6–7). The partner assigned responsibility for preparing an initial draft to an associate at the firm. (Baran Tr. at 9–10; Mehlman Tr. at 15). The associate testified that in preparing the draft response to the October 31, 1994 letter, he relied upon ''various correspondence'' between Respondent and the Committee including the October 4, 1994 letter, the course book, a pamphlet on the course, and the Jones' complaint with exhibits and the videotapes of the course. (Mehlman Tr. at 15–16). The associate further testified that it was his understanding that he did not need to go beyond these materials in drafting the response. (Mehlman Tr. at 19). The associate testified that, in preparing the draft, he never contacted anyone at GOPAC (Mehlman Tr. at 18, 28), nor did he contact Dr. Eisenach (Mehlman Tr. at 28) or Respondent (Mehlman Tr. at 27) to confirm any of the information contained in the December 8, 1994 letter. The associate then met with the partner to review the draft and some editorial changes were made. (Mehlman Tr. at 18).

The partner testified that his review was limited to the October 31, 1994 letter from the Committee, the Jones Complaint with exhibits and telephone conversations, and that otherwise ''[he] didn't have any other independent factual gathering.'' (Baran Tr. at 13). The partner further indicated that he had no contact with the Kennesaw State College Foundation (KSCF), Kennesaw State College or Reinhardt College in preparing the December 8th letter. (Baran Tr. at 18). The partner further testified that his first contact with Respondent during this time period was on December 9, 1994, and that he had no recollection of having discussed the letter at all and that he had no contact with Respondent concerning the matter prior to that time. (Baran Tr. at 18, 33).

Turning then to the involvement of Respondent and his staff in the December 8, 1994 letter, the partner indicated that the letter ''eventually went from our office to [the staff member.].'' (Baran Tr. at 14). Respondent's testimony confirms that it was his understanding that the law firm would be responsible for preparing the response in coordination with his staff member. (Gingrich Tr., 11/13/96, at 28). Respondent indicated that, in assigning this task, ''[the staff member] would have been acting with my authority to conduct what we thought at the time was a thorough investigation.'' (Gingrich Tr., 11/13/96, at 15–16). However, the testimony makes apparent that the staff member believed that the partner attorney was checking the factual basis of the statements for accuracy while the partner attorney was under the misimpression that the staff member was doing so.[21] This miscommunication extended not only to the research into the factual bases for the statements but to the communication of these findings to Respondent. As noted above, the partner attorney testified that he did not discuss the contents of the letter with Respondent prior to submission. (Baran Tr. at 18, 33) nor does Respondent recall such a meeting. (Gingrich Tr., 11/13/96, at 30). Nor apparently did anyone on Respondent's staff confirm the facts contained in the letter with Respondent prior to its submission in any systematic fashion. The staff member's recollection is that she did not even see Respondent during the signing process, but forwarded the letter to Respondent for signature through the executive assistant. (Meeks Tr. 15 76–77).

MARCH 27, 1995, LETTER

Turning then to the letter to the Committee of March 27, 1995, similar miscues appear to have resulted in inaccuracies in statements made to the Committee. Again the attorneys had responsibility for the preparation of the submission on Respondent's behalf, and on this occasion, the responsibility for the initial drafting fell to the associate as well as to a more senior associate. The senior associate testified that, in drafting the facts section of the March 27 response, he relied upon the October 4 letter, the attachments to the amended complaint, the original Jones complaint and its exhibits, the December 8 letter, all of the exhibits included with the March 27 submission and conversations with the Respondent's staff member. (Toner Tr. at 19, 29–30, 34). The senior associate further indicated that he made no contact with anyone at GOPAC, the Progress & Freedom Foundation, Reinhardt College, Kennesaw State College or the Kennesaw State College Foundation in preparing the March 27, 1995, letter. (Toner Tr. at 19–20; 26–27; see also, Baran Tr. at 27 (no contact with GOPAC)). The junior associate similarly testified that he had relied upon the correspondence and materials he had from the December 8 submission as well as having reviewed other responses by the senior associate and the partner. (Mehlman Tr. 15 38).

Both associates indicated that they were not personally aware of efforts to check the factual accuracy of the March 27, 1995, submission. (Toner Tr. at 38–39; Mehlman Tr. at 53). The senior associate testified that he was similarly unaware of any contacts with people outside the firm, other than Respondent's staff member, to confirm the factual basis for statements contained in the submission (Toner Tr. at 56), and that he was not aware of any changes made to the document based on comments from anyone associated with the Respondent. (Toner Tr. at 60–61). The junior associate indicated that he did not recall contacting any outside persons to confirm such facts. (Mehlman Tr. at 38). The partner additionally confirmed that, while he reviewed the drafts and edits with the associate, he did not recall making any outside inquiries of anyone regarding the Renewing American Civilization course with one possible exception. (Baran Tr. at 28).

Asked if he was aware of any additional factual inquiry done in preparation for the March 27, 1995, submission in addition to that previously done for the December 8, 1994, submission, the partner replied: ''Factual inquiry—none that I recall—no.'' (Baran Tr. at 30–31). The partner's testimony was that after drafting and editing the March 27, 1995, document ''at some point we would have sent a draft that we felt comfortable with over to the Speaker's office.'' (Baran Tr. at 28). The partner testified that he did not recall any discussions with the Respondent prior to the submission of the March 27, 1995 letter over the partner's signature. (Baran Tr. at 32). The firm's billing records reflect that the submission was filed on March 27, 1995 at 6:05 and delivered to Tony Blankley of Respondent's staff at 6:35 that same evening. (WFP 00224).

The purpose of this extended review of the testimony offered in this proceeding regarding the process of preparing these submissions to the Committee is not an attempt to shift the ultimate responsibility for submitting these statements from Respondent to others, but only to demonstrate that the testimony of record in this matter clearly supports the conclusion that any inaccuracies contained in these submissions were the result of regrettable errors rather than of any intent to mislead this Committee. In their testimony before this Committee, the staff members as well as the attorneys repeatedly testified that they were never told, directly or indirectly, by Respondent, or anyone on his behalf, to provide anything other than accurate information to the Committee.

''Mr. GOSS. For the record, you may want to respond to this. I will try and make it as clearly as I can. Do you have any personal knowledge of whether the Speaker either directly or through his attorney Mr. Baran deliberately provided anything other than accurate, reliable or complete information to this committee regarding his response related to the complaints with regard to the letters that we have talked about today?

''The WITNESS. Do I have any knowledge that any of the information was false? Is that the question?

''Mr. GOSS. Was deliberately provided, that was other than accurate, reliable or complete.

''The WITNESS. No.

''Mr. GOSS. Do you know if Mr. Gingrich at any time tried to forward or intended to forward to us incomplete, inaccurate or unreliable information?

''The WITNESS. If I may editorialize on my answer for a second, we really—in the two replies that I was involved in, we really, in our estimation, tried to comply as fully, completely, honestly, straightforward, and promptly as we were able.

''Mr. SCHIFF. The question is did Mr. Gingrich ever suggest to you in any way, shape, or form, that you do other than that?

''The WITNESS. Oh, goodness, no.'' (Meeks Tr. at 85–86).

''Mr. GOSS. Do you have any knowledge that Mr. Gingrich was aware that any of the information contained in the letters that we have talked about at the time that those letters were submitted were incomplete, misleading, or inaccurate?

''The WITNESS. No.'' (Baran Tr. at 60).

''Mr. SCHIFF. Could I ask you two questions on that; actually, I may be leaping ahead, but a general question? Was there anything told to you that you heard either directly or indirectly, that indicated that it was the purpose of either the speaker or of Mr. Baran or of anyone else connected with this case, to deceive this committee and to provide anything but accurate information?

''The WITNESS. No.

''Mr. SCHIFF. Your assumption, then, is you are supposed to put together a correct statement of the facts and submit it to us?

''The WITNESS. Absolutely.'' (Toner Tr. at 28).

Representative Goss summarized the testimony on this point most succinctly observing:

''Mr. GOSS. Okay. I have only one little thought. We seem to have gotten into a situation where we know we have some information that is not everything we desired it to be, and we are trying to track down why and how we got into that position. It seems that Mr. Gingrich was relying on you [Baran] and some other people to do the December 8th letter, or his December 8th letter was given to somebody else and they were supplemented by your firm, and your firm in turn, by your testimony, you were relying pretty much on what that individual, who would be Ms. Meeks, was doing and you were just checking for legalities rather than substance, would be sort of the way I read your testimony, and therefore the problem started on December 8th was further compounded on March 27th on that letter because you used some of the material from the December 8th letter. Is that correct?

''The WITNESS [the partner attorney]: Yes. I would agree with that characterization.'' (Baran Tr. at 59).

Respondent's own testimony before this Committee similarly endorses this version of events:

''. . . After reviewing my testimony, my counsel's testimony, and the testimony of his two associates, the ball appears to have been dropped between my staff and my counsel regarding the investigation and verification of the responses submitted to the committee.

''As I testified, I erroneously, it turns out, relied on others to verify the accuracy of the statements and responses. This did not happen. As my counsel's testimony indicates, there was no detailed discussion with me regarding the submissions before they were sent to the committee. Nonetheless, I bear responsibility for them, and I again apologize to the committee for what was an inadvertent and embarrassing breakdown.'' (Gingrich Tr., 12/10/96, at 5–6).

Upon realizing that errors were made, Speaker Gingrich has openly and publicly accepted responsibility for these errors and has offered his sincere apologies to this Committee and the House.

Notwithstanding these circumstances, the bottom line is that inaccurate, incomplete and unreliable information was submitted to the Committee. There are no circumstances which can justify the submission of inaccurate, incomplete or unreliable information to the Committee. The information submitted was submitted on Respondent's behalf. Respondent has accepted full responsibility.

Respectfully submitted, this 16th day of January, 1997.

J. RANDOLPH EVANS,
Counsel for Respondent.

ED BETHUNE,
Co-Counsel for Respondent.

FOOTNOTES

[1] Contributing to the preparation of this report were Anthony W. Morris, Esq. and Stefan C. Passantino, Esq. of Arnall, Golden & Gregory, L.L.P. and Shannon H. Ratliff, Esq. of Bracewell & Patterson, L.L.P.

[2] Charitable, religious and educational entities organized under section 501(c)(3) and lobbying entities organized under section 501(c)(4) are exempt from taxation under the tax code. IRC §501(a).

[3] In fact, qualified tax experts in the field have concluded that there has been no violation of federal tax law. Highly regarded 501(c)(3) expert William J. Lehrfeld concluded there is no violation of federal tax laws. *See,* Exhibit E. James P. Holden of the law firm of Steptoe & Johnson reached the same conclusion. *See,* Appendix C.

[4] *See, infra* p. 35–43.

[5] IRC section 501(c)(3) identifies these qualifying entities as: ''[c]orporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, . . .'' IRC §501(c)(3).

[6] FEC records reflect that Ms. Roady, a registered Democrat, has made political contributions totaling $1,550 to Emily's List, The Rangel for Congress Committee, and the Democratic National Committee.

[7] The IRS has similarly refused to revoke the tax exempt status of a voter registration organization promoted by then-Senator Alan Cranston and run by his son, Kim Cranston. ''Old Softie: Alan Cranston's Soft Money Machine; Campaign Fund Ethics,'' The New Republic, p. 17 (Dec. 11, 1989); ''Raising Money to Register More Voters,'' The Exempt Organization Tax Review, p. 697 (Dec.–Jan. 1990). Indeed, ''[i]n 1984, . . ., several foundations attempted to use their tax-free assets to increase turnout by targeted groups and thus increase the Democratic vote in the presidential election, according to election experts.'' ''Raising Money to Register More Voters'', p. 679.

[8] *See, supra,* p. 30.

[9] Art. I, §5, cl. 2 provides: ''Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.''

[10] See, In re Rep. Edward D. Holbrook (ID), II Hinds §1305 (1869); In re Rep. John T. Deweese (NC), II Hinds §1239 (1870).

[11] See, House Ethics Manual, 102nd Cong., 2nd Sess., April 1992 at 13–14 (collecting cases in which Rule 43(1) has been invoked in investigating or disciplining Members).

[12] Theresa A. Gabaldon, ''The Self-Regulation of Congressional Ethics: Substance and Structure,'' 48 Admin. L. Rev. 39, 54–55 (1996) (quoting ABA Committee on Government Standards (Cynthia Farina Reporter), ''Keeping Faith: Government Ethics and Government Ethics Regulation,'' 45 Admin. L. Rev. 287, 297 (1993)).

[13] The House Ethics Manual relied upon for guidance by Members provides: ''The Committee has granted a blanket exception to [5 U.S.C.] section 7353 to allow Members and employees of the House to solicit funds on behalf of charitable organizations, provided that no official resources are used, no official endorsements is implied, and no direct personal benefit results. ''House Ethics Manual at 319 (footnote omitted).

[14] ''Another Ethical Problem for Newt, The News Tribune, December 2, 1995, at A9.

[15] ''FEC Says GOPAC Aided Gingrich Race Despite Law; Group Barred From Federal Campaigns in 1990,'' Washington Post, November 30, 1995, at A1.

[16] ''GOPAC secretly aided Gingrich in 1990, election officials charge,'' The Commercial Appeal (Memphis), November 30, 1995, at 1A.

[17] Gabaldon, supra, at 57.

[18] See, In re Del. Fofo I.F. Sunia (Am. Sam.) and aide Matthew K. Iuli, See, Summary of Activities of 100th Cong., H. Rep. No. 100–1125, at 15–16 (1989); In re Rep. Frederick W. Richmond (NY), See, Summary of Activities, 97th Cong., H. Rep. No. 97–1004 (1982).

[19] See, e.g., In re Del. Fofo I.F. Sunia (Am. Sam.) and aide Matthew K. Iuli, See Summary of Activities, 100th Cong., H. Rep. No. 100–1125, at 15–16 (1989) (disciplinary hearing scheduled after Member and aide pleaded guilty to conspiracy to defraud government, although both resigned before hearings held); In re Rep. Mario Biaggi (NY), H. Rep. No. 100–506, 100th Cong., 2d Sess. (disciplinary hearing held after conviction for accepting illegal gratuities).

[20] ''I would also ask the committee to place this error in the context of our proactive effort in 1993 to seek the committee's advice and approval and the letter from the former committee counsel, Dave McCarthy, confirming that I had aggressively sought to explore any complications that would involve GOPAC. At no time did I intend to deceive the committee or in any way be less than forthright.'' (Gingrich Tr. at 6–7).

[21] The staff member's repeated testimony in this regard was as follows:

Q. Did you look over the document to check it for accuracy?

A. Yes.

Q. Factual accuracy?

A. Primarily I would have been looking at this document for typographical errors, misspelled words.

Q. Did you have any knowledge of the facts that are contained in this document, the December 8, 1994, letter?

A. This was prepared by our counsel. I trust that he had——

Q. My question is, very specifically, did you have any knowledge of the facts, personal knowledge of the facts, that are contained in the letter?

A. I would have, yes. I would have looked to Dave McCarthy, which characterized a conversation that Linda Nave and I had with Mr. McCarthy, to verify Jan's characterization of that conversion.

I verified Clerk's report which I had provided a copy of and the termination papers that I had provided and also the Dave McCarthy conversation about GOPAC staff simultaneously working for the course and for GOPAC.

Q. Anything else?

A. No. (Meeks Tr. at 45).

Q. No, I am now asking the letter itself, did you ever indicate to Mr. Baran that you had provided the December 8th letter prior to its going to the committee to anyone for the purpose of checking its accuracy?

A. No, that would not have been—no. (Meeks Tr. 87).

Mr. GOSS. So your answer, as of the December 8 letter, would be that all of the information that came from outside came from Mr. Baran?

The WITNESS. Yes, sir. (Meeks Tr. at 67).

However, the partner testified as follows:

Q. And again, I'm trying to understand exactly the level of factual inquiry that was made aside from the materials that were submitted with the complaint, some of which were also submitted with the October 31st letter. Aside from that and Mr. Eisenach talking to you, perhaps Mr. Gaylord, and looking at the tapes, was there any factual inquiry that you know of done by you or anyone at your office to prepare the portions of the letters concerning the course?

A. Well, whatever review occurred subsequently by others.

Q. But you don't know what that was?

A. That is correct. I cannot confirm that today. (Baran Tr. at 48).

THE GINGRICH ETHICS CASE: EXCERPTS FROM THE COUNSEL FOR THE HOUSE SPEAKER

[From the Washington Post, Jan. 18, 1997—Federal News Service]

Following are excerpts from the statement to the House ethics committee of J. Randolph Evans, counsel for House Speaker Newt Gingrich (R. Ga).

Let me begin by saying that we recognize and the speaker recognizes the serious nature of the charges that are contained in the Statement of Alleged Violation, and recognizes the seriousness of his admission to the violation contained in the Statement of Alleged Violation. Any charge against a member of Congress is a serious matter. Any charge involving the speaker of the Congress is indeed a serious matter, especially when it is leveled against a member who has so consistently over the years proactively involved himself in the issue of ethics, including pursuing sanctions against members of his own party where he deemed appropriate.

Nonetheless, we do recognize and the speaker recognizes how serious this issue is. In fact, in connection with this process, the speaker has cooperated fully and completely with the investigative subcommittee in all phases, including waiving privileges with his counsel, producing thousands of documents, attending meetings with the subcommittee at the subcommittee's convenience, and directing his staff and counsel to cooperate with the subcommittee at every phase.

Indeed, the speaker himself has apologized to the subcommittee, to the House, and to the American people for the public controversy that has ensued from the activities that are described in the Statement of Alleged Violation. . . .

In addition, the speaker has agreed to the recommended level of sanction which Mr. Cole has described. In connection with that, [co-counsel] Ed Bethune and I . . . have spent a great deal of time reviewing the various information that has been made available to us. . . . And our recommendation is the same

recommendation as the recommendation of the special counsel.

I should note that our recommendation is premised in part on the significant and important message that it sends in two respects: First, the submission of inaccurate, incomplete and unreliable information in the course of any ethics investigation, regardless of the circumstances surrounding the submission, is serious and should be addressed in a serious way. Second, the speaker feels strongly that when information, which is inaccurate, incomplete or unreliable, causes the committee to expend resources, then the party submitting the information should bear some responsibility for reimbursing the committee for some of the cost in addressing that information. . . .

We recommended the sanction be reprimand, a sanction which is relegated to serious violations.

Speaker Gingrich has voluntarily agreed that the committee will be reimbursed $300,000 for costs incurred in connection with the investigation of the inaccurate, incomplete and unreliable information submitted to the committee. We have recommended that this reimbursement be included in any sanction that is recommended by the committee to the full House. . . .

NOT A REHASHING

I should note that I agree with [Rep. Benjamin L.] Cardin [D–Md.] that the purpose of this hearing is not a rehashing of all the facts that are contained in the special counsel's report. . . . [However] I disagree with some of the conclusions and analysis that are contained from those facts. . . .

[W]hile certainly the facts are carefully stated in the special counsel's report, I think that they are often stated in a way which ignores the realities and the context in which the events that are being described was occurring. . . .

[The] Statement of Alleged Violation essentially consists of two parts. The first part consists of an alleged violation that the speaker failed to seek and follow the legal advice that is described within the Statement of Alleged Violation. Second, the Statement of Alleged Violation refers to information that was transmitted to the committee on the speaker's behalf on two separate occasions.

I would like to emphasize . . . the speaker was not charged with violation of U.S. tax laws. The speaker was not charged with intending to deceive the committee. The speaker was not charged with illegal activities or criminal tax violations. The speaker was not charged with money laundering. . . . We can only conclude that not only did the Statement of Alleged Violation not charge any of those items, but there was no reason to believe that illegal or criminal or other such activities occurred.

Second, I think it is important to place this in the context of what was happening in 1991 and 1992 and 1993. . . . [T]he House Ethics Manual specifically contemplates multiple capacities involving . . . members of Congress. It specifically talks about the difference between office accounts, official and unofficial organizations and similar distinctions involving multiple capacities. . . .

I would note that the Internal Revenue Service itself has recognized on repeated occasions that a number of 501(c)(3) organizations have related 501(c)(4) organizations that can [conduct] political campaign activities, usually through a [political action committee]. . . .

I would even note for the committee that in the continuing-education handbook that is provided to IRS field agents, they specifically acknowledge that two organizations, such as a 501(c)(3) and a 501(c)(4), can include two organizations that share the same staff, the same facilities and other expenses. They can conduct joint activities as long as there is an allocation of the income and expenses. This is not a new concept that has just simply arose in connection with this particular case. . . .

The idea that somehow what was occurring in 1992 and 1993 by the speaker in connection with multiple entities was unusual or extraordinary or subject to serious question by the Internal Revenue Service, all of those which do not relate to the facts that the committee has found but relate to the environment and the context of what was occurring in the United States in 1992 and 1993, would reflect that those were consistent with what at least 51 senators and 146 other House members were doing at the same time in connection with multiple entities.

The speaker developed a movement. I think in that regard it is important to note at the outset . . ., if you notice on Slide 32, that he made it clear that the challenge involved was not Republican or Democrat, liberal or conservative; the challenge was to civilization's survival. . . . What happened in 1992 and 1993 and relating back as early as 1990, is Speaker Gingrich developed ideas on what he saw as necessary to renew American civilization. It extended well beyond the concept—extended well beyond the concept of any partisan political gain, but instead . . . extends to a fundamental concern about whether American civilization indeed is in decay and decline. . . .

CHANGING CULTURAL DECLINE

[T]o change cultural decline, there had to be a cultural, economic, political, governmental movement that transcended any government, any business, any educational institutions, specifically including the Congress. . . . As part of the government, he was convinced that it required . . . that there be a majority committed to reform. . . . In connection with that there were three things that occurred. There was the whip's office; and his congressional office; there was the 501 (c)(3) organizations; and then there was GOPAC. . . . All three served distinct purposes.

The purpose of the whip's office was through votes and legislation, to cause the movement to occur. Through the 501 (c)(3), there was the focus to educate and reform ideas necessary for a movement to occur. And through GOPAC was to recruit and train Republican candidates. All of these then were to cause a movement to occur. . . .

It is not without question that both achieved Renewing American Civilization, but it is not inconsistent that they would have the same goal, the only difference being that while the movement itself would presuppose a majority considered—committed—to reform, that GOPAC would want that majority to be Republican.

Those are not inconsistent, and I'd think even Mr. Cole would concede . . . that it is not inappropriate . . . for a political action committee to in fact use and disseminate information that has been developed by a 501(c)(3). . . . It is important that that context of that movement be put in the perspective of the same thing that occurs on a daily basis involving any number of 501(c)(3)'s, 501(c)(4)'s and PACs in Washington, D.C., or across America. . . .

[O]ne issue that appears to be in significant dispute is the issue of whether the goal of what all was occurring in 1991, 1992, and 1993 was a Republican majority, of which the movement was a part, or was the goal the movement, of which a Republican majority was a part. . . .

I would ask that in that context, that you would specifically take a look . . . at the materials relating to the vision, and I would ask that you would specifically take a look at the degree to which the movement always operated as an overall umbrella under which the other activities always fit. I do not believe that there is any document that reflects a Republican majority as the overall umbrella of the goal in which then, on the flip side, the movement was a part leading to the majority. . . .

As far as his violation of the tax law goes, there are two possibilities that largely exist. One . . . is that there was a violation of the law, which the committee specifically did not find, and that indeed the speaker, at the time that he engaged in this conduct, knew that it was a violation of law and thus acted improperly. That is an impossible conclusion under this record. At best, the area of the law is unsettled. The committee's own tax counsel, in her reports to the [American Bar Association], indicates that it is unsettled and that the IRS precedent provides little guidance.

But more importantly, if you assume for a moment that the tax-law issue was clear to the subcommittee's tax counsel, it is equally clear that the speaker's tax counsel reached the opposite conclusion. The best that you can say is, from all of the writing in the articles that existed at the time, is that the law was unclear. And if the law was unclear, there is no way in which the speaker could have understood what the law was and intended to violate it.

The other possibility is that the speaker was put on notice that there was a serious potential problem, and nonetheless, chose to ignore it. . . . In addition to 51 senators and 146 congressmen engaging in this kind of multiple-capacity structures, that the legal writings at the time seemed to suggest that the course, specifically Gingrich's course, fit within acceptable parameters at the time. . . .

[Y]ou will see . . . citations that equally make it clear that the writings at the time, the legal periodicals at the time, reflected the multiple-structure process.

I would also note to consider in connection with deciding the appropriate level of sanction, that the speaker specifically addressed the issue of GOPAC involvement and fundraising in a meeting with David McCarthy who was committee counsel to the ethics committee. You will note that . . . Mr. McCarthy . . . pretty much articulated standards that . . . the tax-deductible status would turn not . . . on who did the fund-raising, but on how the funds were stacked, and that the educational nature of the course spoke for itself. . . .

It is in that context that I ask you to place the activities surrounding Renewing American Civilization and the American Opportunities Workshop.

ISSUE OF THE LETTERS

If I could now turn my attention to the issue of the letters that were submitted to the committee. . . .

In May 1993, the speaker delivered to the committee a letter regarding participation in the formulation of the course. He attached his January 25, 1993, special order, in which he outlined his vision for Renewing American Civilization. Any suggestion that the committee at the time was not aware of the vision of Renewing American Civilization as it extended, is simply incorrect, given that the one hour special order speech was specifically attached to the letter.

In the spring of 1993, the speaker's staff met with David McCarthy, counsel for the committee, in which there are references to [executive director Jeffrey] Eisenach's identity with GOPAC, and . . . the 501(c)(3) issues.

It is important to note that in the connection with that letter, that Mr. McCarthy made it very clear . . . that the issue of GOPAC's involvement and the issue of the tax-deductible status was not something within the committee's jurisdiction and . . . of which the committee would not be particularly interested; that he said that he thought the committee would stick by its position and not get involved in second-guessing the IRS on its tax determinations of tax-exempt status.

I think it's important to note that in fact he discouraged . . . involvement of the ethics committee in connection with the relationship of GOPAC and 501(c)(3) status so that the focus of the committee counsel's interest was on the distinction between office accounts and unofficial activities. So it's against that backdrop that we then measure the responses that were being submitted later.

On July 21, there was a letter to the committee that noted the involvement of the 501(c)(3). I would again commend to you to read specifically the letter that references the Kennesaw State Foundation and the fact that it was a 501(c)(3) entity.

On August 3, the committee issued its letter noting its position in granting approval to the course as outlined in the correspondence that had been submitted by the speaker and the information that had been submitted.

On September 7, 1994, the complaint was filed by Speaker Gingrich's opponent [Ben Jones] in the general election. It references at length GOPAC and its involvement and its relationship to 501(c)(3).

On October 4, Speaker Gingrich sent a letter to the committee addressing the complaint. . . . [I]t says, ''I would like to make it abundantly clear that those who were paid for the course preparation were paid by either the Kennesaw State Foundation, the Progress and Freedom Foundation, or GOPAC. . . .''

[T]here was no concealment that GOPAC was participating in connection with the preparation of the course and funding for the course. [T]hen there's the October 31, 1994, letter from the committee, which indicates that the October 4th letter sufficiently answered most of allegations raised in Mr. Jones's complaint but then went on to note that there were a number of documents that reflect the involvement of GOPAC and GOPAC employees in developing and raising the funds for the course. . . . [T]his is a shift that occurs if you read the letters in succession. Prior to this point, the focus of the committee has squarely been on official and unofficial activities by a member of Congress. At this point, the issue then becomes raised relating to other issues. And if you put it in that context, you can see how the letters fit together. I will note that that letter specifically referenced the involvement of GOPAC personnel, GOPAC fax machine, letterhead, addresses and other materials. . . . Any suggestion that there was an effort to conceal, or that the committee was unaware and the speaker was trying to take advantage of that ignorance of GOPAC's involvement, is simply directly refuted and belied by the correspondence that exists in connection with this matter. GOPAC's involvement was clearly unequivocally known throughout the process, being referenced by name some 92 times.

If you then look at the time-line, you will see that then followed Election Day, which was November 8, 1994, at which the Republicans captured a majority of the seats in the Congress. The following day, the speaker began the process of transition, a hectic time. On November 15, 1994, he retained attorneys to begin the process of assuming responsibility for the preparation of the responses to the committee's inquiry of October 31, 1994. He began the process of a series of nonstop meetings—steering committee meetings and other meetings—to begin the transition process that followed the November election.

In this regard, I find the conclusions of the special counsel's reports, the characterizations to be somewhat in error. . . .

THE BALL GOT DROPPED

[I]t is simply an example of a situation where, as the speaker put it, the ball got dropped between the staff and between the attorneys, about verifying the accuracy of information. This is especially true given that the information that is inaccurate relates to information which was already in the committee's possession and which had already been referred to some 92 times.

That brings us to the March 27 letter, which was a letter that was signed by counsel, and for which there is no real indication of involvement by the speaker himself in connection with it. . . . I would note to you that if I take the testimony at face value, and that is that there were these erroneous statements in the document, it should be put in some context. This was a 52-page letter.

It had 31 exhibits. It had 235 pages. It was prepared by an attorney after 140 hours. It consisted of 1,131 lines, of which 18 are at issue. It was submitted to the speaker during the last week of the . . . [first] 100 days [of the new Republican-majority Congress]. The suggestion being that the speaker should have caught the . . . errors made by attorneys retained by him after 140 hours of a 52-page letter with 31 exhibits. Context is important in understanding the nature of the allegations that have been made. . . . [T]he speaker himself was not involved, and in fact no effort was made to investigate the statements by the attorneys at the time the letter was prepared.

I would note that I think there is a very good summary by [subcommittee Chairman Porter J.] Goss [R-Fla.]: ''Okay, I have only one little thought. We seem to have gotten in a situation where we know we have some information that is not everything we desired it to be, and we are trying to track down why and how we got to that position. It seems that Mr. Gingrich was relying on you and some other people to do the December 8 letter, or his December 8 letter was given to somebody else and they were to be supplemented by your firm. And your firm in turn, by your testimony, you were relying pretty much on what that individual . . . was doing, and you were just checking it for legalities rather than substance, would be sort of the way I read your testimony; and that, therefore, the problem started on December 8 was further compounded on December 27 in that letter because you used some of the material from the December 8 letter. Is that correct?''

''Yes, I agree with that characterization, which is, simply stated, is that the attorneys became involved, they limited it to the universe of the information that they reviewed; the December 8 letter was prepared; it was erroneous; and then the problem was exacerbated when the March 27 letter was submitted, since no further investigation was done regarding it.''

I think [Rep. Steven] Schiff's [R-N.M.] questions relating to this issue are particularly important given . . . the innuendos that . . . there was something further at issue here in terms of an intent or scheme or plan to deceive.

Mr. Schiff asked this question: ''Was there anything told to you that you heard directly or indirectly, that indicated that it was the purpose of either the speaker or [Gingrich counsel Jan] Baran or anyone else connected with this case to deceive the committee or to provide anything but accurate information?''

Answer by the associate: ''No.''

''Your assumption, then, is that you were supposed to put together a correct statement of the facts and submit it to us?''

Answer: ''Absolutely. . . .''

Question: ''Well, did Mr. Gingrich ever ask you to provide us any information that was less than complete or that was misleading?''

Answer: ''Absolutely not, although I have to hesitate to use the word 'absolutely.' ''

Mr. GOSS: ''Do you have any knowledge that Mr. Gingrich was aware that any of the information . . . that we have talked about, at the time those letters were submitted, were incomplete, misleading or inaccurate?''

Answer: ''No.''

The testimony is consistent on this point. There is no evidence from any testimony from any witness who in any way touched any of the letters that there was any intent or attempt to submit inaccurate information. . . .

I noted in reading the report, the conclusions of the report, that there are words which are . . . cleverly juxtaposed against each other to lead to a conclusion which is somewhat different than what the testimony itself is.

I do not dispute the facts surrounding the letters. I don't dispute the testimony that surrounds the letters. Most importantly, the speaker does not attempt in any way to offer excuses relating to the letters, and it has been his consistent position, as opposed to that of mine of being the attorney here, to put things in context for you, that the letters were his responsibility. They were submitted on his behalf. They are inaccurate. That is wrong.

It is wrong to submit inaccurate information to the committee. He has accepted the complete responsibility for that and has agreed to a serious sanction, that being of a reprimand with a reimbursement of $300,000.

The only thing I point out to you is from my perspective as the counsel that has reviewed this, is that notwithstanding his position, it is important to put that into context of what was actually transpiring at the time those letters were prepared. . . .

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. HOBSON].

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

Mr. HOBSON. Mr. Speaker, there has been a lot of heated rhetoric and partisanship in this case, as it has progressed. I think it is important that we step back and focus on the case, examine the specific charges contained in the statement of alleged violations.

The first charge is that the Speaker should have sought legal advice in his dealings with 501(c)3 organizations. The second is that he gave inaccurate information to the Select Committee on Ethics. Those are the charges; no more, no less.

I turn to the Speaker's response to these charges. He accepted the subcommittee's findings. He acknowledged that he should have consulted a lawyer, and that some of the information he gave was incorrect. Since the Speaker has accepted the alleged violations, it was the job of the full committee to determine an appropriate sanction.

While the committee attempted to work through this process there was all kinds of rhetoric flying, from all sides, of those not involved in the process. Some called for the expulsion of the Speaker, and may still do that, while others called for a letter of reproval or even less. That may happen also.

In the end, the special counsel submitted his report to the full committee, and the committee supported and voted out an unprecedented sanction, since there is no evidence that the Speaker engaged in misconduct that resulted in personal financial gain to him.

I would like to take a few moments to discuss the counsel's report. Mr. Cole was hired by the Select Committee on Ethics as an investigator to lay out the facts of the Speaker's case. As a member of the Select Committee on Ethics, I understood that Mr. Cole was not hired to be a judge, nor a 501(c)3 tax expert. In either case, it was my understanding he had no prior experience. Rather, the resolution of preliminary inquiry authorizing Mr. Cole's employment specified that he was appointed to assist the subcommittee.

I am submitting for the RECORD the biography of B. John Williams, who served as a judge on the U.S. Tax Court, and currently is in the Washington law firm of Morgan, Lewis, and Bockius, the very same law firm as Mr. Cole's hired tax expert.

I am also submitting for the RECORD a statement written by Mr. Williams concerning the potential significance of the American Campaign Academy case, which he provided when he was interviewed by the committee for the position of special counsel.

I am going to read just a little bit from that, but I have submitted the entire statement as I have it for the RECORD.

Mr. Williams' quote:

> * * * there is an adage taught in the first year of law school that ''hard cases make bad law.'' American Campaign Academy seems to be a good example of that adage. While the case reached the right result because of the integral closeness of the Academy and the Republican Party sponsorship and direction, the reasoning of the case reaches the result by focusing heavily on a vague term that the Court called ''secondary benefit.'' The ''secondary benefit'' of the Academy's program was the benefit to employers—Republican candidates—of the training period acquired by academy graduates.
>
> The court found the secondary benefit disproportionately benefited Republicans as they were the only ones hiring the graduates. The court's reasoning really plows uncharted waters and leaves only ill-defined notions of how to access whether recipients of the secondary benefits serve the organization's exempt educational purposes.

□ 1315

My purpose for submitting Mr. Williams' statement is not to point out who is right or who is wrong but, rather, to point out that knowledgeable people on tax issues can and will have different interpretations about the law in this area, even two tax experts from the same law firm. These different interpretations may give some justification for Mr. GINGRICH's actions, although I still believe and I believe now that he should have consulted a tax lawyer.

After reviewing the Speaker's case and examining House precedents on sanctions, I believe the sanction was more harsh than the charges in the case warrant. For the RECORD, I am submitting a memo which outlines the rules and precedents on disciplinary sanctions. I believe a careful reading of this memo supports my conclusion.

But the Speaker accepted the charges and the sanction against him. I believe that it demonstrates to all of us and to the American public that he truly regretted his actions and sends a message that the Speaker's conduct should be held to a particularly high standard, as should every other Member's.

But there is another message in this for all of us as Members. The reimbursement of $300,000 sets a new standard for the ethics process. Some may disagree with that. It says that those who create additional and unnecessary work for the committee are going to pay a price. This should also alert those Members who trump up charge after charge and file frivolous complaints with the Select Committee on Ethics that they may be held to a similar monetary standard.

There have been numerous allegations and charges filed against Mr. GINGRICH over the past few years, and they have been investigated by the Select Committee on Ethics and at an enormous cost to the taxpayers. All of these cases have either been deemed minor or dismissed except for the current issue.

This leads me to believe that there is an orchestrated effort by certain opposition forces, some even involving tax exempt organizations to attack the Speaker. And the attacks did not stop with the Speaker. For the first time in my career on the committee, there has been a relentless attack on members who serve on the Select Committee on Ethics, including myself. I have served on the Select Committee on Ethics for 6 long years. It was not until we handled the Speaker's case that I experienced and saw the attacks on members of the Select Committee on Ethics from other Members and outside groups which, I might my add, by the way also included certain tax exempt groups.

Intense political pressure was brought to bear on the members purely for the reason that they served on the Select Committee on Ethics. These and other distractions were detrimental to the entire process. Had these actions and certain other committee problems not occurred, this case could have been resolved much earlier and been far less disruptive to the House and the American people. Fortunately that is all behind us and we are here today.

This has been a long and difficult case and would have been completed much earlier had it not been for these disruptions. But fortunately, due to the leadership of the Chair of the Select Committee on Ethics and the work of the subcommittee, we are here. For the past 2 years, NANCY JOHNSON forced the committee to do its job. Rather than referring the tough issues to others to decide, she kept the committee on track and kept the pressure on the commit to resolve cases. NANCY JOHNSON, more than any other Member, has paid a heavy political price for her determined service to the Select Committee on Ethics. This, in my opinion, is absolutely totally unfair and her constituents should understand the extent of the partisan political forces working against her.

Despite the enormous pressures brought to bear against the Chair, the Chair endured and pressed on to resolve this most difficult and contentious case.

After 6 years, I am today leaving the Select Committee on Ethics with mixed emotions, as Mr. CARDIN also said. I think most of us getting off agree. It troubles me that this case brought out the worst partisan rancor and resulted in inappropriate actions of certain Members, but at the same time I am pleased that this case has been resolved in a bipartisan manner and we can move forward in the House and do the work that the people sent us here to do.

In closing, as I stated earlier, I believe the committee sanction was more harsh than the charges warranted but I will vote for the resolution because it was the bipartisan decision reached by the committee and agreed to by Mr. GINGRICH.

The material referred to follows:

B. JOHN WILLIAMS, JR.

B. John Williams, Jr. is a partner in the Tax Section resident in the Washington, D.C., office. His practice focuses on federal tax controversies and litigation before the U.S. Tax Court, U.S. Court of Federal Claims, U.S. District Court, and the U.S. Circuit Courts of Appeal. He also represents clients before the Internal Revenue Service and the Treasury Department on rulings and regulations.

Mr. Williams, who is vice-chairman of the Tax Section, represented and continues to represent clients in a variety of fields, including the oil, coal, newspaper, consumer products and construction industries.

From 1981 through 1984, Mr. Williams served as Special Assistant to the Chief Counsel of the Internal Revenue Service, and as Deputy Assistant Attorney General, Tax Division, in the Department of Justice (supervising five civil trial sections, the Office of Legislation and Policy, and the Review Section).

In 1985, Mr. Williams, then a partner at Morgan Lewis was appointed by President Ronald Reagan to the U.S. Tax Court. He served with distinction on the bench where he wrote many important opinions and tried several highly complex factual cases involving hundreds of millions of dollars in dispute and where he served on the Court's Rules Committee. In March, 1990, he resigned from the Tax Court and re-entered the practice of law as a partner with Morgan Lewis.

Mr. Williams speaks regularly before business and bar groups on litigating large tax

cases. He has served as a panel member of the ALI–ABA Course of Study, ''How to Handle a Tax Controversy at the IRS and in Court;'' the Georgetown CLE program, ''The Perfect Trial of a Tax Court Case;'' and the Tax Executives Institute's seminar on ''Strategies for Success: How to Handle an IRS Audit.''

Mr. Williams is a member of the District of Columbia and Pennsylvania bars, the American Law Institute and the American Bar Association. He served as a member of the Advisory Committee to the U.S. Court of Appeals for the Federal Circuit (1992–96). Mr. Williams is noted in *Who's Who in America, Who's Who in American Law* and *Best Lawyers in America.* He is a Fellow of the American College of Tax Counsel.

He received his undergraduate degree from George Washington University with distinction and university honors and with departmental honors in history; he is a member of Phi Beta Kappa and Omicron Delta Kappa.

Mr. Williams received his law degree with distinction from George Washington University where he was a member of the law review. He served for two years as a law clerk for the late Judge Bruce M. Forrester of the U.S. Tax Court.

In examining the relationship between GOPAC funding and the course taught by Mr. Gingrich at tax exempt colleges, and taped for later broadcast distribution, the Committee has asked about the potential significance of American Campaign Academy, 92 T.C. 1053 (1989). In my view this case offers uncertain guidance to the Committee at best.

First, the task before the Committee is to judge the propriety of Mr. Gingrich's behavior, whereas the case has direct application only to an issue about the exempt status of the colleges at which he taught his course. The case simply does not articulate any principle that would condemn or exonerate the presentation of Mr. Gingrich's course content. Further, the case does not provide any standard for determining the propriety of Mr. Gingrich's teaching a course, even if partisan in content, at a tax exempt institution of higher learning. Finally, the case does not provide standards for condemning or exonerating the funding of the course by GOPAC. Assuming Mr. Gingrich's course was partisan, and designed to be so, and further assuming that GOPAC provided funds for the course, American Campaign Academy would apply, if at all, only to determining whether ''no more than an insubstantial part'' of the colleges' activities furthered a ''nonexempt purpose.'' In this exercise, which seems inappropriate for the Committee, the issue would require an examination of the colleges' educational operations and a determination that any private benefits conferred were more than an incidental part of the colleges' activities and purposes.

Second, there is an adage taught in the first year of law school that ''hard cases make bad law.'' American Campaign Academy seems to be a good example of that adage. While the case reached the right result because of the integral closeness of the Academy and Republican Party sponsorship and direction, the reasoning of the case reaches the result by focussing heavily on a vague term that the Court called ''secondary benefit''. The ''secondary benefit'' of the Academy's program was the benefit to employers (Republican candidates) of the training acquired by Academy graduates. The Court found the ''secondary benefit'' disproportionately benefited Republicans (they were the only ones hiring the graduates). The Court's reasoning really plows uncharted waters, and it leaves only ill-defined notions of how to assess the whether recipients of the ''secondary benefits'' serve the organization's exempt educational purposes.

If this Committee were to investigate whether the colleges' exempt purposes were served, delicate issues arise which the Committee will most likely not be in a position to assess, e.g., whether ''conservative'' or ''liberal'' viewpoints can be equated with partisan positions, whether the self-selection of an audience can constitute a cognizable group that can be said to receive a private benefit (or whether the possibility that some in the audidence will be motivated to join conservative or liberal causes entails a private benefit to a political party), or whether a tax exempt institution of higher learning with an established educational program loses its exempt status by presenting a political figure who offers definite views and is funded by designated contributions. These issues were not the subject of American Campaign Academy and to apply that case as if it were applicable precedent will not, in my view, answer the questions before the Committee or serve its best interests.

[Memorandum]

To: Members of the House of Representatives.

From: David L. Hobson, Member of Congress.

Date: January 21, 1997.

Subject: Rules and Precedents Regarding Disciplinary Sanctions.

I. LEGAL AUTHORITY TO IMPOSE DISCIPLINARY SANCTIONS

The U.S. Constitution expressly authorizes the House to discipline its Members. Section 5, Clause 2 of Article I states that each House ''may punish its Members for disorderly Behavior, and, with the concurrence of two thirds, expel a Member.'' House Rule X, Clause 4(e), authorizes the Committee on Standards of Official Conduct to investigate any alleged violation by a Member of ''the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member. . . .'' House Rule X, Clause 4(e) also authorizes the Committee ''to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members. . . .''

Committee Rule 20(e) states:

With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

Alternatively, the Committee may issue a Letter of Reproval without obtaining the approval of the House if, pursuant to Committee Rule 20(d), it determines that such a letter ''constitutes sufficient action. . . .''

Committee Rule 20(g) provides the following guidance regarding the appropriateness of the different types of sanctions:

A reprimand is appropriate for ''serious violations.''

Censure is appropriate for ''more serious violations.''

Expulsion is appropriate for ''the most serious violations.''

A monetary fine is ''appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit.''

A denial or limitation of a right, power, privilege, or immunity is appropriate ''when the violation bears upon the exercise or holding of such right, power, privilege, or immunity.''

Rule 20(g) also states that the above standards comprise only ''general guidelines'' and do ''not limit the authority of the Committee to recommend other sanctions.''

II. PRECEDENT REGARDING SANCTIONS

Outlined below, in escalating categories of severity, are precedents regarding sanctions recommendations by the Committee since 1967, when the Committee on Standards of Official Conduct was established as a standing committee of the House. Pursuant to House Rules, the memorandum omits mention of any case concerning a current House member.

A. Letter of reproval

1. In re Rep. Jim Bates, H. Rep. No. 101–293, 101st Cong., 1st Sess. (1989).

In connection with allegations that Member sexually harassed female staff in violation of House Rule XLIII, Clause 9, Committee issued public letter of reproval directing Member to apologize to former staff. (The House took no action.)

2. In re Rep. Charlie G. Rose, III, H. Rep. No. 101–526, 100th Cong., 2d Sess. (1988).

In connection with allegations that Member borrowed campaign funds for personal use in violation of House Rule XLIII, Clause 6, and filed an inadequate Financial Disclosure Statement in violation of House Rule XLIV, the Committee adopted a Statement of Alleged Violation and issued a public letter of reproval. (The Member subsequently repaid the funds and amended his Financial Disclosure Statement.)

3. In re Rep. Richard H. Stallings, H. Rep. No. 100–382, 100th Cong., 1st Sess. (1987).

In connection with allegations that Member borrowed from his campaign fund for himself and a member of his staff, the Committee investigated and issued a public letter of reproval.

B. Reprimand

1. In re Rep. Austin J. Murphy, H. Rep. No. 100–485, 100th Cong., 1st Sess. (1987).

Following an investigation and disciplinary hearing, Committee recommended reprimand regarding allegations that Member: allowed another person to cast his House vote in violation of House Rule VIII, Clause 1; permitted his former law firm access to official resources in violation of 31 U.S.C. §1301(a), and Paragraph 5 of the Code of Ethics for Government Service; and maintained an employee on a committee payroll who was not performing duties commensurate with the employer's pay, in violation of House Rule XLIII, Clause 8. The House reprimanded the Member.

2. In re Rep. George Hansen, H. Rep. No. 98–891, 98th Cong., 2d Sess. (1984).

Following a criminal conviction for making false statements on Financial Disclosure Statement in violation of 18 U.S.C. §1001, Committee held inquiry and disciplinary proceeding regarding violation of House Rule XLIV. Committee recommended reprimand, and the House concurred.

4. In re Rep. Daniel B. Crane, H. Rep. No. 98–296, 98th Cong., 1st Sess. (1983).

In connection with allegations that Member had an improper sexual relationship with a House page in violation of House Rule XLIII, Clause 1, the Committee conducted an investigation and recommended a reprimand. The House voted to censure the Member.

5. In re Rep. Gerry E. Studds, H. Rep. No. 98–295, 98th Cong., 1st Sess. (1983).

Committee recommended reprimand following investigation of allegations that Member had an improper sexual relationship with a House page in violation of House Rule XLIII, Clause 1. The House voted to censure the Member.

6. In re Rep. John J. McFall, H. Rep. No. 95–1742, 95th Cong., 2d Sess. (1978).

Committee adopted Statement of Alleged Violation, held a public investigative hearing, and recommended reprimand concerning allegations that Member failed to report campaign contribution by Tongsun Park in violation of House Rule XLIII, Clause 1. The House reprimanded the Member.

7. In re Rep. Charles H. Wilson, H. Rep. No. 95–1741, 95th Cong., 2d Sess. (1978).

In connection with allegation that Member made a false statement to the Committee concerning the receipt of funds from Tongsun Park, the Committee filed a Statement of Alleged Violation, held a hearing, and recommended a reprimand. The House voted to reprimand the Member. (See discussion below.)

8. In re Rep. Robert L. F. Sikes, H. Rep. No. 94–1364, 94th Cong., 2d Sess. (1976).

Committee recommended reprimand concerning allegations that Member used his office to further his personal financial interests in violation of Paragraph 5 of the Code of Ethics for Government Service and failed to disclose stock holdings in violation of House Rule XVIV. The House voted to reprimand the Member.

C. Censure

As indicated above, the House voted for censure in two 1983 cases (concerning Representatives Crane and Studds) in which the Committee recommended a reprimand. Other cases resulting in censure are outlined below.

1. In re Rep. Charles H. Wilson, H. Rep. No. 96–930, 96th Cong., 2d Sess. (1980).

Committee adopted Statement of Alleged Violation and recommended censure in connection with allegations that Member: accepted gifts from a person with a direct interest in legislation, in violation of House Rule XLIII, Clauses 1 and 4; and made personal use of campaign funds, in violation of House Rule XLIII, Clause 6. The Member was censured by the House.

2. In re Rep. Charles Diggs, H. Rep. No. 96–351, 96th Cong., 1st Sess. (1979).

Following criminal convictions for mail fraud (18 U.S.C. §1341) and making false statements (18 U.S.C. §1001), the Committee adopted Statement of Alleged Violation and recommended censure concerning allegations that Member inflated staff salaries to enable him to pay his personal and congressional expenses. (Member apologized and agreed to make restitution.) The House unanimously voted to censure the Member.

3. In re Rep. Edward J. Roybal, H. Rep. No. 95–1743, 95th Cong., 2d Sess. (1978).

Committee adopted Statement of Alleged Violation, held public investigative hearing, and recommended censure in connection with allegations that Member: failed to report campaign contributions in violation of House Rule XVIII, Clause 1; converted campaign funds to personal use in violation of House Rule XVIII, Clause 6; and made a false statement to the Committee in violation of House Rule XVIII, Clause 1. The House subsequently voted to reprimand the Member. (See discussion below.)

4. In re Rep. Adam Clayton Powell, H. Rep. No. 27, 90th Cong., 1st Sess. (1967).

Special Select Committee considered allegations that Member used committee travel funds for personal travel, improperly authorized clerk hire payments to his wife, and committed contempt of court by failing to comply with New York state court orders.

Special Select Committee recommended that Member be seated but deprived of his seniority, that he pay restitution for improperly authorizing the expenditure of official funds, and that he be censured by the House.

House voted to exclude Member, imposed a fine, and denied him seniority. U.S. Supreme Court subsequently found that Member's expulsion was unconstitutional.

D. Expulsion

1. In re Rep. Mario Biaggi, H. Rep. No. 100–506, 100th Cong., 2d Sess. (1988).

Following a criminal conviction, the Committee unanimously recommended expulsion in connection with charges that the Member: accepted illegal gratuities in violation of 18 U.S.C. §201(g), House Rule XLIII, Clauses 1, 2, and 4, and Paragraph 5 of the Code of Ethics for Government Service; and failed to report gifts on Financial Disclosure Statements in violation of House Rule XLIV.

House deferred action on expulsion resolution while Member defended against second prosecution. The Member resigned from the House.

2. In re Rep. Raymond F. Lederer, H. Rep. No. 97–110, 97th Cong., 1st Sess. (1981).

Following a criminal conviction for bribery arising out of the ''ABSCAM'' case, the Committee held an inquiry and disciplinary hearing, and subsequently recommended expulsion, concerning allegations that the Member accepted money in return for promising to use official influence, in violation of House Rule XLIII, Clauses 1 through 3. The Member resigned, and the House took no action.

3. In re Rep. Michael J. Myers, H. Rep. No. 96–1387, 96th Cong., 2d Sess. (1980).

Following a criminal conviction for bribery arising out of the ''ABSCAM'' case, the Committee held an inquiry and disciplinary hearing, and subsequently recommended expulsion, concerning allegations that the Member accepted money in return for promising to use official influence. The House expelled the Member.

III. CASES CONCERNING FALSE STATEMENTS TO THE COMMITTEE

In light of Speaker Gingrich's admission to the charges in the Statement of Alleged Violation, the two 1978 cases concerning Representatives Wilson and Roybal may be of particular interest to Members of the House.

In the Roybal case, the Committee considered allegations that Representative Roybal received $1,000.00 in cash from Tungsun Park. The Committee found by ''clear and convincing evidence'' that Representative Roybal knowingly gave false testimony when he denied under oath that he received a gift or campaign contribution from Mr. Park, and concluded that Representative Roybal's false testimony constituted a violation of House Rule 43, Clause 1. In re Rep. Edward J. Roybal, H. Rep. No. 95–1743, 95th Cong., 2d Sess. 1, 3–4 (1978). The Committee recommended that the House censure Representative Roybal, but the House voted to reprimand him instead.

In the Wilson case, the Committee found that Representative Wilson knowingly made a false statement to the Committee in writing when, in a response to a Committee questionnaire sent to each Member of the House, Representative Wilson denied receiving anything of value greater than $100.00 from Tongsun Park. In re Rep. Charles H. Wilson, H. Rep. No. 95–1741, 95th Cong., 2d Sess. 1–3 (1978). After a hearing, the Committee adopted a Statement of Alleged Violation in which it found, by clear and convincing evidence, that Representative Wilson had violated House Rule 43, Clause 1. *Id.* at 4–5. The Committee recommended to the House that Representative Wilson be reprimanded, and the House adopted that recommendation.

Mr. CARDIN. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, very quickly I want to make two points.

Our colleagues have talked about this not being about financial gain to the Speaker. Indeed that was not our charge to the committee to find that, and we did indeed not find it. But this was about power, so when we talk about high ethical standard, it is not just about money; it is about what Members will do for power.

The second point is, the gentleman from Texas [Mr. SMITH] and the gentleman from Ohio [Mr. HOBSON] alluded to other penalties for other violations of House rules. Those cases were brought to conclusion. Mr. GINGRICH admitted to these charges, thereby freezing the record. We could possibly prove intent if we had the full process gone through. So I want to make that distinction.

Mr. CARDIN. Mr. Speaker, I yield 7 minutes to the gentleman from Ohio [Mr. SAWYER], a very distinguished member of the Select Committee on Ethics, who has contributed greatly not only to this particular matter, to many matters before the Select Committee on Ethics.

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

Mr. SAWYER. Mr. Speaker, I thank my colleague from Maryland for his leadership in this matter and join in my colleagues in recognizing the work of the subcommittee and the staff of the subcommittee in this difficult matter.

Earlier this year, a lifelong friend of mine was thrilled that his daughter on graduating law school was selected to speak on behalf of her classmates in terms of the kinds of things that they had learned in the course of their time together. She chose as her theme the nature of testimony.

Now, that is something that is certainly familiar to law students and lawyers. It is certainly familiar to all of us who deal day in and day out with testimony. But she was talking about testimony of another kind. Her theme was centered on the idea that the lives we lead, the sum of our actions is testimony to the values that we hold. That it is testimony to the very definition of who we are as individual actors in our public and private lives and in our corporate life here together as an institution.

It is just such a matter that brings us here today to judge that kind of testimony, a year's work, 150,000 pages of documents and testimony, that are themselves testimony to the work of the committee, to consider the seriousness of the conduct that was before us, the absence of care that was exercised in that conduct, the disruption that has been caused to this institution, and the cost in both monetary and ethical terms and the repetitive nature of the conduct that we speak of today.

The subcommittee concluded that there were significant and substantial warning signals to Mr. GINGRICH that he should have had prior to embarking on that activity. The subcommittee and the full committee and we today were faced with a disturbing choice.

That choice was that either Mr. GINGRICH did not seek appropriate advice in the action that he took or that he was reckless in not taking care that as a Member of Congress he made sure that his action conformed with the law that he faced. We face another disturbing choice, that Mr. GINGRICH either intentionally misrepresented the truth or, again, that he was reckless in his disregard for the nature of truth.

This is at the heart of the charges that are before us. This is a serious offense. It is a serious sanction. But I hasten to add that it does not raise the hurdle that is before us. Twenty years ago in the consideration of the Korean Influence Investigation, the ethics committee produced a manual of offenses and procedures and concluded that, even where serious criminal sanctions are imposed, the law does not insist on proof of actual knowledge.

The courts have often held that proof that the accused acted in reckless disregard of the facts or deliberately closed his eyes to avoid obtaining knowledge may suffice to support a conviction if the circumstances should have alerted a responsible Member concerned about both the letter and spirit of the law to hesitate to inquire before acting, the failure of a Member to learn the truth should not be an excuse, and then goes on to discuss that that failure to adhere to this higher standard is an appropriate basis for imposing the most severe sanctions available to this House.

As we consider all of this, I hope that we recognize that, although we have heard often that this is a sad day, I want to add to that, as the gentleman from Florida [Mr. GOSS] suggested, that this can be a sound day if we can draw lessons from this case, not just Representative GINGRICH but all of us can draw lessons that ethical behavior, as Ms. PELOSI suggested, is not something that we do when we are too busy. It represents the way we live our lives together, that ethics is not a matter of cutting corners or pressing for an unfair advantage or that seeks to blur the truth or that seeks to find an entrepreneurial expression in the way we conduct our business here but, rather, ethical behavior may be even more important to us all when the lines are blurred than when they are clear.

This is not a matter of personal gain to the Speaker. It is a matter of ethical loss to us all if we do not recognize the importance of what is before us here today. We are all diminished by a violation of ethical standards, and we are all elevated by their careful and caring observation.

In that sense, in conclusion, Mr. Speaker, this can be a unique day. It will be in one sense the worst thing that we have ever done to a Speaker of the House of Representatives. But it can also be one of the very best things that ever happened in his life and in fact in all of our lives if he and we take the lessons of this day to heart, recognize them as personal obligations for us all, to act on them in our lives, to have the decency to face up to the personal responsibility and to let all of our lives, not just the Speaker from this point forward become testimony to the high standards we set for ourselves in the public arena.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1¾ minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I would like to embark on a slightly different dimension here, and I would hope that all the Members would listen as to my observation of the Speaker, what has NEWT GINGRICH done in my mind over the years, especially the last 2 years as Speaker of the House of Representatives. The Speaker has created a situation on the House floor where each Member of Congress can become a responsible advocate for his or her position.

My first 4 years here, I saw money and seniority as the influencing factor in developing legislation. The Speaker, in my observation, changed that. Those with credibility have information, and those with information generated as a result of that information influence. That is how a democracy is supposed to work. Those with the information have the influence, the course, the direction of the legislation.

As a result of that, the sophistication of the debate in my judgment has risen very, very high, a more open and honest exchange of ideas, not pummeled by political punishment by seniority or power; but an exchange of ideas is what democracy is all about.

The debate has often been clearly misunderstood as partisan politics or gridlock. This is democracy. It is difficult. That exchange of ideas does not take place in North Korea, Cuba, Iraq, or someplace else. NEWT GINGRICH has not aspired to power in this House or this country like many others in this place have done, buttressed by arrogance, dogma, and ignorance. In my judgment, in my observation, NEWT GINGRICH has sought to reveal his vision for America. This is what democracy is about.

Mrs. JOHNSON of Connecticut. Mr. Speaker, might I inquire as to the time remaining on both sides?

The SPEAKER pro tempore (Mr. BEREUTER). The gentlewoman from Connecticut [Mrs. JOHNSON] has 9¾ minutes remaining, and the gentleman from Maryland [Mr. CARDIN] has 8 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, I thank the Chair again for yielding me the time.

There has been much discussion this afternoon about the tax issues in this case. There has been an assertion made that the Speaker supposedly intended to violate tax laws or that he was reckless in his activities. I want to address that head on.

□ 1330

I spoke yesterday with the chairman of the American Bar Association tax committee. He is the successor to the individual who served as the tax consultant to the Ethics Committee. He told me about a recent meeting that had been held by this tax committee, which was attended by 75 to 80 attorneys. And this meeting occurred on January the 10th of this year. He said there was much discussion about the facts of the case that are before us today, but he said, ''there was no conclusion.''

In fact, he said, ''in regard to the discussion of the facts, it was not conclusive.'' There were many different conclusions. He himself went on to say that it was, ''a stretch to conclude that the Speaker was guilty of violating any tax laws.''

My point here is that the tax laws are so unclear that, in regard to what the Speaker was allegedly doing, how in the world could anyone have intended to violate such laws or been reckless in regard to such laws.

Last, I want to say that in the conclusion of the report of the special counsel, several explanations are mentioned to justify the severity of the penalty that is being discussed today. One of those explanations given for justification is that ''Politics and tax deductible contributions are an explosive mix.'' Well, of course, there is nothing new about that.

Another explanation is that the Speaker had taken an aggressive approach to the tax laws. Well, since when have Members been penalized for taking an aggressive approach to anything?

And last, it is said that Mr. GINGRICH's own tax lawyer would have advised him not to use a tax exempt organization. But lawyers are risk-averse. They are paid to be cautious. They are worried about malpractice suits. If they think there is 1 chance out of 100 that their client might get in trouble, they are going to recommend against that supposed action.

The point here is that, just because the Speaker did not consult an attorney, is that reckless? Is that reason enough to give him the severe penalty of a reprimand?

And, furthermore, let me end on a question that I would pose to other Members of the House, and that is, Do we want to be judged by the same standards that we are judging the Speaker by today?

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [MR. RANGEL].

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

Mr. RANGEL. Mr. Speaker, I gather that most of the Members, Democrat and Republican, are very anxious to put the heat and passion of our partisanship behind us and to get on and

legislate as the American people would want us to do. God knows I have contributed my share toward that heat and passion, and make no apologies for my partisanship. But we cannot have it both ways. We cannot say that he pled guilty but he did not do anything.

For those people who want to pursue outside issues, I beg them not to think about doing it. If we want to investigate who was coercing members of the committee, then maybe we will investigate who asked them how they were going to vote on the question of the Speaker.

Who is talking about taxes? The Select Committee on Ethics had no right to go into tax issues. That is for the Internal Revenue Service; that is for the Federal Bureau of Investigation, and they have the responsibility to do that.

The Speaker is intelligent. He is an intellectual. He read the charges. He said he brought discredit upon this House. For God's sake, let us get on with it.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I salute the Republicans for their loyalty to their Speaker and their unity. The facts are clear, Democrats: 7 years ago the Democrats abandoned Jim Wright; today the Republicans rescue NEWT GINGRICH. I commend them.

Let me say this. The bottom line, folks, is this is not Rotary; this is politics. If Democrats are going to win back the majority, I think we should not only do that but maybe expend a little bit of time on creating jobs in the country. It might serve a better purpose.

I want to close today by commending all of the leaders and all of the members of the committee. They are to be commended. I will support their decision. But let me say this: I hope that today's events serve to bring some form of historical fairness and perspective to our fine former Democrat Speaker, Jim Wright.

Mrs. JOHNSON of Connecticut. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore [Mr. BEREUTER]. The gentlewoman from Connecticut [Mrs. JOHNSON] has 7 minutes remaining, and the gentleman from Maryland [Mr. CARDIN] has 6 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 4½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the chairman for giving me this time.

Last week, Mr. Speaker, I was prepared to vote for a reprimand, but then I found out that it is more than a reprimand; it is now a reimbursement plus a reprimand. And I cannot take what I was going to take, a political decision, when I feel strongly, feel very strongly, that it is not right.

Now, I have the greatest respect for the chairwoman of the Committee on Standards of Official Conduct, NANCY JOHNSON, and I appreciate all the hard work that the committee has put into this recommendation. But I must agree with my colleague from Texas, Mr. SMITH, the only member of the committee who voted against that recommendation. I believe that this punishment is too harsh given the history of the ethics process and the precedence of earlier punishments.

Such a punishment is not only unprecedented and can be levied on every one of us, it is unwarranted. I will not vote to reprimand NEWT GINGRICH for transgressions that in the past have only warranted either warnings or letters of reproval from the Committee on Standards of Official Conduct.

Now, I understand the Speaker's noble motivation in working out a settlement in this case, and I understand why and how the committee came to this end and the Speaker came to this end; but we have to put it in perspective. The gentleman from Missouri, the minority leader, Mr. GEPHARDT, received a letter from the Committee on Standards of Official Conduct for giving false information to the committee not intentionally. The chairman of the DCCC received a letter from this Committee on Standards of Official Conduct because he did not intentionally use a Federal employee for campaign purposes.

Those are letters of reproval, and I submit that both of those actions are worse than what NEWT GINGRICH has owned up to.

Now, for what kind of violations has this House put reprimands on Members? Hiring the wrong lawyer? Submitting or being sloppy about submissions to the committee? No. Reprimands have been used for things such as using political influence to fix parking tickets for personal friends; reprimands or recommendations of reprimand by the committee for improper sexual relationships with pages; reprimand for intentionally lying to the committee.

This committee has not found this Speaker has intentionally lied or intentionally misled the committee.

This is, I say to the gentlewoman from California, Mr. Speaker, this is about power. This is about some on this side have lost power and they are trying to regain it by abusing the ethics process and this institution. That is what this is all about.

So, I do not agree that the Speaker should be held to a higher standard. All of us, all of us, every Member, should be held to the highest of standards. This Speaker and any other Member should not be held to a double standard. This is a double standard that we are imposing on this Speaker.

In fact, we know it because this Speaker has been prodded and probed from every direction. Since 1989 he has had over 500 ethics charges brought against him. In the last 2 years he has had 74 ethics charges brought against him. You know what? Nothing has been brought to this floor to bring a sanction against anything that he has been charged with.

What he is being charged with today is during the process he happened to screw up. That is what is going on here. I just find that really sad that we have abused the process like this.

This Speaker has had every detail of his life examined under a microscope, and that microscope has exposed some flaws, some sloppiness, some things that should have been done better; but it has not exposed corruption or lawlessness or personal profit. And that is what reprimands and censures are all about. The highest possible standard does not mean an impossible standard that no American could reach.

Let us stop using the ethics process for political vendettas. Let us not create precedence that will only serve to undermine the service of this country. Let us stop this madness. Let us stop the cannibalism.

Let us not fall victim to unrealistic expectations that do not forgive the common flaws of normal Americans.

With all due respect to the great work of the Ethics Committee, I cannot vote to reprimand the Speaker of the House for the stated transgressions.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I agree with the chairwoman of our committee. These are very tough penalties, and the violation of the rules justify these tough sanctions.

The sanctions are being recommended not because Mr. GINGRICH is the Speaker of the House. They are being recommended because Mr. GINGRICH is a Member of this House. These sanctions would be appropriate for any Member of this House who committed the violations that have now been established by the Committee on Standards of Official Conduct and have now been admitted to by Mr. GINGRICH.

Mr. GINGRICH made a decision that any Member has the right to make. He has admitted to the charges. He has done that in order to avoid the necessity of a trial. That is his decision, and one which I think we all must respect, but the underlying facts as to why this sanction is so severe, I think, will become obvious to any one of us if we will read the report of the special counsel which now has been approved not only by the bipartisan investigative committee but by the full Committee on Standards of Official Conduct.

It points to the fact that this was not a college course. It was a course conceived within a political movement. Read pages 38 and 39. It was conceived in a political movement. It was conceived as the only way, according to Mr. GINGRICH, to get the message out, to get the political message out.

I appreciate the comments of my colleague from Maryland, Mr. GILCHREST, but we do not use tax exempt organizations to get a political message out. I appreciate the comments of the gentleman from Texas, Mr. SMITH, about the meeting of tax lawyers. In all due respect, this report was just released 4

days ago. The facts and circumstances are just now known to the American people. The political motivation and the action on that political motivation is now just known by the American people.

Mr. GINGRICH commingled tax exempt organizations with his political agenda. He did it because he could not raise enough money in the political PAC's. That is part of our record. This was a new way to raise money, a new avenue in which he could promise his contributors a tax exemption to boot. That is wrong. He did it because he needed the money in order to get his political message out. And that is wrong.

There is ample evidence here that tax laws were violated, and it is not a close case, but we do not need to reach that conclusion. As the special counsel's report concludes, this is a bipartisan conclusion, Mr. GINGRICH should have sought tax advice. The reason he did not seek that tax advice was either that he knew it would be wrong and he did not want to get that advice or he was reckless in his conduct.

Make no mistake about this. This is reckless conduct, at least reckless conduct, over a long period of time dating back 5 years, involving four tax exempt organizations costing taxpayers hundreds of thousands of dollars of legitimate tax needs.

But there is more to this case than just the tax issues. We have letters that misled the Committee on Standards of Official Conduct. As the special counsel has pointed out, there is ample evidence, there is significant evidence here that he intentionally did this. No, we do not reach that conclusion. The record was frozen by his admission. But we do reach the conclusion that this was either intentional conduct to mislead this House and the ethics process or it was reckless conduct.

Now, that is more than innocent mistakes. We have reached conclusions that these are not just innocent mistakes. Mr. GINGRICH's explanation that he is sensitive to the ethics process, he was embarrassed, and he came forward as soon as he knew they were in error, just does not wash with the record that has been presented to you today. There is more to it than that, and the special counsel's record reflects that, and we need to take cognizance of that.

So we have a series of conduct that was either reckless or intentional and it cost this House and our reputation dearly. That is why the sanction is before us.

□ 1345

Not because he is Speaker of the House but because a Member of the House has brought disgrace to this Chamber.

I am proud of the fact that we have a bipartisan recommendation here today. That is very important. The process has worked. Democrats and Republicans have come together and have performed one of their most important constitutional responsibilities, to judge the conduct of our own Members, and we have done that, and we have reached an agreement, and the agreement is right, and Mr. GINGRICH has agreed on that assessment. Now it is time for us to do right as a full House. It is time for us to support the recommendations of the Ethics Committee to send a very clear message that every Member of this House must adhere to the highest standards when it comes to their personal conduct that can bring discredit to this House and to their conduct with the Ethics Committee and the information that they make available to our committee.

I urge my colleagues to support this recommendation. Let us approve it overwhelmingly and then, yes, let us get on with the business of this House, Democrats and Republicans working together to do the people's business.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, I have to say that I do not think it is an accurate portrayal of the matters that bring us to the House floor today and that are about to bring us to a vote to selectively choose facts in a long investigative process. I cannot say that anything the gentleman from Maryland [Mr. CARDIN] just rendered was inaccurate if taken by itself. But these things are not taken by themselves. Also in the special counsel's report is the quotation of another tax expert who said he did not think that there was a violation of 501(c)3 laws in any way. There was no abuse of the tax laws. It was his opinion that as long as the content of the Speaker's course as a college course was pure of political involvement, then anyone could use it anyway they wanted to, and not even the worst critic of the Speaker we heard from challenged the fact that the course itself contained no partisan directives to the class, that it was a legitimate college course.

I urge the Members to adopt the recommendation of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in strong support of the Ethics Committee report. It is a serious and appropriate sanction. I urge that it have the same bipartisan support on the vote of this House.

Mr. Speaker, I support the report of the Committee on Standards of Official Conduct, the Ethics Committee, and urge its adoption recognizing that it will close a sad chapter in the history of this House. This is a serious and an appropriate sanction, as stated by Representative PORTER GOSS, the chairman of the Investigative Subcommittee. However, left unstated in this report and unresolved by the committee is the means by which the fine or cost assessment, that is, the reimbursement of $300,000 should be paid.

The reprimand for Congressman GINGRICH and the $300,000 cost assessment represent a serious penalty and one in which I concur. However, while this resolution leaves repayment to the Speaker's discretion, I personally believe, and would advise, that payment be made from the Speaker's personal funds and not from any political action committee or other campaign account.

I would advise the Speaker that payment of this cost assessment from his personal funds would at least begin to rehabilitate this House and the ethics process to which we are all accountable.

This vote today is conclusion of a sad chapter in the ethical history of the U.S. House. With this vote, we should move beyond partisanship and attend with seriousness of purpose and probity to the people's business in the highest tradition of American democracy.

This is now our ethical challenge—a challenge upon which the public will ultimately judge us.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, today we take final action on the Gingrich case. I believe passage of the tough, unprecedented penalty package is appropriate and I also believe it can be one important step toward restoring pride and confidence in the people's House of the U.S. Congress. But as important as this vote is today, no single vote can renew public confidence in this institution. Rather, each Member of this House must take personal responsibility to restore civility and mutual respect to our deliberations. The American people are bone tired of partisanship. They want us to work together, and I believe most Members of this House are yearning to return to the deliberative process that alone produces good public policy. We were elected Republicans and Democrats but the core of democracy is building bipartisan consensus by maturing the best ideas from both parties into responsible, effective solutions. Today we conclude this case by imposing a heavy penalty on the leader of this House. It is a tough penalty, unprecedented and appropriate. But if our action fails today to chasten this body and bring a halt to the crippling partisanship and animosity that has surrounded us, then we will have lost an opportunity to grow and learn from this solemn occasion, and that would be a tragedy.

I ask for your support of the bipartisan recommendation of the Ethics Committee.

Mr. CARDIN. Mr. Speaker, I ask unanimous consent that the report of the Select Committee on Ethics be made a part of the RECORD.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Maryland?

There was no objection.

The report is as follows:

IN THE MATTER OF REPRESENTATIVE NEWT GINGRICH

I. INTRODUCTION

A. Procedural Background

On September 7, 1994, a complaint was filed with the Committee on Standards of Official Conduct (''Committee'') against Representative Newt Gingrich by Ben Jones, Mr. Gingrich's opponent in his 1994 campaign for reelection. The complaint centered on a course taught by Mr. Gingrich called ''Renewing American Civilization.'' Among other things, the complaint alleged that Mr. Gingrich had used his congressional staff to work on the course in violation of House Rules. The complaint also alleged that Mr. Gingrich had created a college course under the sponsorship of 501(c)(3) organizations in order ''to meet certain political, not educational, objectives'' and, therefore, caused a violation of section 501(c)(3) of the Internal Revenue Code to occur. In partial support of the allegation that the course was a partisan, political project, the complaint alleged that the course was under the control of GOPAC, a political action committee of which Mr. Gingrich was the General Chairman.

Mr. Gingrich responded to this complaint in letters dated October 4, 1994, and December 8, 1994, but the matter was not resolved before the end of the 103rd Congress. On January 26, 1995, Representative David Bonior filed an amended version of the complaint originally filed by Mr. Jones. It restated the allegations concerning the misuse of tax-exempt organizations and contained additional allegations. Mr. Gingrich responded to that complaint in a letter from his counsel dated March 27, 1995.

On December 6, 1995, the Committee voted to initiate a Preliminary Inquiry into the allegations concerning the misuse of tax-exempt organizations. The Committee appointed an Investigative Subcommittee (''Subcommittee'') and instructed it to: determine if there is reason to believe that Representative Gingrich's activities in relation to the college course ''Renewing American Civilization'' were in violation of section 501(c)(3) or whether any foundation qualified under section 501(c)(3), with respect to the course, violated its status with the knowledge and approval of Representative Gingrich * * *.

The Committee also resolved to appoint a Special Counsel to assist in the Preliminary Inquiry. On December 22, 1995, the Committee appointed James M. Cole, a partner in the law firm of Bryan Cave LLP, as the Special Counsel. Mr. Cole's contract was signed January 3, 1996, and he began his work.

On September 26, 1996, the Subcommittee announced that, in light of certain facts discovered during the Preliminary Inquiry, the investigation was being expanded to include the following additional areas:

(1) Whether Representative Gingrich provided accurate, reliable, and complete information concerning the course entitled ''Renewing American Civilization,'' GOPAC's relationship to the course entitled ''Renewing American Civilization,'' or the Progress and Freedom Foundation in the course of communicating with the Committee, directly or through counsel (House Rule 43, Cl. 1);

(2) Whether Representative Gingrich's relationship with the Progress and Freedom Foundation, including but not limited to his involvement with the course entitled ''Renewing American Civilization,'' violated the foundation's status under 501(c)(3) of the Internal Revenue Code and related regulations (House Rule 43, Cl. 1);

(3) Whether Representative Gingrich's use of the personnel and facilities of the Progress and Freedom Foundation constituted a use of unofficial resources for official purposes (House Rule 45); and

(4) Whether Representative Gingrich's activities on behalf of the Abraham Lincoln Opportunity Foundation violated its status under 501(c)(3) of the Internal Revenue Code and related regulations or whether the Abraham Lincoln Opportunity Foundation violated its status with the knowledge and approval of Representative Gingrich (House Rule 43, Cl. 1).

As discussed below, the Subcommittee issued a Statement of Alleged Violation with respect to the initial allegation pertaining to Renewing American Civilization and also with respect to items 1 and 4 above. The Subcommittee did not find any violations of House Rules in regard to the issues set forth in items 2 and 3 above. The Subcommittee, however, decided to recommend that the full Committee make available to the IRS documents produced during the Preliminary Inquiry for use in its ongoing inquiries of 501(c)(3) organizations. In regard to item 3 above, the Subcommittee decided to issue some advice to Members concerning the proper use of outside consultants for official purposes.

On January 7, 1997, the House conveyed the matter of Representative Newt Gingrich to the Select Committee on Ethics by its adoption of clause 4(e)(3) of rule X, as contained in House Resolution 5.

On January 17, 1997, the Select Committee on Ethics held a sanction hearing in the matter pursuant to committee rule 20. Following the sanction hearing, the Select Committee ordered a report to the House, by a roll call vote of 7–1, recommending that Representative Gingrich be reprimanded and ordered to reimburse the House for some of the costs of the investigation in the amount of $300,000. The following Members voted aye: Mrs. Johnson of Connecticut, Mr. Goss, Mr. Schiff, Mr. Cardin, Ms. Pelosi, Mr. Borski, and Mr. Sawyer. The following Member voted no: Mr. Smith of Texas.

The adoption of this report by the House shall constitute such a reprimand and order of reimbursement. Accordingly, the Select Committee recommends that the House adopt a resolution in the following form.

HOUSE RESOLUTION —

Resolved, That the House adopt the report of the Select Committee on Ethics dated January 17, 1997, In the Matter of Representative Newt Gingrich.

Statement Pursuant to Clause 2(l)(3)(A) of Rule XI

No oversight findings are considered pertinent.

B. Investigative Process

The investigation of this matter began on January 3, 1996, and lasted through December 12, 1996. In the course of the investigation, approximately 90 subpoenas or requests for documents were issued, approximately 150,000 pages of documents were reviewed, and approximately 70 people were interviewed. Most of the interviews were conducted by Mr. Cole outside the presence of the Subcommittee. A court reporter transcribed the interviews and the transcripts were made available to the Members of the Subcommittee. Some of the interviews were conducted before the Members of the Subcommittee primarily to explore the issue of whether Mr. Gingrich had provided the Committee, directly or through counsel, inaccurate, unreliable, or incomplete information.

During the Preliminary Inquiry, Mr. Cole interviewed Mr. Gingrich twice and Mr. Gingrich appeared before the Subcommittee twice. Several draft discussion documents, with notebooks of exhibits, were prepared for the Subcommittee in order to brief the Members on the findings and status of the Preliminary Inquiry. After receiving the discussion documents, the Subcommittee met to discuss the legal and factual questions at issue.

In most investigations, people who were involved in the events under investigation are interviewed and asked to describe the events. This practice has some risk with respect to the reliability of the evidence gathered because, for example, memories fade and can change when a matter becomes controversial and subject to an investigation. One advantage the Subcommittee had in this investigation was the availability of a vast body of documentation from multiple sources that had been created contemporaneously with the events under investigation. A number of documents central to the analysis of the matter, in fact, had been written by Mr. Gingrich. Thus, the documents provided a unique, contemporaneous view of people's purposes, motivations, and intentions with respect to the facts at issue. This Report relies heavily, but not exclusively, on an analysis of those documents to describe the acts, as well as Mr. Gingrich's purpose, motivations, and intentions.

As the Report proceeds through the facts, there is discussion of conservative and Republican political philosophy. The Committee and the Special Counsel, however, do not take any positions with respect to the validity of this or any other political philosophy, nor do they take any positions with respect to the desirability of the dissemination of this or any other political philosophy. Mr. Gingrich's political philosophy and its dissemination is discussed only insofar as it is necessary to examine the issues in this matter.

C. Summary of the Subcommittee's Factual Findings

The Subcommittee found that in regard to two projects, Mr. Gingrich engaged in activity involving 501(c)(3) organizations that was substantially motivated by partisan, political goals. The Subcommittee also found that Mr. Gingrich provided the Committee with material information about one of those projects that was inaccurate, incomplete, and unreliable.

1. AOW/ACTV

The first project was a television program called the American Opportunities Workshop (''AOW''). It took place in May 1990. The idea for this project came from Mr. Gingrich and he was principally responsible for developing its message. AOW involved broadcasting a television program on the subject of various governmental issues. Mr. Gingrich hoped that this program would help create a ''citizens' movement.'' Workshops were set up throughout the country where people could gather to watch the program and be recruited for the citizens' movement. While the program was educational, the citizens' movement was also considered a tool to recruit non-voters and people who were apolitical to the Republican Party. The program was deliberately free of any references to Republicans or partisan politics because Mr. Gingrich believed such references would dissuade the target audience of non-voters from becoming involved.

AOW started out as a project of GOPAC, a political action committee dedicated to, among other things, achieving Republican control of the United States House of Representatives. Its methods for accomplishing this goal included the development and articulation of a political message and the dissemination of that message as widely as possible. One such avenue of dissemination was AOW. The program, however, consumed a substantial portion of GOPAC's revenues. Because of the expense, Mr. Gingrich and others at GOPAC decided to transfer the

project to a 501(c)(3) organization in order to attract tax-deductible funding. The 501(c)(3) organization chosen was the Abraham Lincoln Opportunity Foundation (''ALOF''). ALOF was dormant at the time and was revived to sponsor AOW's successor, American Citizens' Television (''ACTV''). ALOF operated out of GOPAC's offices. Virtually all its officers and employers were simultaneously GOPAC officers or employees. ACTV had the same educational aspects and partisan, political goals as AOW. The principal difference between the two was that ACTV used approximately $260,000 in tax-deductible contributions to fund its operations. ACTV broadcast three television programs in 1990 and then ceased operations. The last program was funded by a 501(c)(4) organization because the show's content was deemed to be too political for a 501(c)(3) organization.

2. RENEWING AMERICAN CIVILIZATION

The second project utilizing 501(c)(3) organizations involved a college course taught by Mr. Gingrich called Renewing American Civilization. Mr. Gingrich developed the course as a subset to and tool of a larger political and cultural movement also called Renewing American Civilization. The goal of this movement, as stated by Mr. Gingrich, was the replacement of the ''welfare state'' with an ''opportunity society.'' A primary means of achieving this goal was the development of the movement's message and the dissemination of that message as widely as possible. Mr. Gingrich intended that a ''Republican majority'' would be the heart of the movement and that the movement would ''professionalize'' House Republicans. A method for achieving these goals was to use the movement's message to ''attract voters, resources, and candidates.'' According to Mr. Gingrich, the course was, among other things, a primary and essential means to develop and disseminate the message of the movement.

The core message of the movement and the course was that the welfare state had failed, that it could not be repaired but had to be replaced, and that it had to be replaced with an opportunity society based on what Mr. Gingrich called the ''Five Pillars of American Civilization.'' These were: (1) personal strength; (2) entrepreneurial free enterprise; (3) the spirit of invention; (4) quality as defined by Edwards Deming; and (5) the lessons of American history. The message also concentrated on three substantive areas. These were: (1) jobs and economic growth; (2) health; and (3) saving the inner city.

This message was also Mr. Gingrich's main campaign theme in 1993 and 1994 and Mr. Gingrich sought to have Republican candidates adopt the Renewing American Civilization message in their campaigns. In the context of political campaigns, Mr. Gingrich used the term ''welfare state'' as a negative label for Democrats and the term ''opportunity society'' as a positive label for Republicans.

As General Chairman of GOPAC, Mr. Gingrich decided that GOPAC would use Renewing American Civilization as its political message and theme during 1993–1994. GOPAC, however, was having financial difficulties and could not afford to disseminate its political messages as it had in past years. GOPAC had a number of roles in regard to the course. For example, GOPAC personnel helped develop, manage, promote, and raise funds for the course. GOPAC Charter Members helped develop the idea to teach the course as a means for communicating GOPAC's message. GOPAC Charter Members at Charter Meetings helped develop the content of the course. GOPAC was ''better off'' as a result of the nationwide dissemination of the Renewing American Civilization message via the course in that the message GOPAC had adopted and determined to be the one that would help it achieve its goals was broadcast widely and at no cost to GOPAC.

The course was taught at Kennesaw State College (''KSC'') in 1993 and at Reinhardt College in 1994 and 1995. Each course consisted of ten lectures and each lecture consisted of approximately four hours of classroom instruction, for a total of forty hours. Mr. Gingrich taught twenty hours of each course and his co-teacher, or occasionally a guest lecturer, taught twenty hours. Students from each of the colleges as well as people who were not students attended the lectures. Mr. Gingrich's 20-hour portion of the course was taped and distributed to remote sites, referred to as ''site hosts,'' via satellite, videotape and cable television. As with AOW/ACTV, Renewing American Civilization involved setting up workshops around the country where people could gather to watch the course. While the course was educational, Mr. Gingrich intended that the workshops would be, among other things, a recruiting tool for GOPAC and the Republican Party.

The major costs for the Renewing American Civilization course were for dissemination of the lectures. This expense was primarily paid for by tax-deductible contributions made to the 501(c)(3) organizations that sponsored the course. Over the three years the course was broadcast, approximately $1.2 million was spent on the project. The Kennesaw State College Foundation (''KSCF'') sponsored the course the first year. All funds raised were turned over to KSCF and dedicated exclusively for the use of the Renewing American Civilization course.[1] KSCF did not, however, manage the course and its role was limited to depositing donations into its bank account and paying bills from that account that were presented to it by the Dean of the KSC Business School. KSCF contracted with the Washington Policy Group, Inc. (''WPG'') to manage and raise funds for the course's development, production and distribution. Jeffrey Eisenach, GOPAC's Executive Director from June 1991 to June 1993 was the president and sole owner of WPG. WPG and Mr. Eisenach played similar roles with respect to AOW/ACTV.

When the contract between WPG and KSCF ended in the fall of 1993, the Progress and Freedom Foundation (''PFF'') assumed the role WPG had with the course at the same rate of compensation. Mr. Eisenach was PFF's founder and president. Shortly after PFF took over the management of the course, the Georgia Board of Regents passed a resolution prohibiting any elected official from teaching at a Georgia state educational institution. This was the culmination of a controversy that had arisen around the course at KSC. A group of KSC faculty had objected to the course being taught on the campus because of a belief that it was an effort to use the college to disseminate a political message. Because of the Board of Regent's decision and the controversy, it was decided that the course would be moved to a private college.

The course was moved to Reinhardt for the 1994 and 1995 sessions. While there, PFF assumed full responsibility for the course. PFF no longer received payments to run the course but, instead, took in all contributions to the course and paid all the bills, including paying Reinhardt for the use of the college's video production facilities. All funds for the course were raised by and expended by PFF under its tax-exempt status.

[1] As general management and support fees, KSCF kept 2.5% of any money raised and KSC's Business School kept 7.5% of any money raised.

3. FAILURE TO SEEK LEGAL ADVICE

Under the Internal Revenue Code, a 501(c)(3) organization must be operated exclusively for exempt purposes. The presence of a single non-exempt purpose, if more than insubstantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes. Conferring a benefit on private interests is a non-exempt purpose. Under the Internal Revenue Code, a 501(c)(3) organization is also prohibited from intervening in a political campaign or providing any support to a political action committee. These prohibitions reflect congressional concerns that taxpayer funds not be used to subsidize political activity.

During the Preliminary Inquiry, the Subcommittee consulted with an expert in the law of tax-exempt organizations and read materials on the subject. Mr. Gingrich's activities on behalf of AOW/ACTV and Renewing American Civilization, as well as the activities of others on behalf of those projects done with Mr. Gingrich's knowledge and approval, were reviewed by the expert. The expert concluded that those activities violated the status of the organizations under section 501(c)(3) in that, among other things, those activities were intended to confer more than insubstantial benefits on GOPAC, Mr. Gingrich, and Republican entities and candidates, and provided support to GOPAC.

At Mr. Gingrich's request, the Subcommittee also heard from tax counsel retained by Mr. Gingrich for the purposes of the Preliminary Inquiry. While that counsel is an experienced tax attorney with a sterling reputation, he has less experience in dealing with tax-exempt organizations law than does the expert retained by the Subcommittee. According to Mr. Gingrich's tax counsel, the type of activity involved in the AOW/ACTV and Renewing American Civilization projects would not violate the status of the relevant organizations under section 501(c)(3). He opined that once it was determined that an activity was ''educational,'' as defined by the IRS, and did not have the effect of benefiting a private interest, it did not violate the private benefit prohibition. In the view of Mr. Gingrich's tax counsel, motivation on the part of an organization's principals and agents is irrelevant. Further, he opined that a 501(c)(3) organization does not violate the private benefit prohibition or political campaign prohibition through close association with or support of a political action committee unless it specifically calls for the election or defeat of an identifiable political candidate.

Both the Subcommittee's tax expert and Mr. Gingrich's tax counsel, however, agreed that had Mr. Gingrich sought their advice before embarking on activities of the type involved in AOW/ACTV and the Renewing American Civilization course, each of them would have advised Mr. Gingrich not to use a 501(c)(3) organization as he had in regard to those activities. The Subcommittee's tax expert said that doing so would violate 501(c)(3). During his appearance before the Subcommittee, Mr. Gingrich's tax counsel said that he would not have recommended the use of 501(c)(3) organizations to sponsor the course because the combination of politics and 501(c)(3) organizations is an ''explosive mix'' almost certain to draw the attention of the IRS.

Based on the evidence, it was clear that Mr. Gingrich intended that the AOW/ACTV and Renewing American Civilization projects have substantial partisan, political purposes. In addition, he was aware that political activities in the context of 501(c)(3) organizations were problematic. Prior to embarking on these projects, Mr. Gingrich had been involved with another organization that had

direct experience with the private benefit prohibition in a political context, the American Campaign Academy. In a 1989 Tax Court opinion issued less than a year before Mr. Gingrich set the AOW/ACTV project into motion, the Academy was denied its exemption under 501(c)(3) because, although educational, it conferred an impermissible private benefit on Republican candidates and entities. Close associates of Mr. Gingrich were principals in the American Campaign Academy, Mr. Gingrich taught at the Academy, and Mr. Gingrich had been briefed at the time on the tax controversy surrounding the Academy. In addition, Mr. Gingrich stated publicly that he was taking a very aggressive approach to the use of 501(c)(3) organizations in regard to, at least, the Renewing American Civilization course.

Taking into account Mr. Gingrich's background, experience, and sophistication with respect to tax-exempt organizations, and his status as a Member of Congress obligated to maintain high ethical standards, the Subcommittee concluded that Mr. Gingrich should have known to seek appropriate legal advice to ensure that his conduct in regard to the AOW/ACTV and Renewing American Civilization projects was in compliance with 501(c)(3). Had he sought and followed such advice—after having set out all the relevant facts, circumstances, plans, and goals described above—501(c)(3) organizations would not have been used to sponsor Mr. Gingrich's ACTV and Renewing American Civilization projects.

4. MR. GINGRICH'S STATEMENTS TO THE COMMITTEE

In responding to the complaints filed against him concerning the Renewing American Civilization course, Mr. Gingrich submitted several letters to the Committee. His first letter, dated October 4, 1994, did not address the tax issues raised in Mr. Jones' complaint, but rather responded to the part of the complaint concerning unofficial use of official resources. In it Mr. Gingrich stated that GOPAC, among other organizations, paid people to work on the course. After this response, the Committee wrote Mr. Gingrich and asked him specifically to address issues related to whether the course had a partisan, political aspect to it and, if so, whether it was appropriate for a 501(c)(3) organization to be used to sponsor the course. The Committee also specifically asked whether GOPAC had any relationship to the course. Mr. Gingrich's letter in response, dated December 8, 1994, was prepared by his attorney, but it was read, approved, and signed by Mr. Gingrich. It stated that the course had no partisan, political aspects to it, that his motivation for teaching the course was not political, and that GOPAC neither was involved in nor received any benefit from any aspect of the course. In his testimony before the Subcommittee, Mr. Gingrich admitted that these statements were not true.

When the amended complaint was filed with the Committee in January 1995, Mr. Gingrich's attorney responded to the complaint on behalf of Mr. Gingrich in a letter dated March 27, 1995. His attorney addressed all the issues in the amended complaint, including the issues related to the Renewing American Civilization course. The letter was signed by Mr. Gingrich's attorney, but Mr. Gingrich reviewed and approved it prior to its being delivered to the Committee. In an interview with Mr. Cole, Mr. Gingrich stated that if he had seen anything inaccurate in the letter he would have instructed his attorney to correct it. Similar to the December 8, 1994 letter, the March 27, 1995 letter stated that the course had no partisan, political aspects to it, that Mr. Gingrich's motivation for teaching the course was not political, and that GOPAC had no involvement in nor received any benefit from any aspect of the course. In his testimony before the Subcommittee Mr. Gingrich admitted that these statements were not true.

The goal of the letters was to have the complaints dismissed. Of the people involved in drafting or editing the letters, or reviewing them for accuracy, only Mr. Gingrich had personal knowledge of the facts contained in the letters regarding the course. The facts in the letters that were inaccurate, incomplete, and unreliable were material to the Committee's determination on how to proceed with the tax questions contained in the complaints.

D. Statement of Alleged Violation

On December 21, 1996, the Subcommittee issued a Statement of Alleged Violation stating that Mr. Gingrich had engaged in conduct that did not reflect creditably on the House of Representatives in that by failing to seek and follow legal advice, Mr. Gingrich failed to take appropriate steps to ensure that activities with respect to the AOW/ACTV project and the Renewing American Civilization project were in accordance with section 501(c)(3); and that on or about December 8, 1994, and on or about March 27, 1995, information was transmitted to the Committee by and on behalf of Mr. Gingrich that was material to matters under consideration by the Committee, which information, as Mr. Gingrich should have known, was inaccurate, incomplete, and unreliable.

On December 21, 1996, Mr. Gingrich filed an answer with the Subcommittee admitting to this violation of House Rules.

The following is a summary of the findings of the Preliminary Inquiry relevant to the facts as set forth in the Statement of Alleged Violation.

II. SUMMARY OF FACTS PERTAINING TO AMERICAN CITIZENS TELEVISION

A. GOPAC

GOPAC was a political action committee organized under Section 527 of the Internal Revenue Code. As such, contributions to GOPAC were not tax-deductible.[2] GOPAC's goal was to attract people to the Republican party, develop a ''farm team'' of Republican state and local public officials who might one day run for Congress and, ultimately, create a Republican majority in the United States House of Representatives. (12/7/96 Callaway Tr. 9; 7/12/96 Eisenach Tr. 21; 7/17/96 Gingrich Tr. 17–20).[3] GOPAC did not undertake any projects that were not directed toward achieving that goal. (7/18/96 Gingrich Tr. 362; 12/7/96 Callaway Tr. 33).

GOPAC's mission was defined as follows:

GOPAC's mission for the 1990's is to create and disseminate the doctrine which defines a caring, humanitarian reform Republican Party in such a way as to elect candidates, capture the United States House of Representatives and become a governing majority at every level of Government.

(Ex. 1, GOPAC3 137). This aspect of GOPAC's activities was further explained in a draft document from November 1989:

As important as the creation of new doctrine is its *dissemination*. During the 1980s GOPAC and Newt Gingrich have led the way in applying new technology, from C–SPAN to video tapes, to disseminate information to Republican candidates and political activists.

* * * * *

But the Mission Statement demands that we do much more. To create the level of change needed to become a majority, the new Republican doctrine must be communicated to a broader audience, with greater frequency, in a more usable form. GOPAC needs a bigger ''microphone.'' (emphasis in the original).

(Ex. 2, 283). GOPAC continued to support this approach to achieving its goals in subsequent years. For example, as stated in its Report to Shareholders dated April 26, 1993:

While both ''message'' and ''mechanism'' are important, GOPAC's comparative advantage lies in developing new ideas—i.e. in the ''message'' part of the equation. GOPAC will thus continue to focus its efforts on developing and communicating our values in a way voters can understand and support.

(Ex. 3, Eisenach 2539).

From approximately 1986 through 1995, Mr. Gingrich served as the General Chairman of GOPAC. (7/17/96 Gingrich Tr. 15). In this role he came up with the ideas GOPAC used for its political messages and themes, as well as its vision, strategy, and direction. (7/17/96 Gingrich Tr. 20; 7/15/96 Gaylord Tr. 21–22; 6/26/96 Hanser Tr. 81; 7/12/96 Eisenach Tr. 22–23; 7/3/96 Rogers Tr. 54–56; 6/27/96 Nelson Tr. 22–23; 12/7/96 Callaway Tr. 6, 9).

B. American Opportunities Workshop/American Citizens Television

1. BACKGROUND

In early 1990, GOPAC embarked on a project to produce a television program called the American Opportunities Workshop (''AOW''). The idea for this project came from Mr. Gingrich and he was very involved in developing the message it used. (12/7/96 Callaway Tr. 11, 12, 14; 7/12/96 Eisenach Tr. 16; 12/5/96 Eisenach Tr. 10; 12/9/96 Riddle Tr. 14; 12/9/96 Gingrich Tr. 12).[4] AOW was broadcast on May 19, 1990, on the Family Channel and was hosted by Mr. Gingrich. (Ex. 4, GOPAC3 181).

One of the purposes of the program was to build a citizens' movement that would communicate the principles of Entrepreneurial Free Enterprise, Basic American Values, and Technological Progress. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14). These principles were called the ''Triangle of American Success.'' (Ex. 4, GOPAC3 181). AOW consisted of workshops set up throughout the country where activists could gather to watch the broadcast and, in the words of those responsible for AOW, help build a citizens' movement and increase citizen involvement. (12/7/96 Callaway Tr. 14, 15; 12/9/96 Riddle Tr. 12, 13). Approximately 600 workshop cites were established where approximately 20,000 people watched the program. (Ex. 6, Eisenach 0359). The target group for the program was nonvoters. (Ex. 7, WGC2–01025).

As stated by GOPAC's then-Executive Director, Kay Riddle, the purpose of creating the citizens' movement and attempting to increase citizen involvement was to get people to solve their own community problems and not look to the federal government for help. (12/9/96 Riddle Tr. 13). Ms. Riddle went

[2] See September 6, 1996 letter from the tax counsel Mr. Gingrich hired during the Preliminary Inquiry, James Holden, at page 41: ''Contributions made to organizations described in section 501(c)(3) qualify generally as charitable deductions under section 170(c)(2). In contrast, contributions made to section 501(c)(4) and section 527 organizations do not qualify as charitable deductions. For this reason, exempt organizations that are described in section 501(c)(3) enjoy the substantial advantage of being able to attract donations that are deductible on the tax returns of contributors.''

[3] Citations containing a ''Tr.'' indicate the page of the transcript from a witness's interview. The date of the interview is also provided in the citation.

[4] The Committee's Special Counsel, James Cole, interviewed Mr. Gingrich on July 17, 1996; July 18, 1996; and December 9, 1996. Mr. Gingrich appeared before the Investigative Subcommittee to give testimony on November 13, 1996, and December 10, 1996.

on to say, ''Another product of that would be, of course, if we got people interested * * *, we hoped and believed that eventually they would vote Republican.'' (12/9/96 Riddle Tr. 13). ''[W]e [at GOPAC] truly believed that the more we could involve people and educate people, the more likely we were to have people vote Republican.'' (12/9/96 Riddle Tr. 14–15). Similarly, Mr. Callaway characterized the message of AOW as follows:

But I think, fundamentally * * * it was a message that Republican principles are sound principles, that everything does not need to be done by government, that you can do better by trusting individuals to act for themselves than you can by having government tell individuals what they must do, that a smaller government is frequently better than a larger government, that it is better to reduce taxes than raise taxes. I think it is Republican kinds of issues.

(12/7/96 Callaway Tr. 12–13).

Producing AOW was very expensive. (12/7/96 Callaway Tr. 16; 6/14/96 Callaway Tr. 21–22). It cost over $500,000 and consumed approximately 62% of GOPAC's budget for the first half of 1990. (Ex. 8, 1273). It was envisioned that the project would continue beyond May 19, 1990 (12/5/96 Eisenach Tr. 46; Ex. 4, GOPAC3 181) and prior to its airing, Mr. Gingrich, Mr. Callaway and others decided to have the project's follow-on activities transferred to a 501(c)(3) organization. (Ex. 9, Eisenach 3909; 12/5/96 Eisenach Tr. 49; 12/7/96 Callaway Tr. 80). The organization chosen was the Abraham Lincoln Opportunity Foundation (''ALOF''). The project was transferred to ALOF so that it could be funded with tax-deductible money. (12/9/96 Riddle Tr. 19).

ALOF was established in 1984 in Colorado by Mr. Callaway to fund programs for inner city youth. (6/14/96 Callaway Tr. 26). It had been inactive for some time prior to 1990 and was revived for the purpose of taking over the successor activities of AOW. (12/7/96 Callaway Tr. 84). Under ALOF the project became know as American Citizens' Television (''ACTV''). Mr. Callaway was the President of ALOF and Kay Riddle was the Secretary. Mr. Callaway was also GOPAC's Chairman and Ms. Riddle was also GOPAC's Executive Director. ALOF hired some GOPAC employees on a full-time basis, used other GOPAC employees and consultants on a part-time basis, and used GOPAC offices and facilities. (12/7/96 Callaway Tr. 7, 11, 13, 14, 73–75).

ACTV was designed to continue AOW's work of building a citizens' movement based on the ''Triangle of American Success'' and had the same goals as AOW. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14; 12/9/96 Riddle Tr. 16; 12/9/96 Gingrich Tr. 8). In order to ensure a smooth transition, materials concerning ACTV were given to all AOW participants on May 19, 1990. (Ex. 6, Eisenach 0361).

ACTV produced three television programs in 1990—one on July 21 which discussed the use of local access cable television for activist movements; one on September 29 which discussed educational choice;[5] and one on October 27 which was about Taxpayers' Action Day. The last program was primarily the responsibility of the Council for Citizens Against Government Waste (''CCAGW''), a 501(c)(4) organization. This was due to the fact that the content of the program was deemed to be inappropriate for ALOF to sponsor as a 501(c)(3) organization. (Ex. 10, FAM 0024). While CCAGW paid for all of the out-of-pocket expenses (e.g., production expense and broadcast time), ALOF still provided support through its staff. (Ex. 11, Eisenach 4254; 12/5/96 Eisenach Tr. 5, 67). Each program was broadcast on the Family Channel.

In setting up ACTV it was understood that Mr. Gingrich would maintain his involvement and control over the programs. (Ex. 12, WGC2–01337). While some say that he was not very involved when it became ACTV, (e.g., 12/7/96 Callaway Tr. 14), there is evidence that his involvement continued. Mr. Gingrich hosted the first ACTV program. Mr. Gingrich also introduced and closed the second program in September. The host was Pete DuPont, but Mr. Gingrich was featured for a significant portion of the program. While the last program in October was paid for primarily by CCAGW, Mr. Gingrich approved its use on ACTV. (Ex. 11, Eisenach 4254).

Both AOW and ACTV were described to the public as non-partisan. (Ex. 6, Eisenach 0361). Much of the documentation that was either internal to GOPAC or sent to its supporters, however, indicates a partisan, political purpose. While GOPAC, as a political action committee, could freely engage in partisan, political activity, ALOF, as a 501(c)(3) organization could not. Because ACTV was described as a continuation of the activities of AOW (12/7/96 Callaway Tr. 13–15; 12/5/96 Eisenach Tr. 8; Ex. 5, FAM 0011), documents were reviewed during the Preliminary Inquiry relating to both projects to determine what the goals were for the two projects.

GOPAC contracted with an organization called the Washington Policy Group (''WPG'') to manage AOW. (7/12/96 Eisenach Tr. 298). Jeffrey Eisenach was president and sole owner of WPG and the project coordinator for AOW. (7/12/96 Eisenach Tr. 298). Mr. Eisenach was also responsible for managing ALOF's ACTV programs. (12/7/96 Callaway Tr. 16). WPG was essentially Mr. Eisenach's ''personal consulting firm'' and usually had two or three employees. (7/12/96 Eisenach Tr. 9). WPG used GOPAC office space and equipment as part of its compensation. (11/14/96 Eisenach Tr. 60). In addition to its work on AOW and ACTV, WPG had a consulting contract with GOPAC from January 1989 through September 1993. (7/12/96 Eisenach Tr. 9, 10, 298). Through WPG's contract with GOPAC, Mr. Eisenach ''provided research assistance and advice to Mr. Gingrich, strategic advice to GOPAC and worked on some specific projects, focus groups and so forth, for GOPAC.'' (7/12/96 Eisenach Tr. 9). Mr. Eisenach was also the Executive Director of GOPAC from June 1991 to June 1993. (7/12/96 Eisenach Tr. 8).

2. PLANNING AND PURPOSE FOR AOW/ACTV

A document entitled ''Key Factors in a House GOP Majority'' appears to be one of the earliest documents pertaining to the purpose of AOW and ACTV. A typed version and a handwritten version of the document were produced during the Preliminary Inquiry. The handwritten version is in Mr. Gingrich's handwriting. In it he wrote:

1. The fact that 50% of all potential voters are currently outside politics (non-voters) creates the possibility that a new appeal might alter the current balance of political power by bringing in a vast number of new voters.

* * * * *

3. It is possible to articulate a vision of ''an America that can be'' which is appealing to most Americans, reflects the broad values of a governing conservatism (basic American values, entrepreneurial Free Enterprise and Technological progress), and is very difficult for the Democrats to co-opt because of their ideology and their interest groups.

4. It is more powerful and more effective to develop a reform movement parallel to the official Republican Party because:

* * * * *

b. the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party;

* * * * *

5. As much as possible, the House Republican Party, the Bush Administration, Senate Republicans, incumbent Republicans across the country, the NRCC, RNC, SRCC and the conservative movement should be briefed on movement developments; conflict within this broad group should be minimized and coordination maximized.

6. The objective measurable goal is the maximum growth of news coverage of our vision and ideas, the maximum recruitment of new candidates, voters and resources, and the maximum electoral success in winning seats from the most local office to the White House and then using those victories to implement the values of a governing conservatism and to create the best America that can be.

(Ex. 13, Eisenach 4838–4839 (typed version) and Eisenach 4832–4834 (handwritten version)).

When asked about AOW and ACTV, Mr. Gingrich said he had very little recollection of the projects. He said he was distracted by other events at the time such as his re-election efforts, legislative issues, and becoming Republican Whip. (12/9/96 Gingrich Tr. 19, 39, 43). He said he had no recollection of the ''Key Factors in a House GOP Majority'' document, did not know if it related to AOW or ACTV, and did not know the purpose for which it was written. (12/9/96 Gingrich Tr. 31). An analysis of other documents, however, shows its relationship to the AOW/ACTV projects. Mr. Callaway said in his interview that the goals set forth in the ''Key Factors in a House GOP Majority'' document were the same as those for AOW and ACTV. (12/7/96 Callaway Tr. 37–38).

As stated above, AOW was targeted to non-voters. (Ex. 7, WGC2–01025). The ''Key Factors in a House GOP Majority'' document notes that non-voters are the ones to appeal to in order to change the balance of power. AOW/ACTV based the citizens' movement on the ''Triangle of American Success'' which was made up of basic American values, entrepreneurial free enterprise, and technological progress. (Ex. 5, FAM 0011; 12/7/96 Callaway Tr. 14). The ''Key Factors in a House GOP Majority'' document indicates that it will use those same three principles to appeal to non-voters. AOW/ACTV was focused on building a non-partisan citizens' movement. (Ex. 6, Eisenach 0358–0359; Ex. 5, FAM 0011). In the ''Key Factors in a House GOP Majority'' document, Mr. Gingrich states that ''[i]t is more powerful and more effective to develop a reform movement parallel to the official Republican Party because . . . the non-voters who are non-political or anti-political will accept a movement more rapidly than they will accept an established party.'' (Ex. 13, Eisenach 4838 and Eisenach 4832).

In a congressional briefing Mr. Gingrich gave concerning AOW on March 30, 1990, he described AOW/ACTV as follows:

It is our goal to define our position as a caring humanitarian reform party applying the triangle of American success and applying common sense focused on success and opportunities to explain in general terms for the whole fall campaign, and again some Democrats will pick up the language and this is open to everybody, this is a free country, we think on balance it is vastly more

[5] A 1989 draft GOPAC document indicates that one of GOPAC's projects designed to ''create and disseminate the new Republican doctrine for the 1990's'' would be the Education Choice Coalition. (Ex. 2, 284).

advantageous to us than it is to the left since they are the party of big city machines, they are the party of the unions, they're much more tied to the bureaucratic welfare state.

(Ex. 15, WGC2 06081, pp. 17–18). The ''Key Factors in a House GOP Majority'' document notes that the message of the citizens' movement is designed not to be useful for Democrats because it will be ''very difficult for [them] to co-opt [the ideas] because of their ideology and their interest groups.'' (Ex. 13, Eisenach 4838 and 4832–4833).

At the congressional briefing, Mr. Gingrich spoke of a focus group that was commissioned to assist in the AOW/ACTV effort. He described it as ''the largest focus group project ever undertaken by the Republican Party.'' (Ex. 14, WGC2 06081, p. 8). He said it concentrated on non-voters under 40 years of age (Ex. 14, WGC2 06081, p. 8) and tested negative language like ''the bureaucratic welfare state'' and positive language like the ''Triangle of American Success,'' ''Entrepreneurial Free Enterprise,'' ''Technological Progress and Innovation,'' and ''Basic American Values.'' (Ex. 14, WGC2 06081, pp. 10–11).

Near the end of the briefing Mr. Gingrich explained the reasons for having the program labeled as non-partisan:

Lastly I was going to make the point one of the reasons we are reaching out and we really urge people to be nonpartisan and be wide open. But we have two reasons. First, there are a lot of former Democrats. Andy Ireland, Ronald Reagan, Phil Gramm, Jean Kirkpatrick, Connie Mack, you go down the list, a surprising list of people who looked at both sides and decided we were right. That we were more open, we were moving in the right direction.

But second, most young people under 40 are not politicized. The minute you politicize this and you make it narrow and you make it partisan—you lose them.

(Ex. 14, WGC2 06081, pp. 23–24).

The focus group Mr. Gingrich referred to was commissioned by GOPAC in early 1990. It was performed by Market Strategies, Inc. The July 10, 1990 report on the results of the focus group described the project as follows:

This research project is part of an overall effort to build a new governing majority in the United States formed around conservative principles. Historically, building a new majority has involved three essential tasks: activating a group of non-participating citizens to support an existing party (or form a new party), constructing a theory or explanation of what is right and wrong in society with which the non-participating citizens agree, and developing the right language (political rhetoric) to communicate that theory to the non-participating citizens. This project is the first of several research projects to be sponsored by GOPAC to help achieve these three tasks in this decade.

(Ex. 15, MSI 0030). The report then describes the specific language it tested as follows:

The theory's explanation of what is wrong in society was put in terms of ''the bureaucratic welfare state'' and the ''values of the left.'' The theory's explanation of what is good in society was put in terms of ''technological progress,'' ''entrepreneurial free enterprise,'' and ''basic American values'' which were summarized as ''the Triangle of American Success.''

(Ex. 15, MSI 0030).

In describing the target group for building the new governing majority, the report states:

The potential for a new governing majority exists because of the large and growing numbers of non-participating citizens in our political system.

* * * * *

Consequently, a major premise for the research project is that younger citizens are the right target group for a new majority strategy and that a political theory and language needs to be effective with them if it is to be effective at all. Supporting this premise is an additional opportunity (to their not voting now) about younger voters—they are already predisposed to vote Republican.

(Ex. 15, MSI 0031–0032).

3. LETTERS DESCRIBING PARTISAN, POLITICAL NATURE OF AOW/ACTV

A number of GOPAC letters also indicate the purpose behind AOW/ACTV. Some are signed, some are not, but the ones that are not signed were apparently in GOPAC's files for some years, indicating that they were probably sent out. For example, in a signed letter dated February 21, 1990, to members of GOPAC's Executive Finance Committee, Mr. Callaway wrote that:

The next two years are absolutely critical to all that we hope to accomplish. Our May 19 project [AOW] will go a long way toward helping Republicans set an agenda and persuading Americans to realign with us.

(Ex. 16, GOPAC3 484). A copy of this letter was sent to Mr. Gingrich. Written across the top of his copy, in his handwriting, is ''Newt 2/20/90.'' (Ex. 16, WGC2–03992). According to Mr. Gingrich this probably meant he had seen the letter (12/9/96 Gingrich Tr. 36–37); however, he did not recall the content of this letter during an interview with Mr. Cole. (12/9/96 Gingrich Tr. 35).

An unsigned letter, apparently prepared for Mr. Callaway's signature,[6] dated March 7, 1990, states:

Our May 19th American Opportunities Workshop is the single most exciting project I've ever undertaken. I consider this program critical to our efforts to become a Republican majority.

* * * * *

In order to encourage Americans to vote—and vote Republican—so that we may enact our policies of opportunity, we must reach them with our vision of hope.

It is time for our message and program, now proven among those in the trenches, to be shared with the Americans who are not motivated by our current government to go to the polls or get involved.

* * * * *

The American Opportunities Workshop is GOPAC's answer to teaching and empowering the American people. We hope that the citizen movement launched by this project will be the key to a future of Republican governance.

(Ex. 17, 425–426). A March 16, 1990 GOPAC letter over Mr. Gingrich's name discusses the purpose behind AOW.

Through the use of satellite hook-ups, not only can we reach new groups of voters not traditionally associated with our Party, but we'll be able to give them our message straight, without it being filtered and misinterpreted by liberal elements in the media.

* * * * *

Because I believe it has such great potential for helping President Bush, our candidates and our Party, I told Bo to move ahead with planning the workshop.

* * * * *

I truly believe that our Party and our President stand on the verge of a tremendous success this year, and that this workshop can be a great election year boost to us.

(Ex. 18, 2782–2783). Mr. Gingrich did not recall this document. When asked whether AOW was intended to be an election year boost, he said that it may have been, but he also thought it was idea oriented. (12/9/96 Gingrich Tr. 39–40).

In an unsigned letter addressed to Mr. Thorton Stearns, apparently written for Mr. Callaway's signature,[7] the AOW project and its purpose were described as follows:

With more than 600 workshop sites across the country, 30,000 participants, and extensive media coverage, AOW was a significant success on its own terms. However, the real reason GOPAC took on AOW was to explore an innovative new mechanism for creating and motivating the new Republican majority of the 1990s.

(Ex. 19, GOPAC3 467). In a letter over Mr. Gingrich's name dated June 21, 1990, AOW and ACTV are explicitly tied together in an effort to achieve the same goal of building the Republican Party and trying to have an impact on political campaigns. The letter states:

These are exciting times at GOPAC and we have been quite busy lately. I am excited about [the] progress of the ''American Citizens' Television'' project, which will carry the torch of citizen activism begun by our American Opportunities Workshop on May 19th. We mobilized thousands of people across the nation at the grass roots level who as a result of AOW, are now dedicated GOPAC activists. We are making great strides in continuing to recruit activists all across America to become involved with the Republican party. Our efforts are literally snowballing into the activist movement we need to win in '92.

(Ex. 20, GOPAC3 224). Mr. Gingrich said that the signature on the letter was not his. (12/9/96 Gingrich Tr. 40). Mr. Gingrich said that the above statement did not reflect the purpose of AOW or ACTV. (12/9/96 Gingrich Tr. 41).

Finally, an August 27, 1990 memorandum from Mr. Callaway to Mr. Gingrich and Jim Tilton[8] gives insight to the goals of the AOW/ACTV projects. (Ex. 21, Eisenach 3950–3959). The memorandum discusses a meeting the three men had five days earlier. Based on the memorandum, the main topic focused on how GOPAC should proceed in the future. The problems addressed in the meeting concerned the fact that AOW/ACTV had diverted too much money and attention from traditional GOPAC efforts. This caused erosion in support from GOPAC members. The three men decided to try one more ACTV program on September 29, 1990. If additional funding was not available beyond that point, the project would not be continued. They decided that it needed to be ''a very strong program that is controversial enough to stir up our Charter members and other constituents.'' (Ex. 21, Eisenach 3951). The show that was chosen was on educational choice, which was a specific GOPAC project.

The memorandum recounted that Mr. Gingrich had reviewed all the options set forth and concluded the following:

Newt then stated firmly that he feels we need to go back to basics for now through 1992. That the only special projects for 1992 should be 1992 election oriented projects. Newt has now concluded that you can't really affect 1992 elections indirectly—we must do it directly through political programs.

[6] According to Mr. Callaway this letter may have been sent out, but he did not have a specific recollection of it. (12/7/96 Callaway Tr. 49).

[7] According to Mr. Callaway this letter may have been sent out, but he again did not have a specific recollection of it. (12/7/96 Callaway Tr. 58).

[8] Jim Tilton was an unpaid senior advisor to GOPAC. He was an attorney and a close friend of Mr. Gingrich. (12/10/96 Gingrich Tr. 10, 11, 56, 57).

(Ex. 21, Eisenach 3950).[9] Mr. Callaway said that this paragraph could have been referring to ACTV, but he did not have a clear recollection. (12/5/96 Callaway Tr. 62).

4. AOW/ACTV IN MR. GINGRICH'S CONGRESSIONAL DISTRICT

While AOW/ACTV was supposed to be nonpartisan, two memoranda indicate that there was some effort to ensure that workshops were set up in Mr. Gingrich's congressional district. In a memorandum to Mr. Callaway, dated February 8, 1990, Mr. Eisenach wrote:

An area for immediate attention is ''targets of opportunity''—e.g. Georgia's 6th District, Colorado, and the D.C. area. We need to identify resources to ensure that we maximize our returns in these three areas, and other specific target areas we might add later. In particular, we need to put very high on our agenda the task of identifying a 6th District Coordinator.

(Ex. 22, Eisenach 3811). Similarly, in a March 30, 1990 memorandum from Mr. Gingrich to Joe Gaylord and Mary Brown, the following is written:

The GOPAC print-out shows only one very tentative (Clay Davis) site in my district. Time is getting short for finding sites and GOPAC needs to have the hosts identified as soon as possible to get materials to them to make the workshops a success.

Please make this a high priority.

(Ex. 23, GOPAC3 460). Mr. Gingrich did not recall this memorandum and said that there was an effort to target the 6th District—his congressional district—''only in the sense that we hosted [AOW] from there.'' (12/9/96 Gingrich Tr. 19).

5. GOPAC'S CONNECTION TO ALOF AND ACTV

As has been previously discussed, ACTV was a continuation of AOW and ALOF used GOPAC's offices and facilities. In his interview, Mr. Callaway stated a number of times that GOPAC was separate from ALOF. (12/7/96 Callaway Tr. 64, 65–66, 68–69, 73). A number of documents, however, from 1990 indicate that ALOF and ACTV had significant connections to GOPAC.

In a June 26, 1990 memorandum to Mr. Callaway, Mr. Eisenach recounts a discussion the two men had that morning with Mr. Gingrich. During that discussion, Mr. Gingrich gave them a handout that ''identified three GOPAC/ALOF zones: 1. Local Elections, 2. Planning/R&D, 3. Movement.'' (Ex. 24, Eisenach 4039). The memorandum goes on to discuss how GOPAC and ALOF will relate to each other.

During the Preliminary Inquiry GOPAC produced copies of its ''Confidential Masterfile Reports'' that were used to keep track of contributors. Under the section entitled ''Giving History'' the 1990 reports list two entities: GOPAC and ALOF. (Ex. 25, GOPAC3 0510). Attached to these reports are copies of correspondence from both GOPAC and ALOF to contributors. (Ex. 25, GOPAC3 0511–0515).

An August 13, 1990 memorandum from Mr. Callaway to Mr. Gingrich lists the three broad things GOPAC does. The third one listed is ''Projects such as ACTV, AOW and focus groups.'' (Ex. 26, Eisenach 4251).[10]

GOPAC's Report to Charter Members dated November 11, 1990, includes a section on Community Activism. (Ex. 4, GOPAC3 180–188). In that section it discusses AOW and ACTV. While it states that ACTV is ''legally no longer a GOPAC project,'' it goes on to discuss ACTV in terms which indicate that it continued to be treated as a GOPAC project. For example it states that ''Our mission is to establish ACTV as a new, interactive information network.'' (Ex. 4, GOPAC3 181). The Charter Member Report is worded in a manner that indicates ACTV was considered a GOPAC project. For example, it uses phrases like ''Our goal'' with ACTV, ''Our next ACTV program,'' and ''Our program was hosted by * * *.'' (Ex. 4, GOPAC3 181–182). At the end of the report under the heading ''Getting Out the Message,'' there is a chart showing the AOW and ACTV programs. It then lists how many workshops were set up for each program and what the estimated attendance was for these workshops. (Ex. 4, GOPAC3 183).

6. GOPAC FUNDING OF ALOF AND ACTV[11]

When ALOF began to operate in June 1990 it had less than $500 in its bank account. (Ex. 27, CNB 006). It obtained a loan for $25,000 from the Central Bank of Denver in late June and received some direct contributions. These came from a foundation associated with Mr. Callaway, the Family Channel, and at least one other GOPAC supporter. (Ex. 28, ALOF 0050). In addition, GOPAC loaned ALOF $45,000 in 1990, and $29,500 in early 1991 to pay for production expenses. The total of loans from GOPAC to ALOF was $74,500. (Ex. 35, ALOF 0030).

ALOF's last program was broadcast in October 1990. In 1991 and 1992 it did not engage in any activities. In 1991, Citizens Against Government Waste contributed $37,000 to ALOF and Mr. Callaway's foundation contributed $10,000. (Ex. 28, ALOF 0090). The total, $47,000, was given to GOPAC to be applied to the debt. (Ex. 37, CNB 0426, CNB 0428, CNB 0430, CNB 0432). After the $47,000 payment, ALOF owed GOPAC $27,500. (Ex. 28, ALOF 0064).[12]

In late 1991 and 1992, ALOF received contributions from a number of GOPAC supporters totalling $80,000. (Ex. 28, ALOF 0078). $70,000 of that amount was given to GOPAC. GOPAC's then-Executive Director, Mr. Eisenach, was involved in soliciting a number of these donations.

On February 27, 1992, Mr. Eisenach wrote to R. Randolph Richardson to ask him to become a Charter Member of GOPAC. In order to be a Charter Member, a person must contribute at least $10,000. In the letter Mr. Eisenach states:

With respect to foundation funds, it is of course not appropriate for GOPAC to accept 501(c)(3) money. However, Bo Callaway does have a foundation, the Abraham Lincoln Opportunity Foundation (ALOF), which owes GOPAC a substantial sum of money. You might consider a contribution to ALOF, which would enable it to pay down its GOPAC debt, and thus be of enormous help in our efforts to change the Congress in 1992.

(Ex. 29, Eisenach 4652). Mr. Richardson's foundation, the Grace Jones Richardson Trust, wrote a $25,000 check to ALOF on April 14, 1992, and ALOF wrote a $25,000 check to GOPAC on April 23, 1992. (Ex. 38, CNB 0449, CNB 0445).

On March 16, 1992, Mr. Eisenach wrote a memorandum to June Weiss, GOPAC's Finance Director, concerning Mr. Callaway's Charter Member dues. The memorandum states:

Bo has offered us a choice of (1) $10,000 from him or (2) $20,000 from ALOF. I indicated to him on the phone today I would tend to go for $20,000 over $10,000—in part, frankly, because I think we ought to go ahead and get the ALOF loan repaid and be done with it, as opposed to having it hanging around for another year.

(Ex. 30, Eisenach 3725). On March 23, 1992, Mr. Callaway's foundation donated $20,000 to ALOF. (Ex. 39, CNB 0443). On the same day, ALOF wrote a check to GOPAC for $20,000. (Ex. 39, CNB 0447). A letter was sent to Mr. Callaway on ALOF stationery thanking him for the contribution. It was signed by numerous members of GOPAC's staff. (Ex. 31, GOPAC2 0012).

Two other GOPAC Charter Members made contributions to ALOF which were immediately turned over to GOPAC. (Ex. 40, CNB 0217, CNB 0439, CNB 0441, CNB 0459). Handwritten notes relating to one of them indicates that a tax-deductible option for his contribution to GOPAC was discussed before the contribution to ALOF was made. (Ex. 32, GOPAC2 2424–2426).

As of 1993 ALOF had relocated its offices to Colorado. Its Colorado accountant was preparing the tax return for 1992 and saw the payments to GOPAC. In November she wrote to Kay Riddle, ALOF's Secretary, and asked for invoices from GOPAC to ALOF to support these payments. (Ex. 33, Newbill 0119). In December, Ms. Riddle wrote to GOPAC's accountant asking for those invoices. (Ex. 34, ALOF 0028). Several days later the accountant provided Ms. Riddle with a summary memorandum and a number of invoices. (Ex. 35, ALOF 0029–0030, ALOF 0027–0028, GOPAC3 0811). Some were undated. Some were dated in 1991. All concerned activities which were stated to have taken place in 1990 and there is no evidence that the invoices were written contemporaneously with the events for which they billed.[13]

The invoices, along with the previously mentioned loans, totaled $160,537.70. This consisted of rent ($12,718.08), postage and office supplies ($8,455.08), services of staff and consultants ($64,864.54), and the loans ($74,500).[14] (Ex. 35, ALOF 0029, ALOF 0027, ALOF 0026, GOPAC3 0811). The time for the staff was apportioned to reflect the percentage of their work spent on ALOF business. Some of the consultants listed, however, did not keep any records reflecting the percentage of time they spent on specific projects and did not recall doing any work for ALOF. (12/2/96 Hanser Tr. 25; 12/5/96 Mahe Tr. 31). Records of one consultant did record the time he spent on ALOF business, but it was substantially less than the time listed in the invoice. (Ex. 35, ALOF 0029; Ex. 36, WGC2–

[9] A GOPAC statement of ''Revenue and Expenses'' attached to this memorandum shows a single line item for ''AOW/ACTV.'' (Ex. 21, Eisenach 3957).

[10] According to Mr. Callaway, the listing of ACTV was a ''bad choice of words.'' (12/7/96 Callaway Tr. 70).

[11] There is no evidence that Mr. Gingrich had any significant involvement with this level of the financial aspects of the operations of ALOF. However, because these facts form part of the basis for a recommendation by the Subcommittee that the relevant materials gathered during the preliminary inquiry be made available to the Internal Revenue Service, the matter is set forth in some detail.

[12] The original debt from GOPAC listed on ALOF's tax returns was for $45,247. This is not supported by the checks from GOPAC to ALOF which only reflect $45,000. This additional $247 continued to be listed for the remaining years and was reflected in the ultimate forgiveness of a portion of this debt in 1993. It is not clear what the $247 represents.

[13] Because of her assertion of a Constitutional privilege, the Subcommittee was unable to interview the accountant for GOPAC and ALOF.

[14] In the tax return for ALOF for 1990, Part VII asks, among other things, whether ALOF had any transactions with a political action committee involving loans, shared facilities, equipment, or paid employees. Even though GOPAC was a political action committee the return answers ''no'' to all those questions. (Ex. 28, ALOF 0056). The accountant for ALOF, who was also the accountant for GOPAC, said that she had answered those questions in the negative based on her belief that these questions specifically excluded any transactions with political action committees. (10/31/96 Gilbert Tr. 18-20). She did not discuss this reading of the tax return with anyone at ALOF, but she did fill the form out in this way and they signed it without any questions. (10/31/96 Gilbert Tr. 21). This same error occurred in the tax return for 1991. (Ex. 28, ALOF 0069).

01378–01379, Eisenach 4276–4277, Eisenach 4302–4303). According to Ms. Riddle, she did not attempt to apportion time based on the actual hours spent by these people on ALOF business. Instead, she said she determined the percentages before any of the people had done any work based on her best guess of the time they would spend. (12/9/96 Riddle Tr. 69–70).

Of the total amount listed on the invoices of $160,537.70, ALOF paid GOPAC $117,000 between 1991 and 1992. (Ex. 35, ALOF 0029). This left a balance of $43,537.70, which, according to ALOF's 1993 tax return, was forgiven by GOPAC. (Ex. 28, ALOF 0089).[15]

According to Kathleen Taylor, a current employee of the Speaker's Office and the former Political Services Director for GOPAC, the lessons learned from AOW and ACTV were used for the Renewing American Civilization course discussed below. (6/28/96 Taylor Tr. 45). Those lessons were ''[h]ow to get workshops sites, how to disseminate information, [and] mass-marketing the ideas.'' (6/28/96 Taylor Tr. 45). In the same vein, a letter from Mr. Eisenach to Mr. Mescon containing the terms and conditions under which WPG would manage the Renewing American Civilization course states:

Among our most significant project management undertakings was the 1990 ''American Opportunities Workshop'' and its successor, American Citizens' Television. Both of these projects bear significant similarities to the project you have asked us to get involved with, ''Renewing American Civilization.'' Thus, we enter this undertaking with both enthusiasm and a full understanding of the enormity and complexity of the undertaking.

(Ex. 41, Mescon 0651).

III. Summary of Facts Pertaining to ''Renewing American Civilization''

A. Genesis of the Renewing American Civilization Movement and Course

In his interview with the Special Counsel, Mr. Gingrich said the idea for the course was first developed while he was meeting with Owen Roberts, a GOPAC Charter Member and advisor, for two days in December 1992. (7/17/96 Gingrich Tr. 11–12, 23–24; 7/15/96 Gaylord Tr. 23–24; Ex. 42, GOPAC2 2492). Mr. Gingrich wrote out notes at this meeting and they were distributed to some of his advisors. (Ex. 42, HAN 02103–02125; 6/26/96 Hanser Tr. 28; 7/15/96 Gaylord Tr. 24–25; 7/12/96 Eisenach Tr. 108–109).[16] A review of those notes indicates that the topic of discussion at this meeting centered mostly on a political movement. The notes contain limited references to a course and those are in the context of a means to communicate the message of the movement.

The movement was to develop a message and then disseminate and teach that message. (Ex. 42, HAN 02109). One of the important aspects of the movement was the creation of ''disseminating groups and [a] system of communication and education.'' (Ex. 42, HAN 02109). It also sought to ''professionalize'' the House Republicans by using the ''message to attract voters, resources and candidates'' and develop a ''mechanism for winning seats.'' (Ex. 42, HAN 02110). The ultimate goal of the movement was to replace the welfare state with an opportunity society, and all efforts had to be exclusively directed to that goal. (Ex. 42, HAN 02119). Ultimately, it was envisioned that ''a Republican majority [would be] the heart of the American Movement * * *''. (Ex. 42, HAN 02117).[17] Mr. Gingrich's role in this movement was to be the ''advocate of civilization,'' the ''definer of civilization,'' the ''teacher of the rules of civilization,'' the ''arouser of those who form civilization,'' the ''organizer of the pro-civilization activists,'' and the ''leader (possibly) of the civilizing forces.'' (Ex. 42, HAN 02104). In doing this, he intended to ''retain a primary focus on elected political power as the central arena and fulcrum by which a free people debate their future and govern themselves.'' (Ex. 42, HAN 02104). The support systems for this movement included GOPAC, some Republican international organizations, and possibly a foundation. (Ex. 42, HAN 02121). There was substantial discussion of how to disseminate the message of the movement. (Ex. 42, HAN 02109, 02110, 02111). Some of the methods discussed for this dissemination included, ''Possibly a series of courses with audio and videotape followons''/''Possibly a text-book (plus audio, video, computer) series''/''Campus (intellectual) appearances on 'the histories' Gingrich the Historian applying the lessons of history to public life.'' (Ex. 2, HAN 02118). One of the tasks listed for 1993 is ''Design vision and its communication and communicate it with modification after feedback.'' (Ex. 2, HAN 02120). According to Mr. Gingrich, the course was to be a subset of the movement and was to be a primary and essential means for developing and disseminating the message of the movement. (7/17/96 Gingrich Tr. 42, 58; 11/13/96 Gingrich Tr. 126–127).

Another description of the Renewing American Civilization movement is found in notes of a speech Mr. Gingrich gave on January 23, 1993, to the National Review Institute. (Ex. 44, PFF 14473–14477, PFF 38279–38288).[18] In those notes, Mr. Gingrich wrote that ''our generation's rendezvous with history is to launch a movement to renew American civilization.'' (Ex. 44, PFF 14474). He noted that a majority of Americans favor renewing American civilization and that ''[w]e are ready to launch a 21st century conservatism that will renew American civilization, transform America from a welfare state into an opportunity society and create a conservative governing majority.'' (Ex. 44, PFF 14475). Mr. Gingrich then goes on to describe the five pillars of American civilization and the three areas where the movement needs to offer solutions.[19] He then wrote that if they develop solutions for those three areas they ''will decisively trump the left. At that point either Clinton will adopt our solutions or the country will fire the president who subsidizes decay and blocks progress.'' (Ex. 44, PFF 14476). The notes end with the following:

We must renew American civilization by studying these principles, networking success stories, applying these success stories to develop programs that will lead to dramatic progress, and then communicating these principles and these opportunities so the American people have a clear choice between progress, renewal, prosperity, safety and freedom within America [sic] civilization versus decay, decline, economic weakness, violent crime and bureaucratic dominance led by a multicultural elite.

Given that choice, our movement for renewing American civilization will not just win the White House in 1996, we will elect people at all levels dedicated to constructive proposals.

(Ex. 44, PFF 14477). (Emphasis in the original).[20]

In a draft document entitled ''Renewing American Civilization Vision Statement,'' written by Mr. Gingrich and dated March 19, 1993, he again described the movement in partisan terms and emphasized that it needed to communicate the vision of renewing American civilization on very large scale. (Ex. 46, WGC 00163–00171, WGC 00172–00191). He wrote that renewing American civilization will require ''a new party system so we can defeat the Democratic machine and transform American society into a more productive, responsible, safe country by replacing the welfare state with an opportunity society.'' (Ex. 46, WGC 00163).

B. Role of the Course in the Movement

Mr. Gingrich was asked about the role of the course in the movement. He said that the course was ''the only way actually to develop and send * * * out'' the message of the movement. (7/17/96 Gingrich Tr. 42). In a later interview, he modified this statement to say that the course was ''clearly the primary and dominant method; it was not the only way one could have done it. But I think it was essential to do it, to have the course.'' (11/13/96 Gingrich Tr. 126–127).

The earliest known documentary reference to the course in the context of the movement is in an agenda for a meeting held on February 15, 1993, at GOPAC's offices. The meeting had two agenda items: ''I. General Planning/Renewing American Civilization'' and ''II. Political/GOPAC Issues.'' (Ex. 47, JR–0000645–0000647). Under the first category, one topic listed is ''American Civilization Class/Uplink.'' (Ex. 47, JR–0000645). Under the second category two of the items listed are ''GOPAC Political Plan & Schedule'' and ''Charter Meeting Agenda.'' (Ex. 47, JR–0000645).[21] Attached to the agenda for this meeting is a ''Mission Statement'' written by Mr. Gingrich which applied to the overall Renewing American Civilization movement, including the course. (7/12/96 Eisenach Tr. 248–249; 7/17/96 Gingrich Tr. 145–146). It states:

We will develop a movement to renew American civilization using the 5 pillars of

[15] The amount listed on the Return was $43,785. As referred to earlier, it is unclear what the $247 difference represents.

[16] Among the people who received copies of the notes were Mr. Hanser, Mr. Gaylord and Mr. Eisenach. In a subsequent memorandum to Gay Gaines and Lisa Nelson, as Ms. Gaines and Ms. Nelson were about to take over the management of GOPAC in October 1993, Mr. Gingrich described the roles each of the three men played in his life as follows:

1. Joe Gaylord is empowered to supervise my activities, set my schedule, advise me on all aspects of my life and career. He is my chief counselor and one of my closest friends. * * *

2. Steven Hanser is my chief ideas adviser, close personal friend of twenty years, and chief language thinker. * * *

3. Jeff Eisenach is our senior intellectual leader and an entrepreneur with great talent and determination. * * *

Ex. 43, GDC 11551, 11553).

[17] Mr. Gingrich said that he intended the movement to be international in scope. Until some point in 1995, however, its scope was only national. (7/17/96 Gingrich Tr. 33).

[18] This appears to be the earliest example of Mr. Gingrich speaking about the Renewing American Civilization movement. A draft of this document in Mr. Gingrich's handwriting is attached to the typed version of the notes.

[19] Although not mentioned in this speech, those five pillars and three areas are each separate lectures in what became the course.

[20] Two days later Mr. Gingrich delivered a Special Order on the House floor concerning Renewing American Civilization. In this speech he described a movement to renew American civilization, but did not mention the course. He did discuss the five pillars of American civilization and the three areas where solutions needed to be developed. (Ex. 45, LIP 00036–00045).

[21] It is not clear whether the meeting was exclusively a GOPAC meeting, but at least part of the agenda explicitly concerned GOPAC projects. As will be discussed later, GOPAC's political plan for 1993 centered on Renewing American Civilization. As also discussed below, GOPAC's April 1993 Charter Meeting was called ''Renewing American Civilization'' and employed breakout sessions for Charter Members to critique and improve individual components of the course on Renewing American Civilization. (7/17/96 Gingrich Tr. 69–70; 7/12/96 Eisenach Tr. 144–146; 7/15/96 Gaylord Tr. 46).

21st Century Freedom so people understand freedom and progress is possible and their practical, daily lives can be far better.* As people become convinced American civilization must and can be renewed and the 5 pillars will improve their lives we will encourage them and help them to network together and independently, autonomously initiate improvements wherever they want. However, we will focus on economic growth, health, and saving the inner city as the first three key areas to improve. Our emphasis will be on reshaping law and government to facilitate improvement in all of [A]merican society. We will emphasize elections, candidates and politics as vehicles for change and the news media as a primary vehicle for communications. To the degree Democrats agree with our goals we will work with them but our emphasis is on the Republican Party as the primary vehicle for renewing American civilization.

*Renewing American Civilization must be communicated as an intellectual-cultural message with governmental-political consequences. (footnote in original)

(Ex. 47, JR–0000646).

In February 1993, Mr. Gingrich first approached Mr. Mescon about teaching the course at KSC. (Ex. 48, Mescon 0278; 6/13/96 Mescon Tr. 26–27). Mr. Gingrich had talked to Dr. Mescon in October or November 1992 about the general subject of teaching, but there was no mention of the Renewing American Civilization course at that time. (6/13/96 Mescon Tr. 12–14). The early discussions with Mr. Mescon included the fact that Mr. Gingrich intended to have the Renewing American Civilization course disseminated through a satellite uplink system. (Ex. 49, Mescon 0664; 6/13/96 Mescon Tr. 29–30).

Shortly before this discussion with Mr. Mescon, in late January 1993, Mr. Gingrich met with a group of GOPAC Charter Members. In a letter written some months later to GOPAC Charter Members, Mr. Gingrich described the meeting as follows:

During our meeting in January, a number of Charter Members were kind enough to take part in a planning session on ''Renewing American Civilization.'' That session not only affected the substance of what the message was to be, but also how best the new message of positive solutions could be disseminated to this nation's decision makers—elected officials, civic and business leaders, the media and individual voters. In addition to my present avenues of communication I decided to add an avenue close to my heart, that being teaching. I have agreed with Kennesaw State College, * * * to teach ''Renewing American Civilization'' as a for-credit class four times during the next four years.

Importantly, we made the decision to have the class available as a ''teleseminar'' to students all across the country, reaching college campuses, businesses, civic organizations, and individuals through a live ''uplink,'' video tapes and audio tapes. Our hope is to have at least 50,000 individuals taking the class this fall and to have trained 200,000 knowledgeable citizen activists by 1996 who will support the principles and goals we have set.

(Ex. 50, Kohler 137–138).[22] During an interview with the Special Counsel, Mr. Gingrich said he doubted that he had written this letter and said that the remark in the letter that the Charter Members' comments played a large role in developing the course ''exaggerates the role of GOPAC.'' The letter was written to ''flatter'' the Charter Members. (11/13/96 Gingrich Tr. 129–130).

In a March 29, 1993 memorandum, Mr. Gingrich specifically connects the course with the political goals of the movement. The memorandum is entitled ''Renewing American Civilization as a defining concept'' and is directed to ''Various Gingrich Staffs.''[23] The original draft of the memorandum is in Mr. Gingrich's handwriting. (Ex. 51, GDC 08891–08892, GDC 10236–10238). In the memorandum, Mr. Gingrich wrote:

I believe the vision of renewing American civilization will allow us to orient and focus our activities for a long time to come.

At every level from the national focus of the Whip office to the 6th district of Georgia focus of the Congressional office to the national political education efforts of GOPAC and the re-election efforts of FONG[24] we should be able to use the ideas, language and concepts of renewing American civilization.

(Ex. 51, GDC 08891).

In the memorandum, he describes a process for the dissemination of the message of Renewing American Civilization to virtually every person he talks to. This dissemination includes a copy of the Special Order speech and a one-page outline of the course. He then goes on to describe the role of the course in this process:

The course is only one in a series of strategies designed to implement a strategy of renewing American civilization.

(Ex. 51, GDC 08891). Another strategy involving the course is:

Getting Republican activists committed to renewing American civilization, to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization.

(Ex. 51, GDC 08892).[25] Jana Rogers, the Site Host Coordinator for the course in 1993, was shown a copy of this memorandum and said she had seen it in the course of her work at GOPAC. (7/3/96 Rogers Tr. 64). She said that this represented what she was doing in her job with the course. (7/3/96 Rogers Tr. 67–69). Steve Hanser, a paid GOPAC consultant and someone who worked on the course, also said that the contents of the memorandum were consistent with the strategy related to the movement. (6/28/96 Hanser Tr. 42–45).

The most direct description of the role of the course in relation to the movement to renew American civilization is set out in a document which Mr. Gingrich indicates he wrote. (7/17/96 Gingrich Tr. 162–163). The document has a fax stamp date of May 13, 1993 and indicates it is from the Republican Whip's Office. (Ex. 52, GDC 10639–10649). The document has three parts to it. The first is entitled ''Renewing America Vision'' (Ex. 52, GDC 10639–10643); the second is entitled ''Renewing America Strategies'' (Ex. 52, GDC 10644–10646); and the third is entitled ''Renewing American Civilization Our Goal.'' (Ex. 52, GDC 10647–10649). Mr. Gingrich said that the third part was actually a separate document. (7/17/96 Gingrich Tr. 162–164). While all three parts are labeled ''draft,'' the document was distributed to a number of Mr. Gingrich's staff members and associates, including Mr. Hanser, Ms. Prochnow, Ms. Rogers, Mr. Gaylord, Mr. Eisenach, and Allan Lipsett (a press secretary). Each of the recipients of the document have described it as an accurate description of the Renewing American Civilization movement. (6/28/96 Hanser Tr. 48, 53; 7/10/96 Prochnow Tr. 70–71; 7/3/96 Rogers Tr. 71–75; 7/15/96 Gaylord Tr. 66–67; 7/12/96 Eisenach Tr. 148–149, 272–275; Lipsett Tr. 30–31).[26] In the first section, Mr. Gingrich wrote:

The challenge to us is to be positive, to be specific, to be intellectually serious, and to be able to communicate in clear language a clear vision of the American people and why it is possible to create that America in our generation.

Once the American people understand what they can have they will insist that their politicians abolish the welfare state which is crippling them, their children, and their country and that they replace it with an opportunity society based on historically proven principles that we see working all around us.

(Ex. 52, GDC 10643).

In the second portion of the document, Mr. Gingrich describes how the vision of renewing America will be accomplished. He lists thirteen separate efforts that fall into categories of communication of the ideas in clear language, educating people in the principles of replacing the welfare state with an opportunity society, and recruiting public officials and activists to implement the doctrines of renewing American civilization. (Ex. 52, GDC 10644–10646).

In the third section, Mr. Gingrich explicitly connects the course to the movement. First he starts out with three propositions that form the core of the course: (1) a refrain he refers to as the ''four can'ts;''[27] (2) the welfare state has failed; and (3) the welfare state must be replaced because it cannot be repaired. (Ex. 52, GDC 10647; *see also* Ex. 54, PFF 18361, 18365–18367). He then described the goal of the movement:

Our overall goal is to develop a blueprint for renewing America by replacing the welfare state, recruit, discover, arouse and network together 200,000 activists including candidates for elected office at all levels, and arouse enough volunteers and contributors to win a sweeping victory in 1996 and then actually implement our victory in the first three months of 1997.

Our specific goals are to:

1. By April 1996 have a thorough, practical blueprint for replacing the welfare state that can be understood and supported by voters and activists.

We will teach a course on Renewing American civilization on ten Saturday mornings this fall and make it available by satellite, by audio and video tape and by computer to interested activists across the country. A month will then be spent redesigning the course based on feedback and better ideas. Then the course will be retaught in Winter Quarter 1994. It will then be rethought and redesigned for nine months of critical reevaluation based on active working groups actually applying ideas across the country the course will be taught for one final time in Winter Quarter 1996.

2. Have created a movement and momentum which require the national press corps

[22] The letter goes on to state that: [L]et me emphasize very strongly that the ''Renewing American Civilization'' project is *not* being carried out under the auspices of GOPAC, but rather by Kennesaw State College and the Kennesaw State College Foundation. We will not be relying on GOPAC staff to support the class, and I am not asking you for financial support.

(Ex. 50, Kohler 138) (emphasis in the original).

[23] At the top of this memorandum is a handwritten notation (not Mr. Gingrich's) stating: ''Tuesday 4 p.m. GOPAC Mtg.'' (Ex. 51, GDC 08891).

[24] ''FONG'' stands for Mr. Gingrich's campaign organization, ''Friends of Newt Gingrich.''

[25] The ''party'' referred to in the quote is the Republican Party. (11/13/96 Gingrich Tr. 80).

[26] Mr. Eisenach apparently sent a copy of this to a GOPAC supporter in preparation for a meeting in May of 1993. (7/12/96 Eisenach Tr. 146–149). In the accompanying letter, Mr. Eisenach said: ''The enclosed materials provide some background for our discussions, which I expect will begin with a review of the Vision, Strategies and Goals of our efforts to Renew American Civilization. The class Newt is teaching at Kennesaw State College this Fall is central to that effort, and GOPAC and the newly created Progress & Freedom Foundation both play important roles as well. (Ex. 13, GOPAC2 2337).''

[27] This refrain goes as follows: ''You cannot maintain a civilization with twelve-year-olds having babies, fifteen-year-olds shooting each other, seventeen-year-olds dying of AIDS, and eighteen-year-olds getting diplomas they can't read.''

to actually study the material in order to report the phenomenon thus infecting them with new ideas, new language and new perspectives.

3. Have a cadre of at least 200,000 people committed to the general ideas so they are creating an echo effect on talk radio and in letters to the editor and most of our candidates and campaigns reflect the concepts of renewing America.

Replacing the welfare state will require about 200,000 activists (willing to learn now [sic] to replace the welfare state, to run for office and to actually replace the welfare state once in office) and about six million supporters (willing to write checks, put up yard signs, or do a half day's volunteer work).

(Ex. 52, GDC 10647–10649). The ''sweeping victory'' referred to above is by Republicans. (11/13/96 Gingrich Tr. 86). The reference to ''our candidates'' above is to Republican candidates. (11/13/96 Gingrich Tr. 90). According to Mr. Gingrich, Mr. Gaylord, and Mr. Eisenach, the three goals set forth above were to be accomplished by the course. (7/17/96 Gingrich Tr. 174–179; 7/15/96 Gaylord Tr. 66–67; 7/12/96 Eisenach Tr. 225; Ex. 55, GOPAC2 2419; Ex. 56, GOPAC2 2172–2173; Ex. 57, Mescon 0626).

In various descriptions of the course, Mr. Gingrich stated that his intention was to teach it over a four-year period. After each teaching of the course he intended to have it reviewed and improved. The ultimate goal was to have a final product developed by April of 1996. (7/17/96 Gingrich Tr. 109; Ex. 56, GOPAC2 2170). An explanation of this goal is found in a three-page document, in Mr. Gingrich's handwriting, entitled ''End State April 1996.'' (Ex. 58, PFF 20107–20109). Mr. Gingrich said he wrote this document early in the process of developing the movement and described it as a statement of where he hoped to be by April 1996 in regard to the movement and the course. (7/17/96 Gingrich Tr. 108–115). On the first page he wrote that the 200,000 plus activists will have a common language and general vision of renewing America, and a commitment to replacing the welfare state. In addition, ''[v]irtually all Republican incumbents and candidates [will] have the common language and goals.'' (Ex. 58, PFF 20107). On the second page he wrote that the ''Republican platform will clearly be shaped by the vision, language, goals and analysis of renewing America.'' (Ex. 58, PFF 20108). In addition, virtually all Republican Presidential candidates will broadly agree on that vision, language, goals and analysis. (Ex. 58, PFF 20108). The Clinton administration and the Democratic Party will be measured by the vision, principles and goals of renewing America and there will be virtual agreement that the welfare state has failed. (Ex. 58, PFF 20108). On the last page Mr. Gingrich wrote a timeline for the course running from September of 1993 through March of 1996. At the point on the timeline where November 1994 appears, he wrote the word ''Election.'' (Ex. 58, PFF 20109). When Mr. Hanser was asked about this document he said that the vision, language, and concepts of the Renewing American Civilization movement discussed in the document were being developed in the course. (6/28/96 Hanser Tr. 53). He went on to say that ''End State'' was ''an application of those ideas to a specific political end, which is one of the purposes, remember, for the course.'' (6/28/96 Hanser Tr. 54). There was an appreciation that this would be primarily a Republican endeavor. (6/28/96 Hanser Tr. 30).

C. GOPAC and Renewing American Civilization

As discussed above, GOPAC was a political action committee dedicated to, among other things, achieving Republican control of the United States House of Representatives. (11/13/96 Gingrich Tr. 169; 7/3/96 Rogers Tr. 38–40). One of the methods it used was the creation of a political message and the dissemination of that message. (7/12/96 Eisenach Tr. 18–19; 6/28/96 Hanser Tr. 13–14; 7/3/96 Rogers Tr. 36). The tool principally used by GOPAC to disseminate its message was audiotapes and videotapes. These were sent to Republican activists, elected officials, potential candidates, and the public. The ultimate purpose of this effort was to help Republicans win elections. (6/27/96 Nelson Tr. 21–22; 7/15/96 Gaylord Tr. 37, 39; 7/3/96 Rogers Tr. 35–36).

1. GOPAC'S ADOPTION OF THE RENEWING AMERICAN CIVILIZATION THEME

At least as of late January 1993, Mr. Gingrich and Mr. Eisenach had decided that GOPAC's political message for 1993 and 1994 would be ''Renewing American Civilization.''[28] (Ex. 59, PFF 37584–37590; 11/13/96 Gingrich Tr. 157; 7/17/96 Gingrich Tr. 61–62, 74; 7/15/96 Gaylord Tr. 35–36, 42–43; 7/3/96 Rogers Tr. 35, 54–56; 6/28/96 Taylor Tr. 26; 6/27/96 Nelson Tr. 34, 46). As described in a February 1993 memorandum over Mr. Gingrich's name to GOPAC Charter Members:

GOPAC's core mission—to provide the ideas and the message for Republicans to win at the grass roots—is now more important than ever, and we have important plans for 1993 and for the 1993–1994 cycle. The final enclosure is a memorandum from Jeff Eisenach outlining our 1993 program which I encourage you to review carefully and, again, let me know what you think.

(Ex. 60, PFF 37569). The attached memorandum, dated February 1, 1993, is from Mr. Eisenach to Mr. Gingrich and references their recent discussions concerning GOPAC's political program for 1993. (Ex. 59, PFF 37584–37590). It then lists five different programs. The fourth one states:

(4) *Message Development/''Renewing American Civilization''—focus group project designed to test and improve the ''Renewing American Civilization'' message in preparation for its use in 1993 legislative campaigns and 1994 Congressional races.*

(Ex. 59, PFF 37584) (emphasis in original). Of the other four programs listed, three relate directly to the use of the Renewing American Civilization message. The fourth—the ''Tory (Franchise) Model' R & D''—was not done. (7/12/96 Eisenach Tr. 188). This same political program was also listed in two separate GOPAC documents dated April 26, 1993. One is entitled ''1993 GOPAC POLITICAL PROGRAM'' (Ex. 61, PP001187–00193) and the other is the ''GOPAC Report to Shareholders.'' (Ex. 62, Eisenach 2536–2545). The first page of the Report to Shareholders states:

The challenge facing Republicans, however, is an awesome one: We must build a governing majority, founded on basic principles, that is prepared to do what we failed to do during the last 12 years: Replace the Welfare State with an Opportunity Society and demonstrate that our ideas are the key to progress, freedom and the Renewal of American Civilization.

(Ex. 62, Eisenach 2536).

In describing the political programs, these documents provide status reports that indicate that the Renewing American Civilization message is at the center of each project. Under ''Off-Year State Legislative Races (New Jersey, Virginia)'' the project is described as ''Newt speaking at and teaching training seminar for candidates at [a June 5, 1993] Virginia Republican Convention.'' (Ex. 61, PP001187; Ex. 62, Eisenach 2540).[29] As discussed below, that speech and training session centered on the Renewing American Civilization message. Under ''Ongoing Political Activities'' the first aspect of the project is described as sending tapes and establishing a training module on Renewing American Civilization and health care. (Ex. 61, PP001187; Ex. 62, Eisenach 2540). Under ''Curriculum Update and Expansion'' the project is described as the production of new training tapes based on Mr. Gingrich's session at the Virginia Republican Convention. (Ex. 61, PP01189; Ex. 62, Eisenach 2541).[30]

2. GOPAC'S INABILITY TO FUND ITS POLITICAL PROJECTS IN 1992 AND 1993

At the end of 1992, GOPAC was at least $250,000 short of its target income (Ex. 65, PFF 38054) and financial problems lasted throughout 1993. (7/15/96 Gaylord Tr. 71–72). Because of these financial shortfalls, GOPAC had to curtail its political projects, particularly the tape program described above. (Ex. 65, PFF 38054–38060; Ex. 66, WGC 07428; 7/15/96 Gaylord Tr. 71–72, 76). For example, according to Mr. Gaylord, GOPAC usually sent out eight tapes a year; however, in 1993, it only sent out two. (7/15/96 Gaylord Tr. 76). One of these was the ''Renewing American Civilization'' tape made from Mr. Gingrich's June 1993 training session at the Virginia Republican Convention (Ex. 63, JG 000001693). Accompanying the mailing of this tape was a letter from Joe Gaylord in his role as Chairman of GOPAC. That letter states:

Ideas matter, and replacing the welfare state with an Opportunity society is so important that Newt is developing a college course that he'll be teaching this fall on this subject, Renewing American Civilization.

I wanted you to hear his initial thoughts because it seems to me that we can't answer the question ''What does the Republican Party stand for?'' without considering the issues Newt has raised in this speech.

(Ex. 67, WGC 06215). In light of GOPAC's poor financial condition, the dissemination of the Renewing American Civilization message through the course was beneficial to its political projects. In this regard, the following exchange occurred with Mr. Gingrich:

Mr. Cole: [I]s one of the things GOPAC wanted to have done during 1993 and 1994 was the dissemination of its message; is that correct?

Mr. Gingrich: Yes.

Mr. Cole: GOPAC also did not have much money in those years; is that correct?

Mr. Gingrich: That is correct. Particularly—it gets better in '94, but '93 was very tight.

Mr. Cole: That curtailed how much it could spend on disseminating its message?

Mr. Gingrich: Right.

Mr. Cole: The message that it was trying to disseminate was the Renewing American Civilization message; is that right?

Mr. Gingrich: Was the theme, yes.

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[28] As mentioned above, the earliest mention of the Renewing American Civilization course was in February 1993. (Ex. 47, JR–0000646).

[29] It is not clear whether any work was done in New Jersey because that state had a Republican legislature and did not need GOPAC's help. (7/15/96 Gaylord Tr. 42).

[30] GOPAC later produced two tapes from the session. One was called ''Renewing American Civilization'' and was mailed to 8,742 people. (Ex. 63, JG 000001693). The other was called ''Leading the Majority'' and became a major training tool for GOPAC, used at least into 1996. (6/27/96 Nelson Tr. 18). Both are based on the Renewing American Civilization message and contain the core elements of the course. The ''Renewing American Civilization'' tape contains more of the RAC philosophy than the ''Leading the Majority'' tape, however, both contain the basics of the course that Mr. Gingrich describes as the ''central proposition'' or ''heart of the course.'' (Ex. 56, GOPAC2 2146–2209; Ex. 64, PP000330–000337; Ex. 54, PFF 18361, 18365–18367).

(11/13/96 Gingrich Tr. 157–158). With respect to whether the dissemination of the course benefited GOPAC, the following exchange occurred:

Mr. Cole: Was GOPAC better off in a situation where the message that it had chosen as its political message for those years was being disseminated by the course? Was it better off?

Mr. Gingrich: The answer is yes.

(11/13/96 Gingrich Tr. 167).

3. GOPAC'S INVOLVEMENT IN THE DEVELOPMENT, FUNDING, AND MANAGEMENT OF THE RENEWING AMERICAN CIVILIZATION COURSE

a. GOPAC personnel

Starting at least as early as February 1993, Mr. Eisenach, then GOPAC's Executive Director, was involved in developing the Renewing American Civilization course. Although Mr. Eisenach has stated that Mr. Gaylord was responsible for the development of the course until mid-May 1993 (7/12/96 Eisenach Tr. 71–75; Ex. 68, Eisenach Testimony Before House Ethics Committee at Tr. 142; Ex. 69, PFF 1167), Mr. Gaylord stated that he never had such a responsibility. (7/15/96 Gaylord Tr. 15–18). Additionally, Mr. Gingrich and others involved in the development of the course identified Mr. Eisenach as the person primarily responsible for the development of the course from early on. (7/17/96 Gingrich Tr. 117, 121; 6/13/96 Mescon Tr. 30–31; 6/28/96 Hanser Tr. 74–75; 7/3/96 Rogers Tr. 17–18, 22).[31] Several documents also establish Mr. Eisenach's role in the development of the course starting at an early stage. One document written by Mr. Eisenach is dated February 25, 1993, and shows him, as well as others, tasked with course development and marketing. (Ex. 70, PFF 16628). A memorandum from Mr. Gingrich to Mr. Mescon, dated March 1, 1993, describes how Mr. Eisenach is involved in contacting a number of institutions in regard to funding for the course. (Ex. 71, KSC 3491).

Aside from Mr. Eisenach, other people affiliated with GOPAC were involved in the development of the course. Mr. Gingrich was General Chairman of GOPAC and had a substantial role in the course. Jana Rogers served as Mr. Eisenach's executive assistant at GOPAC during the early part of 1993 and in that role worked on the development of the course. (7/3/96 Rogers Tr. 16–17). In June 1993, she temporarily left GOPAC at Mr. Eisenach's request to become the course's Site Host Coordinator. As a condition of her becoming the site host coordinator, she received assurances from both Mr. Eisenach and Mr. Gaylord that she could return to GOPAC when she had finished her assignment with the course. (7/3/96 Rogers Tr. 12–16). After approximately five months as the course's Site Host Coordinator, she returned to GOPAC for a brief time. (7/3/96 Rogers 24–25). Steve Hanser, a member of the GOPAC Board and a paid GOPAC consultant, helped develop the course. (6/28/96 Hanser Tr. 10, 19–21). Mr. Gaylord was a paid consultant for GOPAC and had a role in developing the course. (7/15/96 Gaylord Tr. 15).

Pamla Prochnow was hired as the Finance Director for GOPAC in April 1993.[32] Ms. Prochnow spent a portion of her early time at GOPAC raising funds for the course. (7/10/96 Prochnow Tr. 14–16; 6/13/96 Mescon Tr. 63–67, 82; Ex. 74, Documents produced by Prochnow).[33] A number of the people and entities she contacted were GOPAC supporters. In fact, according to Mr. Eisenach, approximately half of the first year's funding for the course came from GOPAC supporters. (Ex. 69, PFF 1168–1169). Some of those people also helped fund the course in 1994. (*See* attachments to Ex. 69, PFF 1252–1277) (the documents contain Mr. Eisenach's marks of ''G'' next to the people, companies, and foundations that were donors or related to donors to GOPAC.))

When Mr. Eisenach resigned from GOPAC and assumed the title of the course's project director, two GOPAC employees joined him in his efforts. Kelly Goodsell had been Mr. Eisenach's Administrative Assistant at GOPAC since March of 1993 (7/9/96 Goodsell Tr. 8, 11), and Michael DuGally had been an employee at GOPAC since January 1992. (7/19/96 DuGally Tr. 9–10). Both went to work on the course as employees of Mr. Eisenach's Washington Policy Group (''WPG'').[34] In the contract between WPG and KSCF, it was understood that WPG would devote one-half of the time of its employees to working on the course. WPG had only one other client at this time—GOPAC. In its contract with GOPAC, WPG was to receive the same monthly fee as was being paid by KSCF in return for one-half of the time of WPG's employees. (Ex. 76, PFF 37450–37451). The contract also stated that to the extent that WPG did not devote full time to KSCF and GOPAC projects, an adjustment in the fee paid to WPG would be made. (Ex. 76, PFF 37450). Neither Ms. Goodsell nor Mr. DuGally worked on any GOPAC project after they started working on the course in June of 1993. (7/9/96 Goodsell Tr. 8, 10–11; 7/19/96 DuGally Tr. 14). Mr. Eisenach said that he spent at the most one-third of his time during this period on GOPAC projects. (7/12/96 Eisenach Tr. 36–37). No adjustment to WPG's fee was made by GOPAC. (7/12/96 Eisenach Tr. 44).[35]

The February 15, 1993, agenda discussed above also gives some indication of GOPAC's role in the development of the Renewing American Civilization course. (Ex. 47, JR–0000645–0000647). Of the eight attendees at that meeting, five worked for or were closely associated with GOPAC (Mr. DuGally, Mr. Eisenach and Ms. Rogers were employees, Mr. Hanser was a member of the Board and a paid GOPAC consultant, and Mr. Gingrich was the General Chairman). Furthermore, the agenda for that meeting indicates that GOPAC political issues were to be discussed as well as course planning issues. Two of the GOPAC political issues apparently related to: (1) the political program described in the February 1, 1993, memorandum which lists four of GOPAC's five political projects as relating to Renewing American Civilization (Ex. 60, PFF 37569–37576), and (2) GOPAC's Charter Meeting agenda entitled ''Renewing American Civilization.'' As discussed below, this Charter Meeting included breakout sessions to help develop a number of the lectures for the course, as well as GOPAC's message for the 1993–1994 election cycle. (Ex. 78, PP00448–PP000452). As Mr. Gingrich stated in his interview, his intention was to have GOPAC use Renewing American Civilization as its message during this time frame. (7/17/96 Gingrich Tr. 74; 7/3/96 Rogers Tr. 54–56).

In 1993 Mr. Eisenach periodically produced a list of GOPAC projects. The list is entitled ''Major Projects Underway'' and was used for staff meetings. (7/12/96 Eisenach Tr. 213; 7/15/96 Gaylord Tr. 79–80; 6/28/96 Taylor Tr. 43–44). Items related to the Renewing American Civilization course were listed in several places on GOPAC's project sheets. For example, from April 1993 through at least June 1993, ''Renewing American Civilization Support'' is listed under the ''Planning/Other'' section of GOPAC's projects sheets. (Ex. 79, JG 000001139, JG 000001152, JG 000001173, JG 000001270). Another entry which appears a number of times under ''Planning/Other'' is ''RAC Pert Chart, etc.'' (Ex. 79, JG 000001152, JG 000001173, JG 000001270). It refers to a time-line Mr. Eisenach wrote while he was the Executive Director of GOPAC relating to the development of the various components of the course, including marketing and site coordination, funding, readings, and the course textbook. (Ex. 80, PFF 7529–7533; 7/12/96 Eisenach Tr. 212–213). Finally, under the heading ''Political'' on the May 7, 1993, project sheet, is listed the phrase ''CR/RAC Letter.'' (Ex. 79, JG 000001152). This refers to a mailing about the course sent over Mr. Gingrich's name by GOPAC to approximately 1,000 College Republicans. (Ex. 81, Mescon 0918, 0915, 0914 and Meeks 0038–0040; 7/15/96 Gaylord Tr. 81–82).

b. Involvement of GOPAC charter members in course design

As discussed earlier, Mr. Gingrich had a meeting with GOPAC Charter Members in January 1993 to discuss the ideas of Renewing American Civilization. (11/13/96 Gingrich Tr. 132). According to a letter written about that meeting, the idea to teach arose from that meeting. In April 1993, GOPAC held its semi-annual Charter Meeting. Its theme was ''Renewing American Civilization.'' (Ex. 78, PP000448–PP000452). Mr. Gingrich gave the keynote address, entitled ''Renewing American Civilization,'' and there were five breakout sessions entitled ''Advancing the Five Pillars of Twenty-first Century Democracy.'' (Ex. 78, PP000449). Each of the breakout sessions was named for a lecture in the course, and these sessions were used to help develop the content of the course (11/13/96 Gingrich Tr. 164–165; 7/17/96 Gingrich Tr. 69–70; 7/12/96 Eisenach Tr. 144–146; 7/15/96 Gaylord Tr. 46) as well as GOPAC's political message for the 1993 legislative campaigns and the 1994 congressional races. (11/13/96 Gingrich Tr. 164–165; Ex. 62, Eisenach 2540). As stated in a memorandum from Mr. Eisenach to GOPAC Charter Members, these breakout sessions were intended to ''dramatically improve both our understanding of the subject and our ability to communicate it.'' (Ex. 82, Roberts 0045–0048).

c. Letters sent by GOPAC

In June of 1993, GOPAC sent a letter over Mr. Gingrich's signature stating that ''it is vital for Republicans to now DEVELOP and put forward OUR agenda for America.'' (Ex. 83, PP000534) (emphasis in original). In discussing an enclosed survey the letter states:

[31] The February 15, 1993, agenda for the meeting where the RAC course and other GOPAC issues were discussed, lists Mr. Eisenach as an attendee, but does not list Mr. Gaylord as being present. (Ex. 47, JR–0000645).

[32] During her interviewing process, Ms. Prochnow was provided with materials to help her understand the goals of GOPAC. (Ex. 72, GOPAC2 0529). Although she has no specific recollection as to what these materials were, she believes they were materials related to the Renewing American Civilization movement. (7/10/96 Prochnow Tr. 18–19; Ex. 73, PP000459–000463; PP00778).

[33] Mr. Eisenach has stated that he did not ask Ms. Prochnow to do this fundraising work, but rather Mr. Gaylord did. (7/12/96 Eisenach Tr. 71, 75; Ex. 65, PFF 1168). However, both Mr. Gaylord and Ms. Prochnow clearly state that it was Mr. Eisenach, not Mr. Gaylord, who directed Ms. Prochnow to perform the fundraising work. (7/15/96 Gaylord Tr. 16, 17; 7/10/96 Prochnow Tr. 14, 73–74; Ex. 71, Letter dated July 25, 1996, from Prochnow's attorney).

[34] As discussed earlier, WPG was a corporation formed by Mr. Eisenach which had a contract with KSCF to run all aspects of the course.

[35] The only other person who was involved in the early development of the course was Nancy Desmond. She did not work for GOPAC, but had been a volunteer at Mr. Gingrich's campaign office for approximately a year before starting to work on the course. (6/13/96 Desmond Tr. 15–16). She continued to work as a volunteer for Mr. Gingrich's campaign until July of 1993, when she was told to resign from the campaign because of the perceived negative image her two roles would project. (6/13/96 Desmond Tr. 37–38; Ex. 77, PFF 38289).

It is the opening step in what I want to be an unprecedented mobilization effort for Republicans to begin the process of replacing America's failed welfare state.

And the key political component of that effort will be an all-out drive to end the Democrat's 40 year control of the U.S. House or Representatives in 1994!

(Ex. 83, PP000535).[36] The letter then states that it is important to develop the themes and ideas that will be needed to accomplish the victory in 1994. (Ex. 83, PP000536). In language that is very similar to the core of the course, but with an overtly partisan aspect added to it, the letter states:

Personally, I believe we can and should turn the 1994 midterm elections into not just a referendum on President Clinton, but on whether we maintain or replace the welfare state and the Democratic Party which supports it.

I believe the welfare state which the Democrats have created has failed.

In fact, I challenge anyone to say that it has succeeded, when today in America twelve year olds are having children, fifteen year olds are killing each other, seventeen year olds are dying of AIDS and eighteen year olds are being given high school diplomas they cannot even read.

* * * * *

And what I want to see our Party work to replace it with is a plan to renew America based on what I call ''pillars'' of freedom and progress:

(1) Personal strength;

(2) A commitment to quality in the workplace;

(3) Spirit of American Inventiveness;

(4) Entrepreneurial free enterprise applied to both the private and public sectors;

(5) Applying the lessons of American history as to what works for Americans to proposed government solutions to our problems.

After being active in politics for thirty years, and being in Congress for fourteen of them, I firmly believe these five principles can develop a revolutionary change in government. Properly applied, they can dramatically improve safety, health, education, job creation, the environment, the family and our national defense.

(Ex. 83, PP000536). In other letters sent out by GOPAC, the role of the Renewing American Civilization course in relation to the Republican political goals of GOPAC were described in explicit terms. A letter to Neil Gagnon, dated May 5, 1993, over Mr. Gingrich's name, states:

As we discussed, it is time to lay down a blue print—which is why in part I am teaching the course on Renewing American Civilization. Hopefully, it will provide the structure to build an offense so that Republicans can break through dramatically in 1996. We have a good chance to make significant gains in 1994, but only if we can reach the point where we are united behind a positive message, as well as a critique of the Clinton program.[37]

(Ex. 84, GOPAC2 0003). In a letter dated June 21, 1993, that Pamla Prochnow, GOPAC's new finance director, sent to Charter Members as a follow-up to an earlier letter from Mr. Gingrich, she states:

As the new finance director, I want to introduce myself and to assure you of my commitment and enthusiasm to the recruitment and training of grassroots Republican candidates. In addition, with the course Newt will be teaching in the fall—Renewing American Civilization—I see a very real opportunity to educate the American voting population to Republican ideals, increasing our opportunity to win local, state and Congressional seats.[38]

(Ex. 85, PP000194). On January 3, 1994, Ms. Prochnow sent another letter to the Charter Members. It states:

As we begin the new year, we know our goals and have in place the winning strategies. The primary mission is to elect Republicans at the local, state and congressional level. There, also, is the strong emphasis on broadcasting the message of renewing American civilization to achieve peace and prosperity in this country.

(Ex. 86, PP000866). In another letter sent over Mr. Gingrich's name, the course is again discussed. The letter, dated May 12, 1994, is addressed to Marc Bergschneider and states:

I am encouraged by your understanding that the welfare state cannot merely be repaired, but must be replaced and have made a goal of activating at least 200,000 citizen activists nationwide through my course, Renewing American Civilization. We hope to educate people with the fact that we are entering the information society. In order to make sense of this society, we must rebuild an opportunistic country. In essence, if we can reach Americans through my course, independent expenditures, GOPAC and other strategies, we just might unseat the Democratic majority in the House in 1994 and make government accountable again.

(Ex. 87, GDC 01137). Current and former GOPAC employees said that before a letter would go out over Mr. Gingrich's signature, it would be approved by him. (7/3/96 Rogers Tr. 88; 6/27/96 Nelson Tr. 56–60). According to Mr. Eisenach, Mr. Gingrich ''typically'' reviewed letters that went out over his signature, but did not sign all letters that were part of a mass mailing. (7/12/96 Eisenach Tr. 35). With respect to letters sent to individuals over Mr. Gingrich's name, Mr. Eisenach said the following:

Mr. Eisenach: [Mr. Gingrich] would either review those personally or be generally aware of the content. In other words, on rare, if any, occasions, did I or anybody else invent the idea of sending a letter to somebody, write the letter, send it under Newt's signature and never check with him to see whether he wanted the letter to go.

There were occasions—now, sometimes that would be—Newt and I would discuss the generic need for a letter. I would write the letter and send it and fax a copy to him and make sure he knew that it had been sent.

Mr. Cole: Would you generally review the contents of the letter with him prior to it going out?

Mr. Eisenach: Not necessarily word for word. It would depend. But as a general matter, yes.

(7/12/96 Eisenach Tr. 36). Mr. Gingrich's Administrative Assistant, Rachel Robinson, stated that in 1993 and 1994 whenever she received a letter or other document for Mr. Gingrich that was to be filed, she would sign Mr. Gingrich's name on the document and place her initials on it. This ''usually'' meant that Mr. Gingrich had seen the letter. (9/6/96 Robinson Tr. 4). The letter sent to Mr. Bergschneider on May 12, 1994, was produced from the files of Mr. Gingrich's Washington, D.C. office and has Ms. Robinson's initials on it. (9/6/96 Robinson Tr. 4).

The letters sent out over Mr. Gingrich's signature were shown to Mr. Gingrich during an interview. He said that none of them contained his signature, he did not recall seeing them prior to the interview, and said he would not have written them in the language used. (7/17/96 Gingrich Tr. 77–78, 140–141). Mr. Gaylord said that ''it seemed to [him] there was a whole series of kind of usual correspondence that was done by the staff'' that Mr. Gingrich would not see. (7/15/96 Gaylord Tr. 77). The content of the letters listed above, however, are quite similar to statements made directly by Mr. Gingrich about the movement and the role of the course in the movement. (See, e.g., Ex. 47, JR–0000646 (''emphasis is on the Republican Party as the primary vehicle for renewing American civilization''); Ex. 52 GDC 10639–10649 (''sweeping victory'' will be accomplished through the course); Ex. 88, GDC 10729–10733 (''Democrats are the party of the welfare state.'' ''Only by voting Republican can the welfare state be replaced and an opportunity society be created.''))

D. ''Replacing the Welfare State With an Opportunity Society'' as a Political Tool

According to Mr. Gingrich, the main theme of both the Renewing American Civilization movement and the course was the replacement of the welfare state with an opportunity society. (7/17/96 Gingrich Tr. 52, 61, 170; 11/13/96 Gingrich Tr. 85). Mr. Gingrich also said, ''I believe that to replace the welfare state you almost certainly had to have a [R]epublican majority.'' (7/17/96 Gingrich Tr. 51). ''I think it's hard to replace the welfare state with the [D]emocrats in charge.'' (7/17/96 Gingrich Tr. 62). The course was designed to communicate the vision and language of the Renewing American Civilization movement and ''was seen as a tool that could be used to replace the welfare state.'' (7/17/96 Gingrich Tr. 159–160; see also 11/13/96 Gingrich Tr. 47, 76).[39]

In addition to being the title of a movement, the course, and GOPAC's political message for 1993 and 1994, ''Renewing American Civilization'' was also the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. (7/17/96 Gingrich Tr. 69).[40] According to Mr. Gingrich, there was an effort in 1994 to use the ''welfare state'' label as a campaign tool against the Democrats and to use the ''opportunity society'' label as an identification for the Republicans. (7/17/96 Gingrich Tr. 113). Mr. Gingrich made similar comments in a subsequent interview:

Mr. Cole: During [1993–1994] was there an effort to connect the Democrats with the welfare state?

[36] The copy of the letter produced is a draft. While Mr. Gingrich was not able to specifically identify the letter, he did state that the letter fit the message and represented the major theme of GOPAC at that time. (7/17/96 Gingrich Tr. 60–61).

[37] Jana Rogers had not seen this letter before her interview, but after reading it she said that through her work on the course, she believed the contents of the letter set out one of the goals of the Renewing American Civilization course. (7/3/96 Rogers Tr. 75–76).

[38] Both Dr. Mescon and Dr. Siegel of KSC were shown some of these letters. They both said that had they known of this intention in regard to the course, they would not have viewed it as an appropriate project for KSC. (6/13/96 Mescon Tr. 84–87; 6/13/96 Siegel Tr. 60–62).

[39] During his interview, the following exchange occurred regarding the movement:

Mr. Cole: Yet there was an emphasis in the movement on the Republican Party?

Mr. Gingrich: There certainly was on my part, yes.

Mr. Cole: You were at the head of the movement, were you not?

Mr. Gingrich: Well, I was the guy trying to create it.

Mr. Cole: The course was used as the tool to communicate the message of the movement, was it not?

Mr. Gingrich: Yes, it was a tool, yes.

(11/13/96 Gingrich Tr. 76).

[40] According to Ms. Rogers, the course's Site Host Coordinator, there was coordination between the message, the movement, and activists. ''They were extensions of Newt and each had to make—each group had to make sure—what I mean specifically is GOPAC and the class had to make sure that they were using the same message that Newt was trying to disseminate, that it was identical.

(7/3/96 Rogers Tr. 54).

Mr. Gingrich: Absolutely; routinely and repetitively.

Mr. Cole: And a campaign use of that?

Mr. Gingrich: Absolutely.

Mr. Cole: A partisan use, if you will?

Mr. Gingrich: Absolutely.

Mr. Cole: And was there an effort to connect the Republicans with the opportunity society?

Mr. Gingrich: Absolutely.

Mr. Cole: A partisan use?

Mr. Gingrich: Yes, sir.

Mr. Cole: And that was the main theme of the course, was it not, replacement of the welfare state with the opportunity society?

Mr. Gingrich: No. The main theme of the course is renewing American civilization and the main subset is that you have—that you have to replace the welfare state with an opportunity society for that to happen.

(11/13/96 Gingrich Tr. 79–80). As referred to above, Mr. Gingrich held a training seminar for candidates on behalf of GOPAC at the Virginia Republican Convention in June 1993. (7/15/96 Gaylord Tr. 29–30). He gave a speech entitled ''Renewing American Civilization'' which described the nature of the movement and the course. (Ex. 56, GOPAC2 2146–2209). Near the beginning of his speech, Mr. Gingrich said:

What I first want to suggest to you [is] my personal belief that we are engaged in a great moral and practical effort, that we are committed to renewing American civilization, and I believe that's our battle cry. That we want to be the party and the movement that renews American civilization and that renewing American civilization is both an idealistic cause and a practical cause at the same time.

(Ex. 56, GOPAC2 2146). He then told the audience that he has four propositions with which 80% to 95% of Americans will agree. These are: (1) there is an American civilization; (2) the four can'ts; (3) the welfare state has failed; and (4) to renew American civilization it is necessary to replace the welfare state. (Ex. 56, GOPAC2 2149–2153).[41] Mr. Gingrich then went on to relate the principles of renewing American civilization to the Republican party:

We can't do much about the Democrats. They went too far to the left. They are still too far to the left. That's their problem. But we have a huge burden of responsibility to change our behavior so that every one who wants to replace the welfare state and every one who wants to renew American civilization has a home, and it's called being Republican. We have to really learn how to bring them all in.

And I think the first step of all that is to insist that at the core of identification the only division that matters is that question. You want to replace the welfare state and renew American civilization. The answer is just fine, come and join us. And not allow the news media, not allow the Democrats, not allow interest groups to force us into fights below that level in terms of defining who we are. That in any general election or any effort to govern that we are every one who is willing to try to replace the welfare state, and we are every one who is willing to renew American civilization.

Now, that means there is a lot of ground in there to argue about details. Exactly how do you replace the welfare state. Exactly which idea is the best idea. But if we accept every one coming in, we strongly change the dynamics of exactly how this country is governed and we begin to create a majority Republican party that will frankly just inexorably crow[d] out the Democrats and turn them into minority status.

(Ex. 56, GOPAC2 2155–2156). Mr. Gingrich told the audience that he would discuss three areas in his remarks: (1) the principles of renewing American civilization; (2) the principles and skills necessary to be a ''renewing candidate'' and then ultimately a ''renewing incumbent;'' and (3) the concept and principles for creating a community among those who are committed to replacing the welfare state and renewing American civilization. (Ex. 56, GOPAC2 2168). In speaking of the first area, Mr. Gingrich said that it is a very complicated subject. Because of this he was only going to give a ''smattering'' of an outline at the training seminar. (Ex. 56, GOPAC2 2170). He said, however, that in the fall he planned to teach a twenty-hour course on the subject, and then refine it and teach it again over a four-year period. (Ex. 56, GOPAC2 2170). He then described the three goals he had for the course:

First, we want to have by April of '96 a genuine intellectual blueprint to replace the welfare state that you could look at as a citizen and say, yeah, that has a pretty good chance of working. That's dramatically better than what we've been doing.

Second, we want to find 200,000 activist citizens, and I hope all of you will be part of this, committed at every level of American life to replacing the welfare state. Because America is a huge decentralized country. You've got to have school boards, city councils, hospital boards, state legislatures, county commissioners, mayors, and you've got to have congressmen and senators and the President and governors, who literally [sic] you take all the elected posts in America and then you take all the people necessary to run for those posts and to help the campaigns, etc., I think it takes around 200,000 team players to truly change America.

(Ex. 56, GOPAC2 2170–2171).

Third, we create a process—and this is something you can all help with in your own districts—we create a process interesting enough that the national news media has to actually look at the material in order to cover the course.[42]

(Ex. 56, GOPAC2 2173). The transcript of his speech goes on for the next 30 pages to describe the five pillars of American civilization that form the basis of the course, and how to use them to get supporters for the candidates' campaigns. In discussing this Mr. Gingrich said:

Now, let me start just as [a] quick overview. First, as I said earlier, American civilization is a civilization. Very important. It is impossible for anyone on the left to debate you on that topic.

* * * * *

But the reason I say that is if you go out and you campaign on behalf of American civilization and you want to renew American civilization, it is linguistically impossible to oppose you. And how is your opponent going to get up and say I'm against American civilization?

(Ex. 56, GOPAC2 2175–2176). Near the end of the speech he said:

I believe, if you take the five pillars I've described, if you find the three areas that will really fit you, and are really in a position to help you, that you are then going to have a language to explain renewing American civilization, a language to explain how to replace the welfare state, and three topics that are going to arouse volunteers and arouse contributions and help people say, Yes, I want this done.

(Ex. 56, GOPAC2 2207).[43]

In a document that Mr. Gingrich apparently wrote during this time (Ex. 89, Eisenach 2868–2869), the course is related to the Renewing American Civilization movement in terms of winning a Republican majority. The ''House Republican Focus for 1994'' is directed at having Republicans communicate a positive message so that a majority of Americans will conclude that their only hope for real change is to vote Republican. In describing that message, the document states:

The Republican party can offer a better life for virtually every one if it applies the principles of American civilization to create a more flexible, decentralized market oriented system that uses the Third Wave of change and accepts the disciplines of the world market.

These ideas are outlined in a 20 hour intellectual framework ''Renewing American Civilization'' available on National Empowerment Television every Wednesday from 1 pm to 3 pm and available on audio tape and video tape from 1–800–TO–RENEW.

(Ex. 89, Eisenach 2869). In a document dated March 21, 1994, and entitled ''RENEWING AMERICA: The Challenge for Our Generation,''[44] Mr. Gingrich described a relationship between the course and the movement. (Ex. 90, GDC 00132–00152). Near the beginning of the document, one of the ''key propositions'' listed is that the welfare state has failed and must be replaced with an opportunity society. (Ex. 90, GDC 00136). The opportunity society must be based on, among other things, the principles of American civilization. (Ex. 90, GDC 00136). The document states that the key ingredient for success is a movement to renew American civilization by replacing the welfare state with an opportunity society. (Ex. 90, GDC 00137). That movement will require at least 200,000 ''partners for progress'' committed to the goal of replacing the welfare state with an opportunity society and willing to study the principles of American civilization, work on campaigns, run for office, and engage in other activities to further the movement. (Ex. 90, GDC 00138).[45] Under the heading ''Learning the Principles of American Civilization'' the document states, ''The course, 'Renewing American Civilization', is designed as a 20 hour introduction to the principles necessary to replace the welfare state with an opportunity society.'' (Ex. 90, GDC 00139). It then lists the titles of each class and the book of readings associated with the course. The next section is titled ''Connecting the 'Partners' to the 'Principles'.'' (Ex. 90, GDC 00140). It describes where the course is being taught, including that it is being offered five times during 1994 on National Empowerment Television, and states that, ''Our goal is to get every potential partner for progress to take the course and study the

[41] These four propositions were used as the ''central propositions'' or ''heart'' of the course to introduce each session in 1993 and 1994. (Ex. 54, PFF 18361, 18365–18367).

[42] These are the same three specific goals that were listed in the document entitled ''Renewing American Civilization Our Goal'' that referred to achieving a ''sweeping victory in 1996'' as the overall goal. (Ex. 52, GDC 10647–10648).

[43] As discussed above, this speech was used by GOPAC to produce two training tapes. One was called ''Renewing American Civilization'' and the other was called ''Leading the Majority.'' (7/15/96 Gaylord Tr. 31).

[44] Mr. Gingrich at least wrote the first draft of this document and stated that it was compatible with what he was doing at that time. It was probably a briefing paper for the House Republican members. (Ex. 90, GDC 00132–00152; 7/17/96 Gingrich Tr. 203–204).

[45] In this section he defines the ''partners for progress'' as ''citizens activists.''

principles.'' (Ex. 90, GDC 00140).[46] The document then lists a number of areas where Republicans can commit themselves to ''real change,'' including the Contract with America and a concerted effort to end the Democratic majority in the House. (Ex. 90, GDC 00144–00150).

A May 10, 1994 document which Mr. Gingrich drafted (7/18/96 Gingrich Tr. 234–235; 7/15/96 Gaylord Tr. 70) entitled ''The 14 Steps[:] Renewing American Civilization by replacing the welfare state with an opportunity society,'' he notes the relationship between the course and the partisan aspects of the movement. (Ex. 88, GDC 10729–10733). After stating that the welfare state has failed and needs to be replaced (Ex. 88, GDC 10729), the document states that, ''Replacing the welfare state will require a disciplined approach to both public policy and politics.'' (Ex. 88, GDC 10730). ''We must methodically focus on communicating and implementing our vision of replacing the welfare state.'' (Ex. 88, GDC 10730). In describing the replacement that will be needed, Mr. Gingrich says that it:

> must be an opportunity society based on the principles of American civilization * * *.
>
> These principles each receive two hours of introduction in 'Renewing American Civilization', a course taught at Reinhardt College. The course is available on National Empowerment Television from 1–3 P.M. every Wednesday and by videotape or audiotape by calling 1–800–TO–RENEW.

(Ex. 88, GDC 10730). This document goes on to describe the 200,000 ''partners for progress'' as being necessary for the replacement of the welfare state and how the Contract with America will be a first step toward replacing the welfare state with an opportunity society. (Ex. 88, GDC 10731). The document then states:

> The Democrats are the party of the welfare state. Too many years in office have led to arrogance of power and to continuing violations of the basic values of self-government.
>
> Only by voting Republican can the welfare state be replaced and an opportunity society be created.

(Ex. 88, GDC 10731). On November 1, 1994, Mr. Gingrich attended a meeting with Ms. Minnix, his co-teacher at Reinhardt, to discuss the teaching of the course in 1995. (Ex. 92, Reinhardt 0063–0065). Also at that meeting were Mr. Hanser, Ms. Desmond, Mr. Eisenach, and John McDowell. One of the topics discussed at the meeting was Mr. Gingrich's desire to teach the course on a second day in Washington, D.C. According to notes of the meeting prepared by Ms. Minnix, Mr. Gingrich wanted to teach the course in D.C. in an effort:

> To attract freshman congresspeople, the press—who will be trying to figure out the Republican agenda—and congressional staff looking for the basis of Republican doctrine. 'Take the course' will be suggested to those who wonder what a Republican government is going to stand for.

(Ex. 92, Reinhardt 0064).[47] Later in the meeting Mr. Gingrich said that his chances of becoming Speaker were greater than 50 percent and he was making plans for a transition from Democratic to Republican rule. Ms. Minnix wrote that Mr. Gingrich ''sees the course as vital to this—so vital that no one could convince him to teach it only one time per week and conserve his energy.'' (Ex. 92, Reinhardt 0065).[48]

A number of other documents reflect a similar partisan, political use of the message and theme of Renewing American Civilization. (Ex. 93, LIP 00602–00610, (''Renewing American Civilization: Our Duty in 1994,'' a speech given to the Republican National Committee January 21, 1994 Winter Breakfast); Ex. 94, GDC 11010–11012, (''Whip Office Plan for 1994'' with the ''vision'' of ''Renew American civilization by replacing the welfare state which requires the election of a Republican majority and passage of our agenda''); Ex. 95, GDC 10667–10670, (''Planning Assumptions for 1994''); Ex. 96, Eisenach 2758–2777, (untitled); Ex. 97, PFF 2479–2489, (seminar on Renewing American Civilization given to the American Legislative Exchange Council); Ex. 98, PFF 37179–37188, (''House GOP Freshman Orientation: Leadership for America's 21st Century.''))

E. Renewing American Civilization House Working Group

As stated in Mr. Gingrich's easel notes from December 1992, one goal of the Renewing American Civilization movement was to ''professionalize'' the House Republicans. (Ex. 42, HAN 02110). His intention was to use the message of Renewing American Civilization to ''attract voters, resources and candidates'' and to develop a ''mechanism for winning seats.'' (Ex. 42, HAN 02110). In this vein, a group of Republican House Members and others formed a working group to promote the message of Renewing American Civilization. Starting in approximately June 1993, Mr. Gingrich sponsored Representative Pete Hoekstra as the leader of this group and worked with him. (7/18/96 Gingrich Tr. 279).[49] According to a number of documents associated with this group, a goal was to use the theme of renewing American civilization to elect a Republican majority in the House. (Ex. 99, Hoekstra 0259; Ex. 101, Hoekstra 0264; Ex. 102, Gregorsky 0025). According to notes from a July 23, 1993 meeting, Mr. Gingrich addressed the group and made several points:

> 1. Renewing American Civilization (RAC) is the basic theme;
>
> 2. RAC begins with replacing the welfare state, not improving it;
>
> 3. RAC will occur by promoting the use of the five pillars of American civilization;
>
> 4. Use of the three key policy areas of saving the inner city, health, and economic growth and jobs.

(Ex. 101, Hoekstra 0264). The meeting then turned to a discussion of possible ways to improve these points. (Ex. 101, Hoekstra 0264).

On July 30, 1993, another meeting of this group was held. According to notes of that meeting, the group restated its objectives as follows:

> a. restate our objective: Renewing American Civilization by replacing the paternalistic welfare state
>
> —GOP majority in the House ASAP
>
> —nationwide GOP majority ASAP
>
> * * * * *
>
> —objective: create ''echo chamber'' for RAC
>
> * * * * *
>
> i. develop RAC with an eye toward marketability
>
> * * * * *
>
> ii. promote message so that this defines many 1994 electoral contests at the congressional level and below, and defines the 1996 national election.

(Ex. 102, Gregorsky 0025).[50]

The goal of the group was further defined in a memorandum written by one of Mr. Hoekstra's staffers in September of 1993. (Ex. 103, Hoekstra 0266–0267). In that memorandum, the staff member said the group's goal had changed ''from one of promoting the Renewing American Civilization course to one of proposing a 'political platform' around which House Republican incumbents and candidates can rally.'' (Ex. 103, Hoekstra 0266). The group's ''underlying perspective'' was described as follows:

> To expand our party, it is important that Republicans develop, agree on and learn to explain a positive philosophy of government.
>
> At the core of that philosophy is the observation that the paternalistic welfare state has failed, and must be replaced by alternative mechanisms within and outside of government if social objectives are to be achieved.
>
> Fundamental to developing a new philosophy is the idea that traditions in American civilization have proven themselves to be powerful mechanisms for organizing human behavior. There are working principles in the lessons of American history that can be observed, and should be preserved and strengthened.
>
> These working principles distinguish the Republican party and its beliefs from the Democratic party, which remains committed to the welfare state even though these policies are essentially alien to the American experience.

(Ex. 103, Hoekstra 0266–0267). This group began to develop a program to incorporate Renewing American Civilization into the House Republican party. The program's goals included a House Republican majority, Mr. Gingrich as Speaker, and Republican Committee Chairs. (Ex. 104, Hoekstra 0147–0151). To accomplish this goal, there were efforts to have candidates, staffers and members use Renewing American Civilization as their theme. (Ex. 104, Hoekstra 0148). One proposal in this area was a training program for staffers in the principles of Renewing American Civilization for use in their work in the House. (Ex. 104, Hoekstra 0148). A memorandum from Mr. Gingrich to various members of his staffs[51] asked them to review a plan for this training program and give him their comments. (Ex. 105, WGC 03732–03745).

During his interview, Mr. Hoekstra stated that Renewing American Civilization and the concept of replacing the welfare state was intended as a means of defining who Republicans were; however, the group never finalized this as a project. (7/29/96 Hoekstra Tr. 47–48). In talking about this group, Mr. Gingrich said that he wanted the Republican

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[46] The course was broadcast twice each week on National Empowerment Television. In light of it being a ten-week course, and being offered five times during 1994 on NET, it ran for 50 weeks during this election year. In addition to being on NET, it was also on a local cable channel in Mr. Gingrich's district in Georgia. (Ex. 91, DES 01048; 7/18/96 Gingrich Tr. 257–259).

[47] Ms. Minnix stated that the word ''Republican'' may not have been specifically used by Mr. Gingrich, but that it was the context of his remark. (6/12/96 Minnix Tr. 54–56).

[48] The other participants at this meeting were asked about this conversation. To the extent they recalled the discussion, they confirmed that it was as related in Ms. Minnix's memorandum. No one had a recollection that was contrary to Ms. Minnix's memorandum. (6/12/96 Minnix Tr. 54–56; 6/28/96 Hanser Tr. 71–72; 6/13/96 Desmond Tr. 76–78; 7/12/96 Eisenach Tr. 270–271; 7/17/96 Gingrich Tr. 211–215).

[49] Mr. Gingrich provided Mr. Hoekstra with some materials to explain the movement. (See Ex. 99, Hoekstra 0259). Apparently, this material included the May 13, 1993, three part document entitled ''Renewing America Vision,'' ''Renewing America Strategies,'' and ''Renewing American Civilization Our Goal.'' (Ex. 52, GDC 10639–10649). In a memorandum from one of Mr. Hoekstra's staffers analyzing the material, he lists the thirteen items that were to be done to further the movement. (Ex. 100, Hoekstra 0140b). They are the same thirteen items that are listed in the ''Renewing America Strategies'' portion of the May 13, 1993 document.

[50] Mr. Gingrich reviewed notes similar to these and though he did not specifically recall them, he said they were compatible with the activities of that time. (7/18/96 Gingrich Tr. 283–284).

[51] This included his congressional office, his WHIP office, RAC, and GOPAC.

party to move toward Renewing American Civilization as a theme and that he would have asked the group to study the course, understand the ideas, and use those ideas in their work. (7/18/96 Gingrich Tr. 284–286). It is not known what became of this group. Mr. Hoekstra said that the project ended without any closure, but he does not recall how that happened. (7/29/96 Hoekstra Tr. 46).

F. Marketing of the Course

As discussed above, Mr. Gingrich wrote in his March 29, 1993 memorandum that he wanted ''Republican activists committed * * * to setting up workshops built around the course, and to opening the party up to every citizen who wants to renew American civilization.'' (Ex. 51, GDC 08892). There is evidence of efforts being made to recruit Republican and conservative organizations into becoming sponsors for the course. These sponsors were known as ''site hosts.'' One of the responsibilities of a site host was to recruit participants. (Ex. 106, PFF 8033). Jana Rogers was the Site Host Coordinator for the course when it was at Kennesaw State College. She stated that part of her work in regard to the course involved getting Republican activists to set up workshops around the course to bring people into the Republican party. (7/3/96 Rogers Tr. 67–68). She said there was an emphasis on getting Republicans to be site hosts. (7/3/96 Rogers Tr. 69).

In an undated document entitled ''VISION: To Obtain Site Hosts for Winter 1994 Quarter,'' three ''projects'' are listed: (1) ''To obtain site hosts from conservative organizations;'' (2) ''To secure site hosts from companies;'' (3) ''To get cable companies to broadcast course.'' (Ex. 107, PFF 7526). The ''strategies'' listed to accomplish the ''project'' of obtaining site hosts from conservative organizations are listed as:

Mailing to State and local leaders through lists from National Republican Committee, Christian Coalition, American Association of Christian Schools, U.S. Chamber of Commerce, National Right to Life, Heritage Foundation, Empower America, National Empowerment Television, Free Congress, etc.

(Ex. 107, PFF 7526). One of the tactics listed to accomplish the goal of obtaining more site hosts is to:

Contact National College Republican office to obtain names and addresses of all presidents country-wide. Develop letter to ask college republicans to try to obtain the class for credit on their campus or to become a site host with a sponsor group. Also, ask them to contact RAC office for a site host guide and additional information.

(Ex. 107, PFF 7527). In a memorandum written by Nancy Desmond concerning the course, among the areas where she suggested site host recruiting should be directed were to ''NAS members,''[52] ''schools recognized as conservative'' and ''national headquarters of conservative groups.'' (Ex. 108, PFF 37328–37330). In a number of the project reports written by employees of the course in 1993, there are notations about contacts with various Republicans in an effort to have them host a site for the course. There are no similar notations of efforts to contact Democrats. (Ex. 109, Multiple Documents).[53]

In several instances mailings were made to Republican or conservative activists or organizations in an effort to recruit them as site hosts. In May of 1993 a letter was sent over Mr. Gingrich's signature to approximately 1,000 College Republicans regarding the course.[54] That letter states that:

[C]onservatives today face a challenge larger than stopping President Clinton. We must ask ourselves what the future would be like if we were allowed to define it, and learn to explain that future to the American people in a way that captures first their imagination and then their votes.

In that context, I am going to devote much of the next four years, starting this Fall, to teaching a course entitled ''Renewing American Civilization.'' I am writing to you today to ask you to enroll for the class, and to organize a seminar so that your friends can enroll as well.

* * * * *

Let me be clear: This is not about politics as such. But I believe the ground we will cover is essential for anyone who hopes to be involved in politics over the next several decades to understand. American civilization is, after all, the cultural glue that holds us all together. Unless we can understand it, renew it and extend it into the next century, we will never succeed in replacing the Welfare State with an Opportunity Society.

* * * * *

(Ex. 81, Mescon 0915; Meeks 0039). The letter ends by stating:

I have devoted my life to teaching and acting out a set of values and principles. As a fellow Republican, I know you share those values. This class will help us all remember what we're about and why it is so essential that we prevail. Please join me this Fall for ''Renewing American Civilization.''

(Ex. 81, Mescon 0914; Meeks 0040). GOPAC paid for this mailing (7/12/96 Eisenach Tr. 200; 7/15/96 Gaylord Tr. 82) and it was listed as a ''political'' project on GOPAC's description of its ''Major Projects Underway'' for May 7, 1993. (Ex. 79, JG 000001152). At the top of a copy of the letter to the College Republicans is a handwritten notation to Mr. Gingrich from Mr. Eisenach: ''Newt, Drops to 1000+ C.R. Chapters on Wednesday. JE cc: Tim Mescon.'' (Ex. 81, Mescon 0915, Meeks 0039).

During an interview with Mr. Cole, Mr. Eisenach was asked about this letter.

Mr. Eisenach: Use of the course by political institutions in a political context was something that occurred and was part of Newt's intent and was part of the intent of other partisan organizations, but the intent of the course and, most importantly, the operation of the course and its use of tax-exempt funds was always and explicitly done in a nonpartisan way.

Political organizations—in this case, GOPAC—found it to their advantage to utilize the course for a political purpose, and they did so.

Mr. Cole: Were you involved in GOPAC?

Mr. Eisenach: At this time I was involved in GOPAC, yes.

Mr. Cole: And in making the decision that GOPAC would utilize the course?

Mr. Eisenach: Yes.

(7/12/96 Eisenach Tr. 203). Mr. DuGally worked with Economics America, Inc. to have them send a letter to the members of the groups listed in *The Right Guide* as part of an effort to recruit them as site hosts. The first paragraph of the letter states:

Newt Gingrich asked that I tell the organizations listed in The Right Guide about his new nationally broadcast college course, ''Renewing American Civilization.'' It promises to be an important event for all conservatives, as well as many young people who are not yet conservatives. You and your organization can be part of this project.

(Ex. 110, PFF 19821). The letter goes on to say, ''And remember, since you are a team teacher you can use the course to explain and discuss your views.'' (Ex. 110, PFF 19821).

In the fall of 1993, Mr. DuGally arranged for a letter to be sent by Lamar Alexander on behalf of the Republican Satellite Exchange Network promoting the course and asking its members to serve as site hosts. (Ex. 111, PFF 19795–19798). In addition, a letter was prepared for mailing to all chairmen of the Christian Coalition asking them to serve as site hosts. (Ex. 112, PFF 19815). In June of 1993, Mr. DuGally worked with the Republican National Committee to have a letter sent by Chairman Haley Barbour to RNC Members informing them of the course. (Ex. 113, RNC 0094). This letter did not solicit people to be site hosts.

Jana Rogers, the Site Host Coordinator for the course, attended the College Republican National Convention. Her weekly report on the subject said the following:

The response to Renewing American Civilization at the College Republican National Convention was overwelming [sic]. In addition to recruiting 22 sites and possibly another 30+ during follow-up, I was interviewed by MTV about the class and learned more about RESN [Republican Exchange Satellite Network] from Stephanie Fitzgerald who does their site coordination. I also handed out 400 Site Host Guides to College Republicans and about 600 registration flyers. NCRNC says it will work aggressively with their state chairmen to help us set up sites know [sic] that the convention is over.

(Ex. 114, PFF 7613). She made no effort to contact any Democratic groups. (7/3/96 Rogers Tr. 78).

In notes provided by Mr. Mescon from a meeting he attended on the course, he lists a number of groups that would be targeted for mailings on the course. They include mostly elected or party officials and the notation ends with the words ''25,000/total Republican mailing.'' (Ex. 115, Mescon 0263). According to Mr. Mescon, the course was being marketed to Republicans as a target audience and he knew of no comparable mailing to Democrats. (6/13/96 Mescon Tr. 112–113).[55]

In an August 11, 1993, memorandum from Mr. DuGally, a WPG employee who worked on the course, he lists the entities where mailings for the course had been sent or were intended to be sent up to that point. They are as follows:

1. GOPAC farm team—9,000
2. Cong/FONG/Whip offices—4,000
3. Sent to site hosts—5,500
4. College Republicans—2,000
5. American Pol Sci Assoc.—11,000
6. Christian Coalition leadership—3,000
7. *The Right Guide* list—3,000

(Ex. 116, PFF 19794). In June of 1994, John McDowell wrote to Jeff Eisenach with his suggestions about where to market the course during that summer. The groups he listed were the Eagle Forum Collegians; the National Review Institute's Conservative Summit; Accuracy in Academia; Young Republicans Leadership Conference (Mr. McDowell was on their Executive Board); Young America's Foundation, National Conservative Student Conference; College Republican National Conference; the American

[52] According to Mr. Gingrich, the NAS (National Association of Scholars) is a conservative organization. (7/18/96 Gingrich Tr. 345–346).

[53] Mr. DuGally said that he made an effort to contact the Young Democrats, but they did not show any interest. (7/19/96 DuGally Tr. 31–32).

[54] Mr. Gingrich was shown this letter and he said that while he was not familiar with it, nothing in it was particularly new. (7/17/96 Gingrich Tr. 87). Jeff Eisenach, GOPAC's Executive Director and then the coordinator of the course, either wrote the letter or edited it from a draft written by another GOPAC employee. (7/12/96 Eisenach Tr. 200–201).

[55] Others who worked on the course also said it was marketed to Republican and conservative groups. (7/3/96 Rogers Tr. 62–63; 6/13/96 Stechschulte Tr. 21–22, 57–58; 6/13/96 Desmond Tr. 66).

Political Science Association Annual Meeting;[56] and the Christian Coalition, Road to Victory. (Ex. 117, PFF 3486–3489). At a number of these meetings, Mr. Gingrich was scheduled to be a speaker. (Ex. 117, PFF 3486–3489).

A site host listing dated August 18, 1994, identifies the approximately 100 site hosts as of that date. (Ex. 118, PFF 7493–7496). These include businesses, community groups, cable stations, and others. In addition, some colleges offered the course either for credit, partial credit or no credit. (Ex. 119, Reinhardt 0160–0164). Based on their names, it was not possible to determine whether all of the site hosts fell within the goals set forth in the above-described documents. Some of them, however, were identifiable. For example, of the 28 ''community groups'' listed on the August 18, 1994 ''Site Host Listing,'' 11 are organizations whose names indicate they are Republican or conservative organizations—Arizona Republican Party; Athens Christian Coalition; Conservative PAC; Henry County Republicans; Houston Young Republicans; Huron County Republican Party; Las Rancheras Republican Women; Louisiana Republican Legislative Delegation; Northern Illinois Conservative Council; Republican Party Headquarters (in Frankfort Kentucky); Suffolk Republican Party. The list does not indicate whether the remaining groups—e.g., the Alabama Family Alliance; the Family Foundation (Kentucky); Leadership North Fulton (Georgia); the North Georgia Forum; Northeast Georgia Forum; the River of Life Family Church (Georgia)—are nonpartisan, Democratic, Republican, liberal or conservative. The list does not contain any organizations explicitly denominated as Democratic organizations. Similarly, it is not clear whether there was a particular political or ideological predominance in the businesses, cable stations and individuals listed.[57]

Mr. Gingrich said that the efforts to recruit colleges to hold the course had been ''very broad.'' ''I talked, for example, with the dean of the government school at Harvard. Berkley [sic] actually was offering the course.'' (7/18/96 Gingrich Tr. 346). The course at Berkeley, however, did not go through the regular faculty review process for new courses, because it was initiated by a student. (7/12/96 Eisenach Tr. 316–317). Such courses were not conducted by a professor, but could be offered on campus for credit if a faculty member sponsored the course and the Dean approved it. The student site host coordinator at Berkeley was named Greg Sikorski. (Ex. 121, JR–0000117). In the June 20, 1994 memorandum from John McDowell to Mr. Eisenach, the following is written under the heading ''College Republican National Conference:'' ''RAC Atlanta representative to attend and staff a vendor booth. These 1,000 college students represent a good source of future 'Greg Sikorskis' * * * in the sense that they can promote RAC on their campus!'' (Ex. 117, PFF 3488). The faculty sponsor for the student-initiated Renewing American Civilization course was William Muir, a former speechwriter for George Bush. (Ex. 121, JR–0000117). Aside from Mr. Sikorski and Mr. Muir, Mr. Eisenach did not know if the RAC course at Berkeley had any additional university review. (7/12/96 Eisenach Tr. 319).

The site host for the Renewing American Civilization course at Harvard was Marty Connors. (Ex. 122, LIP 00232). According to Mr. Gingrich, Marty Connors is a conservative activist. (7/18/96 Gingrich Tr. 266). In a memorandum dated October 13, 1993, from Marty Connors to Lamar Alexander, Newt Gingrich, Ed Rogers, Jeff Eisenach, Paul Weyrich, Mike Baroody, and Bill Harris, he wrote about a ''series of ideas (that included the Renewing American Civilization course) that could have significant consequences in building a new 'Interactive' communication system and message for the Republican Party and the conservative movement.'' (Ex. 123, WGC 06781). He goes on to write that he was working on a project to take the concept of the Republican Exchange Satellite Television, National Empowerment Television and ''Newt Gingrich's 'Renewing American Civilization' lectures and make them ''more interactive and user friendly.'' (Ex. 123, WGC 06781). The purpose for this is to have a ''far greater ability for 'participatory' party building in the immediate future.'' (Ex. 123, WGC 06781–06782). He goes on to write, ''Friends, I truly believe the next major political advantage will go to the group that figures out how to use 'interactive' communications in building a new Republican coalition.'' (Ex. 123, WGC 06782).[58]

G. Kennesaw State College's Role in the Course

Renewing American Civilization was taught at Kennesaw State College (''KSC'') in 1993. The sponsoring organization for the course was the Kennesaw State College Foundation (''KSCF''), a 501(c)(3) organization dedicated to promoting projects at KSC. The approximate expenditures for the course at KSC was $300,000. This represented 29–33% of KSCF's program expenditures for 1993. The funds raised for the course and donated to KSCF were tax-deductible.

KSCF had no role in raising funds for the course. (6/13/96 Fleming Tr. 33–36). Mr. Mescon, the course's co-teacher and Dean of KSC's Business School, wrote some letters with the help of Ms. Prochnow, GOPAC's Finance Director (6/13/96 Mescon Tr. 65–68, 71–74; 7/10/96 Prochnow Tr. 58–62, 66; 7/12/96 Eisenach Tr. 69), but most of the fundraising was coordinated by Mr. Eisenach, Ms. Prochnow, and Mr. Gingrich. (7/12/96 Eisenach Tr. 68–71, 84, 97, 99; 7/17/96 Gingrich Tr. 123, 136, 137).

The course as offered at KSC was a forty-hour classroom lecture. Twenty hours were taught by Mr. Gingrich and twenty hours were taught by Mr. Mescon. While officials of KSC and KSCF considered the course to include the full forty hours of lecture (6/13/96 Mescon Tr. 38; 6/13/96 Fleming Tr. 23), only the twenty hours taught by Mr. Gingrich were taped and disseminated. (6/13/96 Siegel Tr. 25–26; 6/13/96 Mescon Tr. 35; 6/13/96 Fleming Tr. 23). The funds raised for the course were primarily used for the dissemination of Mr. Gingrich's portion of the course to the various site host locations. (6/13/96 Fleming Tr. 22, 24; 6/13/96 Mescon Tr. 55–56). No one at KSC or KSCF had any role in deciding which portions of the course would be taped and disseminated or even knew the reasons for doing it. (6/13/96 Mescon Tr. 36, 44–45, 58–59; 6/13/96 Fleming Tr. 23; 6/13/96 Siegel Tr. 78–79).

KSCF did not manage the course. It contracted with Mr. Eisenach's Washington Policy Group, Inc. (''WPG'') to manage and raise funds for the course's development, production and distribution. In return, WPG was paid $8,750 per month.

The contract between WPG and KSCF ran from June 1, 1993, through September 30, 1993.[59] All funds raised were turned over to KSCF and dedicated exclusively for the use of the Renewing American Civilization course. KSCF's only role was to act as the banker for the funds for the course and disburse them upon a request from Mr. Mescon. (6/13/96 Fleming Tr. 24–25; 6/13/96 Mescon Tr. 103; Ex. 124, KSF 001269, Mescon 0454, KSF 003804, PFF 16934, KSF 001246). Mr. Mescon did not engage in a detailed review of the bills. He merely reviewed the bills that were provided by Mr. Eisenach or his staff and determined whether the general nature of the bills fell within the parameters of the project of dissemination of the course. (6/13/96 Mescon Tr. 61–63).

When the contract between WPG and KSCF ended, the Progress and Freedom Foundation (''PFF'') assumed the role WPG had with the course at the same rate of compensation.[60] PFF was also a 501(c)(3) tax exempt organization, but its status as such was not used while the course was at KSC. Mr. Eisenach was the founder and president of PFF.

KSCF and KSC had little or no role in supervising the course or its dissemination. Since the course was a ''Special Topics'' course, it did not need to go through formal approval by a curriculum committee at KSC—it only required Mr. Mescon's approval. (6/13/96 Siegel Tr. 15–16, 30, 32, 76–77). While Mr. Mescon was given advance copies of Mr. Gingrich's lectures, he had little input into their content. (6/28/96 Hanser Tr. 22; 6/13/96 Desmond Tr. 63). Mr. Mescon described his role more in terms of having his own 20 hours to put forth any counterpoint or objection to any of the material in Mr. Gingrich's lectures. (6/13/96 Mescon Tr. 40–41).[61]

[56] This is the only meeting where there is not a suggestion to have a Renewing American Civilization or PFF employee attend personally. Instead, Mr. McDowell apparently only intended to find an attendee who would be willing to pass out Renewing American Civilization materials.

[57] Patti Hallstrom, an activist in the Arizona Republican Party, was instrumental in recruiting host sites in Arizona, such as the Arizona Republican Party and various cable television stations. (Ex. 120, PFF 7362). She prepared part of a training manual on how to recruit cable companies as host sites. (Ex. 120, DES 00999–01007). She also provided the Renewing American Civilization project with information about which radio and talk shows in Arizona were the most conservative as possible shows where Mr. Gingrich could appear. She said the more conservative shows would allow for a ''more amenable discussion.'' (Ex. 120, DES 00262–00264; 6/20/96 Hallstrom Tr. 41–43).

[58] This memorandum was faxed to Mr. Gingrich. The fax cover sheet has Mr. Gingrich's name and the date ''10/15/93'' on it in his handwriting. As Mr. Gingrich has said, this probably indicates that he had seen this memorandum. (12/98/96 Gingrich Tr. 36–37).

[59] The contract between WPG and KSCF was never signed by KSCF. It was directed to Dr. Mescon, but he was not an authorized agent of KSCF. According to Jeffery Eisenach, President of WPG, even though the contract was not signed, it memorialized the terms of the relationship between WPG and KSCF. (Ex. 41, Mescon 0651–0652; 7/12/96 Eisenach Tr. 42; 11/14/96 Eisenach Tr. 11).

[60] Prior to assuming control of the course PFF was tasked with putting together the book of readings that were to be used for the course. This entailed Mr. Eisenach and Mr. Hanser editing the writings of others. Mr. Hanser was paid $5,000 or $10,000 for this work, but Mr. Eisenach was not separately compensated for his role in this. (7/12/96 Eisenach Tr. 68). Mr. Eisenach was president of PFF, WPG, former Executive Director of GOPAC, and advisor to Mr. Gingrich. Mr. Hanser was a close friend, confidant, and at times a congressional employee of Mr. Gingrich. He was also a board member and consultant to GOPAC and a board member and consultant to the Progress and Freedom Foundation. (6/28/96 Hanser Tr. 6–10, 14). He had a substantial role in developing the course. (6/28/96 Hanser Tr. 19–20).

[61] The December 8, 1994 letter from Mr. Gingrich to the Committee states that, ''Respected scholars such as James Q. Wilson, Everett Carl Ladd, and Larry Sabato continue to contribute to and review course content.'' (Ex. 138, p. 3). The same reference to Mr. Wilson's and Mr. Sabato's review of the course is contained in a September 3, 1993 memorandum sent out over Jana Rogers' name to site hosts. (Ex. 125, PFF 22963). However, in a letter from James Q. Wilson to Mr. Eisenach dated September 28, 1993, Mr. Wilson wrote:

Perhaps I don't understand the purpose of the course, but if it is to be a course rather [than] a series of sermons, this chapter won't do. It is bland, vague, hortatory, and lacking in substance. (emphasis in original)

Continued

Shortly after PFF took over the management of the course, the Georgia Board of Regents passed a resolution prohibiting any elected official from teaching at a Georgia state educational institution. This was the culmination of a controversy that had arisen around the course at KSC. The controversy pertained to objections voiced by KSC faculty to the course on the grounds that it was essentially political. (Ex. 127, KSC 3550–3551, 3541, 3460, 3462). Because of the Board of Regent's decision and the controversy, it was decided that the course would be moved to a private college. (7/12/96 Eisenach Tr. 47–50).[62]

H. Reinhardt College's Role in the Course

Reinhardt College was chosen as the new host for the course in part because of its television production facilities. (6/12/96 Falany Tr. 14). The 1994 and 1995 courses took place at Reinhardt. While there, PFF assumed full responsibility for the course. It no longer received payments to run the course. Rather, it paid Reinhardt to use the college's video production facilities. All funds for the course were raised by and expended by PFF under its tax-exempt status. The approximate expenditures for the course were $450,000 in 1994 and in $450,000 in 1995. At PFF this represented 63% of its program expenditures for its first fiscal year (which ended March 31, 1994) and 35% of its program expenditures for its second fiscal year (which ended March 31, 1995).[63]

Reinhardt had a curriculum committee review the content of the course before deciding to have it presented on its campus. (6/12/96 Falany Tr. 15–16). The controversy over the course at KSC, however, affected the level of involvement Reinhardt was willing to assume in regard to the course. (6/12/96 Falany Tr. 44–48, 51–53, 59–66; 6/12/96 Minnix Tr. 26–27). In this regard, Reinhardt's administration saw a distinction between the ''course'' and a broader political ''project.'' As stated in a memorandum from Mr. Falany, Reinhardt's President, to Mr. Eisenach dated November 11, 1993:

First, there seems to be a ''project'', which is Renewing American Civilization, of which the ''course'' is a part. This distinction is blurred at times in the Project Overview. When you refer to the ''project'' it seems to imply a broader political objective (a non-welfare state). This is not to say that this political objective should be perceived as being negative, but it should, in fact, be seen as broader than and distinct from the simpler objective of the ''course.''

* * *

I could go on, but I dare not for fear I have misunderstood what this enterprise is all about. I am a professor, and so I bring the perspectives (and limitations) of a professor to bear on this matter. If this is not to be a course but instead a sermon, then you should get a preacher to comment on it.

(Ex. 126, PFF 5994–5995). Also, in a book co-written by Larry Sabato, the following statements are made:

In late 1992 and early 1993, Gingrich began conceiving a new way to advance those political goals—a nationally broadcast college course, ambitiously titled ''Renewing American Civilization,'' in which he would inculcate students with his Republican values. (p. 94).

* * *

Nominally an educational enterprise, internal course planning documents revealed the true nature of the course as a partisan organizing tool. (p. 95).

Sabato, L. and Simpson, G., ''Dirty Little Secrets: The Persistence of Corruption in American Politics,'' Times Books (1996).

[62] Near the end of his interview, Mr. Mescon expressed embarrassment in regard to his participation in the course. He became involved in the course in order to raise the profile of the school, but now believes that his efforts have had severe repercussions. (6/13/96 Mescon Tr. 136–137).

[63] As of November 1996, PFF's tax return (Form 990) for its third fiscal year (which ended March 31, 1996) had not been filed.

(Ex. 128, Reinhardt 0225).[64] Because of this concern, Reinhardt administrators agreed to be involved only in the actual teaching of the course on its campus and would not participate in any other aspects of the project. (6/12/96 Falany Tr. 51–53, 59–66; 6/12/96 Minnix Tr. 26–27).[65] In this regard, Mr. Falany made it clear to the faculty and staff at the college that:

It is important to understand that, for the Winter Quarter 1994, the College will offer the course and teach it—that is the extent of our commitment. At the present time, the Progress and Freedom Foundation will handle all of the fund raising associated with the course; the distribution of tapes, text and materials; the broadcasting; and the handling of all information including the coordination of off-campus sites.

(Ex. 129, Reinhardt 0265).[66]

As was the case at KSC, Reinhardt administrators considered the course to be the forty hours of lecture by both Mr. Gingrich and Ms. Minnix. (6/12/96 Falany Tr. 74–76). Again, only Mr. Gingrich's portion of the course was disseminated outside of Reinhardt. (6/12/96 Falany Tr. 53–54; 6/12/96 Minnix Tr. 48–49). Ms. Minnix had little contact with Mr. Gingrich, and no input into the content of the course in 1994. In 1995 she had only limited input into the content of the course. (6/12/96 Minnix Tr. 20–22). Similarly, Mr. Gingrich and his associates provided no input as to Ms. Minnix's portion of the course. (6/12/96 Minnix Tr. 31–32).

While Mr. Falany did not know the purpose for disseminating the course, and made no inquiries in that regard (6/12/96 Falany Tr. 48–50; 54–66; 84–85), Ms. Minnix did have some knowledge in this area. Based on her contacts with the people associated with the course, she believed Mr. Gingrich had a global vision of getting American civilization back ''on track'' and that he wanted to shape the public perception through the course. (6/12/96 Minnix Tr. 59–60). She felt there was an ''evangelical side'' to the course, which she described as an effort to have people get involved in politics, run for office, and try to influence legislation. (6/12/96 Minnix Tr. 70–71). Ms. Minnix felt uncomfortable with this ''evangelical side.'' (6/12/96 Minnix Tr. 70). Furthermore, as reflected in her memorandum of the November 1, 1994 meeting with Mr. Gingrich and others, she was aware that the course was to be used to let people know what Mr. Gingrich's political agenda would be as Speaker. (6/12/96 Minnix Tr. 53–59; Ex. 92, Reinhardt 0064). As with KSC, one of the reasons Reinhardt administrators wanted to have the course taught on its campus was to raise profile of the school. (6/12/96 Falany Tr. 112–113).

I. End of Renewing American Civilization Course

Although Mr. Gingrich had intended to teach the course for four years, through the 1996 Winter quarter, he stopped teaching it after the 1995 Winter quarter. According to most of the witnesses interviewed on this subject, the reason for this was that he had run out of time in light of the fact that he had become Speaker. (7/12/96 Eisenach Tr. 280; 6/28/96 Hanser Tr. 52–53). On the other hand, Mr. Gingrich says that he had learned all he could from teaching the course and had nothing new to say on the topics. (7/18/96 Gingrich Tr. 364). Mr. Gingrich refused to support the efforts of PFF in regard to the course at that point, largely because he was disappointed with Mr. Eisenach's financial management of the course. (7/18/96 Gingrich Tr. 365–366). Mr. Eisenach had indicated to Mr. Gingrich that the course was $250,000 in debt and that PFF had used its own resources to cover this shortfall. (Ex. 130, GDC 11325). Mr. Gingrich was skeptical of this claim, offered to have the records reviewed, and stated that he would help raise any amount that the review disclosed was needed. According to Mr. Gingrich, this offer was not pursued by Mr. Eisenach. (7/18/96 Gingrich Tr. 367–368).

IV. ETHICS COMMITTEE APPROVAL OF COURSE

On May 12, 1993, Mr. Gingrich wrote the Committee asking for ''guidance on the development of an intellectual approach to new legislation that will be different from our normal activities.'' (Ex. 131, p. 1). He said that he wanted ''to make sure that [his] activities remain within a framework that meets the legitimate ethics concerns of the House.'' (Ex. 131, p. 1). He went on to describe a course he was planning to teach in the fall of 1993 at Kennesaw State College.

The course would be based on his January 25, 1993 Special Order entitled ''Renewing American Civilization.'' (Ex. 131, p. 2). It would be ''completely non-partisan'' and, he hoped, would include ideas from many people, including politicians from both parties and academics. (Ex. 131, p. 2). He stated that he believed the development of ideas in the course was a ''crucial part'' of his job as a legislator. (Ex. 131, p. 3). He ended his letter with a request to the Committee to meet to discuss the project if the Committee had any concerns. (Ex. 131, p. 3).

In June 1993, counsel for the Committee, David McCarthy, met with Mr. Gingrich, two people from his staff (Annette Thompson Meeks and Linda Nave) and Mr. Eisenach to discuss the course. (7/18/96 McCarthy Tr. 7; 7/10/96 Meeks Tr. 13). Mr. McCarthy's initial concern was whether Mr. Gingrich could qualify for a teaching waiver under the House ethics rules. (7/18/96 McCarthy Tr. 16). When he learned Mr. Gingrich was teaching without compensation, the issue of a teaching waiver became, in his opinion, irrelevant. (7/18/96 McCarthy Tr. 16). Mr. McCarthy then asked questions regarding whether any official resources would be used to support the course and whether Mr. Gingrich planned to use any unofficial resources to subsidize his official business. Mr. McCarthy did not see any problems pertaining to these issues. Mr. Gingrich indicated that he might repeat the lectures from the course as Special Orders on the floor of the House. Mr. McCarthy suggested that Mr. Gingrich consult with the House Parliamentarian on that subject. (Ex. 132, p. 1).

One issue raised with Mr. McCarthy was whether the House Ethics Rules permitted Mr. Gingrich to raise funds for a tax-exempt organization. Mr. McCarthy's conclusion was that since KSCF was a qualified tax-exempt organization, Mr. Gingrich could raise funds for KSCF as long as he complied with the relevant House rules on the subject. (7/18/96 McCarthy Tr. 17). Mr. Eisenach raised the issue concerning the propriety of his being involved in fundraising for the course in light of the fact that he also worked for GOPAC. According to Mr. McCarthy, his response to the issue was as follows:

[T]o my knowledge of tax law, the issue of whether the contributions in support of the course would keep their tax-deductible status would turn not on who did the fundraising but on how the funds were spent, and

[64] Reinhardt saw the ''project'' as essentially dealing with the dissemination of the course outside of Reinhardt's campus. (6/12/96 Falany Tr. 48–50, 54–66, 84–85).

[65] All of the funds for the course while at Reinhardt were raised by PFF under its tax exempt status.

[66] Reinhardt College did rent its television production facilities to PFF for its use in the dissemination in the course, and was paid separately for this in the amount of $40,000. All production beyond that was handled by PFF. (6/12/96 Falany Tr. 27–28).

that the educational nature of the course spoke for itself. I told him that I was aware of no law or IRS regulation that would prevent Eisenach from raising charitable contributions, even at the same time that he was raising political contributions. In any event, I advised him, I expected the Committee to stick by its advisory opinion in the Ethics Manual and not get into second-guessing the IRS on its determinations of tax-exempt status.

(Ex. 132, p. 2). Mr. McCarthy said in an interview that his statement regarding the Committee's ''stick[ing]'' by its advisory opinion pertained only to whether Mr. Gingrich could raise funds for the course. (7/18/96 McCarthy Tr. 19). The discussion did not relate to any other 501(c)(3) issues. (7/18/96 McCarthy Tr. 19). While Mr. McCarthy was aware that the course lectures would be taped and broadcast (7/18/96 McCarthy Tr. 16), neither Mr. Gingrich nor his staff asked for Mr. McCarthy's advice regarding what activities in that regard were permissible under 501(c)(3) and Mr. McCarthy did not discuss such issues. (7/18/96 McCarthy Tr. 19; 7/18/96 Gingrich Tr. 375–376; 7/10/96 Meeks Tr. 15). Mr. McCarthy did not recall any discussion regarding a Renewing American Civilization movement. (7/18/96 McCarthy Tr. 16). Mr. McCarthy did not recall any discussion of GOPAC's use of the Renewing American Civilization message. (7/18/96 McCarthy Tr. 12–13). The discussion pertaining to Mr. Eisenach and GOPAC was brief. (Ex. 132, p. 2).

During the meeting with Mr. McCarthy, there were no questions posed about 501(c)(3) or what could be done in regard to the course, aside from the fund-raising issue under 501(c)(3). (7/18/96 Gingrich Tr. 375–376). Mr. Gingrich did not believe that it was necessary to explain to Mr. McCarthy his intended use for the course.

Mr. Cole: We are focusing, however, on your intended use of the course. And your intended use of the course here was in a partisan political fashion; is that correct?

Mr. Gingrich: My intended use was, but I am not sure I had any obligation to explain that to the [C]ommittee. As long as the course itself was nonpartisan and the course itself was legal and the course itself met both accreditation and tax status, I don't believe I had an obligation to tell the Ethics Committee what my political strategies were. I think that's a retrospective comment. And maybe I am wrong.

I don't think—the questions were: Was it legal? Did I use official funds? Had we gotten approval? Was GOPAC's involvement legitimate and legal? Was it an accredited course? Was I getting paid for it?

I mean, none of those questions require that I explain a grand strategy, which would have seemed crazy in '94. If I had wandered around and said to people, hi, we are going to win control, reshape things, end the welfare entitlement, form a grand alliance with Bill Clinton, who is also going to join us in renewing America, how would I have written that?

(11/13/96 Gingrich Tr. 89–90). On July 21, 1993, Mr. Gingrich wrote the Committee to provide additional information about the course he planned to teach at KSC. The letter did not discuss how the course was to be funded or that there was a plan to distribute the course nationally via satellite, videotape, audiotape and cable, or that GOPAC's main theme was to be ''Renewing American Civilization.'' The letter also did not discuss GOPAC's role in the course. (Ex. 133).[67]

On August 3, 1993, the Committee, in a letter signed by Mr. McDermott and Mr. Grandy, responded to Mr. Gingrich's letters of May 12, 1993 and July 21, 1993, regarding his request to the teach the course and his request to present the course materials in Special Orders. (Ex. 134, p. 1). The Committee's letter also notes that Mr. Gingrich had asked if he could help KSC raise funds for the course. The Committee's guidance was as follows:

1. Since Mr. Gingrich was teaching the course without compensation, he did not need the Committee's approval to do so;

2. It was within Mr. Gingrich's ''official prerogative'' to present the course materials in Special Orders;

3. Mr. Gingrich was permitted to raise funds for the course on behalf of charitable organizations, ''provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results.''

(Ex. 134, p. 1). The Committee, however, advised Mr. Gingrich to consult with the FEC regarding whether election laws and regulations might pertain to his fundraising efforts. The Committee's letter to Mr. Gingrich did not discuss any matters relating to the implications of 501(c)(3) on the teaching or dissemination of the course or GOPAC's relationship to the course. (Ex. 134, p. 1).

V. LEGAL ADVICE SOUGHT AND RECEIVED

As described in greater detail in the Appendix, section 501(c)(3) requires, among other things, that an organization be organized and operated exclusively for one or more exempt purposes. Treas. Reg. 1.501(c)(3)–1(d)(1)(ii) provides that an organization does not meet this requirement: Unless it serves a public rather than a private purpose. It is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, or persons controlled, directly or indirectly, by such private interests.

The purpose of the ''private benefit'' prohibition is to ensure that the public subsidies flowing from section 501(c)(3) status, including income tax exemption and the ability to receive tax-deductible charitable contributions, are reserved for organizations that are formed to serve public, not private interests. Treas. Reg. 1.501(c)(3)–1(c)(1) defines the application of the private benefit prohibition in the context of the operational test: An organization will be regarded as ''operated exclusively'' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Although cases on the private benefit doctrine date back to 1945,[68] a more recent, significant case on the subject is the 1989 Tax Court opinion in *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053 (1989). That case discusses the doctrine in terms of conferring an impermissible private benefit on Republican candidates and entities.

Prior to his involvement in both AOW/ACTV and the Renewing American Civilization course, Mr. Gingrich was aware of the tax controversy pertaining to the American Campaign Academy (''ACA'' or ''Academy''). In his interview with Mr. Cole he said, ''I was aware of [ACA] because * * * the staff director of the [ACA] had been totally involved. I was aware of his briefings and what was involved. * * * I was aware of them at the time and I was aware of them during the court case.'' (7/18/96 Gingrich Tr. 375–376). ''I lived through that case. I mean, I was very well aware of what the [American Campaign Academy] did and what the ruling was.'' (11/13/96 Gingrich Tr. 61).[69]

Responding to the question of whether he had any involvement with the Academy, Mr. Gingrich said: ''I think I actually taught that [sic], but that's the only direct involvement I had.'' (12/9/96 Gingrich Tr. 58). In an undated document on GOPAC stationery entitled ''Offices of Congressman Newt Gingrich,'' three offices are listed: GOPAC, FONG, and the American Campaign Academy. (Ex. 143, Kohler 285). Mr. Gingrich did not believe that he had an office at the Academy, but thought it possible that his press secretary, Rich Galen, had an office there. (12/9/96 Gingrich Tr. 58–59).

In speaking about the Renewing American Civilization course, Mr. Gingrich told the *New York Times* that he acted very aggressively in regard to 501(c)(3) law:

''Whoa,'' [Mr. Gingrich] said, when asked after class one recent Saturday if the course nears the edge of what the law allows. ''Goes right up to the edge. What's the beef? Doesn't go over the edge, doesn't break any law, isn't wrong. It's aggressive, it's entrepreneurial, it's risk taking.''

New York Times, section A, page 12, column 1 (Feb. 20, 1995). (Ex. 144). In addition, Mr. Gingrich has had involvement with a number of tax-exempt organizations. As Mr. Gingrich's tax lawyer stated, politics and 501(c)(3) organizations are an ''explosive mix.'' (12/12/96 Holden Tr. 132–134, 146).

Despite all of this, he did not seek specific legal advice concerning the application of section 501(c)(3) with respect to AOW/ACTV or the Renewing American Civilization course. Furthermore, he did not know if any one did so on his behalf. With respect to the course, the following exchange occurred:

Mr. Cole: Were you involved in seeking any legal advice concerning the operation of the course under 501(c)(3)?

Mr. Gingrich: No. We sought legal advice about ethics.

Mr. Cole: Did you seek any legal advice concerning the 501(c)(3) issues involving the course?

Mr. Gingrich: No. I did not.

Mr. Cole: Do you know if anybody did on your behalf?

Mr. Gingrich: No.

(7/17/96 Gingrich Tr. 140). With respect to AOW/ACTV, Mr. Gingrich said that he did not get any legal advice regarding the projects. (12/9/96 Gingrich Tr. 54). He said that he assumed Mr. Callaway sought such legal advice. (12/9/96 Gingrich Tr. 54).

Mr. Gingrich said two attorneys involved with GOPAC at the time, Jim Tilton and Dan Swillinger, monitored all GOPAC activities and would have told him if the projects violated the law. (12/9/96 Gingrich Tr. 54–56).

[67] The information Mr. Gingrich provided to the Committee was that the Kennesaw State College Foundation, a 501(c)(3) organization affiliated with Kennesaw State College, was providing him with a ''Content Coordinator to coordinate the videotape inserts and other materials that will be used in the presentations.'' (Ex. 133, pp. 1–2). He also wrote that none of his staff would perform tasks associated with the course and that the course material would not be based on previous work of his staff. (Ex. 133, p. 1). Finally, he wrote that much of the material from the course would be presented in Special Orders, although the presentations would have some differences. (Ex. 133, p. 2).

[68] *Better Business Bureau of Washington, D.C.* v. *United States*, 326 U.S. 279 (1945).

[69] His adviser, Mr. Gaylord, was a director of the Academy. (12/9/96 Gingrich Tr. 57; *American Campaign Academy* v. *Commissioner*, 92 T.C. 1053, 1056 (1989)). As referred to above, Mr. Gaylord was one of the ''five key people'' Mr. Gingrich relied on most. (Ex. 3, GDC 11551, GDC 11553).

Mr. Callaway said neither Mr. Swillinger nor Mr. Tilton was ever told that one of the purposes of ACTV was to recruit people to the Republican party. (12/7/96 Callaway Tr. 41, 47).[70]

Mr. Gingrich explained to the Subcommittee in November 1996 that, in his opinion, there were no ''parallels'' between the American Campaign Academy and the Renewing American Civilization course. (11/13/96 Gingrich Tr. 61). After this explanation, Mr. Schiff and Mr. Gingrich had the following exchange:

Mr. Schiff: Did you go to a tax expert and say, here is what I have in mind; do you agree that there are no parallels and that there's no problem with the American Campaign Academy case in terms of what I am doing here? I am just asking if you did that?

Mr. Gingrich: The answer is, no. I just want to assert the reason I wouldn't have done it is as a college teacher who had taught on a college campus I didn't think the two cases—I also didn't ask them if it related to spouse abuse. I mean, I didn't think the two cases had any relationship.

(11/13/96 Gingrich Tr. 61–62). During his testimony before the Subcommittee in December, Mr. Schiff raised similar questions with Mr. Gingrich.

Mr. Schiff: What strikes me is without trying to resolve that at this minute, the possibility is out there, the possibility that a violation of 501(c)(3) is very much in evidence to me. And it seems to me that is true all the way along. You did have the American Campaign Academy case of 1989, which you have indicated you were aware of. It's true the facts were different, but nevertheless something sprung up that told somebody there was a 501(c)(3) problem here if you get too close to political entities.

What I am getting at is this, and again to answer any way you wish, wasn't it, if not intentional, wasn't it reckless to proceed with your involvement as a Member of the House of Representatives into at least a couple of—involvements with the 501(c)(3) organizations, whether it was Progress & Freedom or Kennesaw State or Abraham Lincoln Opportunity Foundation, without getting advice from a tax attorney to whom you told everything? You said, this is the whole plan, this is the whole movement of Renewing American Civilization. * * *

Shouldn't that have been presented to somebody who is a tax attorney, and said, now, am I going to have any problems here? Is this okay under the 501(c)(3) laws?

(12/10/96 Gingrich Tr. 32–33). In response to Mr. Schiff's question, Mr. Gingrich explained why he thought there was no need to seek legal advice because the facts of *American Campaign Academy* and Renewing American Civilization were inapposite. (12/10/96 Gingrich Tr. 34–36).

Mr. Gingrich: The facts are the key. I was teaching at an accredited university; [ACA] was an institution being set up as basically a politically training center. My course was open to everybody; [ACA] was a Republican course. My course says nothing about campaigns; [ACA] was a course specifically about campaigns.

There are four standards * * * none of which apply to Renewing American Civilization. * * * Just at an objective level you are going to put these [ACA and RAC] up on a board and say that is not a relevant question.

(12/10/96 Gingrich Tr. 35). After Mr. Gingrich's explanation, Mr. Schiff said the following:

Mr. Schiff: I understand how you distinguish the facts between the American Campaign Academy case and your course. There are those that would argue that the legal holding applies equally to both. In other words, that which brings you to the legal conclusion of not complying with the 501(c)(3) laws, for various reasons that I'd rather not get into now—discuss with Mr. Holden, perhaps—that those are in common even if certain peripheral facts are different.

What I'm getting at is, excuse me for using your own words, but you're not a lawyer. Knowing that there was an attempt to set up a 501(c)(3) training and education academy which floundered in the courts because of something, wouldn't that motivate particularly a Member of the House to want to say, before you start into another one, maybe I ought to sit down with somebody who is a tax expert and tell them the whole plan here, not just course content, but where the course fits into all the strategies here and say, now, do you think I've got a problem? And I don't think you did that. If you did, tell me you did. * * *

(12/10/96 Gingrich Tr. 36–37). Mr. Gingrich's response was three-fold:

Mr. Gingrich: [First,] [i]f you read the speech I gave in January of 1993, which was the core document from which everything else comes, I talk very specifically about a movement in the speech. I talk very simply about 2 million, not 200,000, volunteers, citizen activists, in the speech. I describe it as a cultural movement that has a political component in the speech.

That's the core document I gave to everyone when I would say, here's what I want to try to teach about. Here is what I want to try to do. That document clearly says there is a movement, and this course is designed to outline the principles from which the movement comes. And so, if everybody who was engaged in looking at the course, whether it was Kennesaw Foundation's lawyers or it was Progress & Freedom's lawyers or it was Reinhardt's lawyers, and the president of the college in both cases, everybody had a chance to read the core document which has movement very specifically in it.

Second, the reason I didn't seek unique legal counsel is as a Ph.D. teaching in a State college in an accredited setting, it never occurred—I mean, if I had thought—this is another proof of my ignorance or proof of my innocence, I'll let you decide—it never occurred to me that this is an issue. * * *

[Third,] I think everybody who has actually seen my course will tell you * * * I was very careful. Ironically, Max Cleland, who won the Senate seat, is the only current politician used in the course other than John Lewis.

And so the course was clearly not Republican. It was clearly not designed to send a partisan message. No one I know of who has actually seen the course thinks that it was a partisan vehicle. It has no relationship to the American Campaign Academy.

(12/10/96 Gingrich Tr. 37–39). Officials at KSC and Reinhardt did not seek legal advice pertaining to the application of 501(c)(3) to the course. The only such advice ever sought was by KSCF in connection with the agreement to transfer the course to PFF in November 1993 and in asking its outside lawyers to render a legal opinion concerning the course in 1995. Citing the attorney/client privilege, KSCF officials have refused to disclose to the Subcommittee the advice KSCF received in both instances. (6/13/96 Mescon Tr. 60; 6/13/96 Siegel Tr. 36–37; 6/12/96 Falany Tr. 50–51; 6/13/96 Fleming Tr. 46–48).

In his July 1996 interview, Mr. Eisenach said that he did not seek legal advice pertaining to the application of 501(c)(3) to the course. (7/12/96 Eisenach Tr. 236). In his November 1996 interview, Mr. Eisenach said that he had worked with many attorneys who had experience in 501(c)(3) law. (11/14/96 Eisenach Tr. 84–88). But he was not able to point to any specific consultation with a tax attorney where the entire relationship between the course, the movement, and political goals were fully set forth and found to be within the bounds of 501(c)(3). (11/14/96 Eisenach Tr. 88–91).

VI. Summary of the Report of the Subcommittee's Expert

A. Introduction

Because of differences of opinion among the Members of the Subcommittee regarding the tax issues raised in the Preliminary Inquiry, the Subcommittee determined that it would be helpful to obtain the views of a recognized expert in tax-exempt organizations law, particularly with respect to the ''private benefit'' prohibition. The expert, Celia Roady, reviewed Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval. She also reviewed Mr. Gingrich's activities on behalf of KSCF, PFF, and Reinhardt College in regard to the Renewing American Civilization course and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval. The purpose of this review was to determine whether those activities violated the status of any of these organizations under section 501(c)(3) of the Internal Revenue Code.

B. Qualifications of the Subcommittee's Expert

Ms. Roady is a partner in the Washington, D.C. office of the law firm Morgan, Lewis & Bockius LLP where she specializes full-time in the representation of tax-exempt organizations. Her practice involves the provision of advice on all aspects of section 501(c)(3). Ms. Roady has written many articles on tax-exempt organization issues for publication in legal periodicals such as the ''Journal of Taxation of Exempt Organizations'' and the ''Exempt Organization Tax Review.'' She is a frequent speaker on exempt organizations topics, regularly lecturing at national tax conferences such as the ALI/ABA conference on charitable organizations and the Georgetown University Law Center conference on tax-exempt organizations, as well as at local tax conferences and seminars on tax-exempt organization issues. In 1996, she was named the Program Chair of the Georgetown University Law Center's annual conference on

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[70] A document dated November 13, 1990, entitled *Campaign For A Successful America,* was reviewed by the Subcommittee. (Ex. 145, Eisenach 3086–3142). In a section drafted by Gordon Strauss, an attorney in Ohio, for a consulting group called the Eddie Mahe Company, the following is written:

[S]ome educational organizations, tax exempt under Section 501(c)(3) of the Internal Revenue Code, have engaged in activities which affect the outcome of elections, though that is theoretically not supposed to occur.

(Ex. 145, Eisenach 3132). The document also contains the following:

A very controversial program is being undertaken by a (c)(3), indicating that it may have involvement in the electorial process, notwithstanding the express prohibition on it. At this time, a (c)(3) is not recommended because it would have to be truly independent of the (c)(4) and its PAC.

(Ex. 145, Eisenach 3134).

There was substantial inquiry about this document during the Preliminary Inquiry. No evidence was uncovered to indicate that Mr. Gingrich had any exposure to this document. (12/5/96 Mahe Tr. 34–35; 12/9/96 Gingrich Tr. 52–54; 12/5/96 Eisenach Tr. 59–61). Mr. Strauss was interviewed and stated that the document had nothing to do with AOW/ACTV, the 501(c)(3) organization referred to in the document was merely one he had heard of in an IRS Revenue Ruling, and that he never gave Mr. Gingrich any advice on the law pertaining section 501(c)(3) in regard to AOW/ACTV, the Renewing American Civilization course, or any other projects. The only legal advice he gave Mr. Gingrich pertained to need for care in the use of official resources for travel expenses.

tax-exempt organizations. (11/15/96 Roady Tr. 2–7).

Ms. Roady is the immediate past Chair of the Exempt Organizations Committee of the Section of Taxation of the American Bar Association, having served as Chair from 1993 to 1995. She is currently serving a three-year term as a member of the Council of the ABA Section of Taxation, and is the Council Director for the Section's Exempt Organizations Committee. She also serves on the Legal Section Council of the American Society of Association Executives, and is a Fellow of the American College of Tax Counsel. (11/15/96 Roady Tr. 2–7).

Ms. Roady served a three-year term as the Co-Chair of the Exempt Organizations Committee of the District of Columbia Bar's Tax Section from 1989 to 1991. She also served on the Steering Committee of the D.C. Bar's Tax Section from 1989 to 1995, and as Co-Chair of the Steering Committee from 1991 to 1993. (11/15/96 Roady Tr. 2–7).

Each of the attorneys interviewed for the position of expert for the Subcommittee highly recommended Ms. Roady. She was described as being impartial and one of the leading people in the field of exempt organizations law. (11/15/96 Roady Tr. 2).[71]

Ms. Roady is a 1973 magna cum laude graduate of Duke University. She received her law degree from Duke Law School, with distinction, in 1976. She received a masters degree in taxation from the Georgetown University Law Center in 1979.

C. Summary of the Expert's Conclusions

Ms. Roady considered the following issues in her review:

1. whether the content of the television programs broadcast by ALOF or the Renewing American Civilization course were ''educational'' within the meaning of section 501(c)(3);

2. whether one of the purposes of the activities with respect to the television programs or the course was to provide more than an incidental benefit to GOPAC, Mr. Gingrich, or other Republican entities and candidates in violation of the private benefit prohibition in section 501(c)(3);

3. whether the activities with respect to the television programs or the course provided support to GOPAC or a candidate for public office in violation of the campaign intervention prohibition in section 501(c)(3);

4. whether the activities with respect to the television programs or the course violated the private inurement prohibition in section 501(c)(3); and

5. whether the activities with respect to the television programs or the course violated the lobbying limitations applicable to section 501(c)(3) organizations.

(11/15/96 Roady Tr. 7).[72]

With respect to the last two issues, Ms. Roady did not conclude that the activities with respect to the television programs or the course resulted in impermissible private inurement or violated the lobbying limitations applicable to section 501(c)(3) organizations. Similarly, with respect to the first issue, Ms. Roady concluded that the television programs and the course met the requirements of the methodology test described in Rev. Proc. 86–43 and were ''educational'' within the meaning of section 501(c)(3) even though they advocated particular viewpoints and positions. Accordingly, Ms. Roady concluded that the activities with respect to the television programs and the course served an educational purpose and would be appropriate activities for section 501(c)(3) organizations, as long as there was no violation of the private benefit prohibition or the campaign intervention prohibition. She found substantial evidence, however, of violations of both such prohibitions and therefore concluded that Mr. Gingrich's activities on behalf of the organizations and the activities of others on behalf of the organizations with Mr. Gingrich's knowledge and approval violated the organizations' status under section 501(c)(3). (11/15/96 Roady Tr. 7). The basis for her conclusions may be summarized briefly as follows:

1. THE AMERICAN CITIZENS TELEVISION PROGRAM OF ALOF[73]

a. Private benefit prohibition

Under section 501(c)(3) and the other legal authorities discussed above, the analysis of whether there is a violation of the private benefit prohibition does not depend on whether the activities at issue—the television programs—served an exempt purpose. Even though the television programs met the definition of ''educational,'' there is a violation of section 501(c)(3) if another purpose of the activities was to provide more than an insubstantial or incidental benefit to GOPAC or any other private party. As the Supreme Court stated in *Better Business Bureau* v. *United States,* 326 U.S. 276, 283 (1945), ''the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.'' In making such a determination, the Tax Court has held that the proper focus is ''the purpose towards which an organization's activities are directed and not the nature of the activities themselves.'' American Campaign Academy, 92 T.C. at 1078–79. The determination as to whether there is a violation of the private benefit prohibition cannot, therefore, be made solely by reference to the content of the television programs or whether the activities in relation to the programs served an educational purpose. Rather, the determination requires a factual analysis to determine whether the organization's activities also had another, nonexempt purpose to provide more than an incidental benefit to a private party such as GOPAC or Republican entities and candidates. In this case, there is substantial evidence that these parties were intended to and did receive more than an incidental benefit from the activities conducted by ALOF.

In summary, according to Ms. Roady, the evidence shows that the ACTV project was a continuation of GOPAC's AOW project, and had the same partisan, political goals as AOW. These goals included, among other things, reaching ''new groups of voters not traditionally associated with [the Republican] party;'' ''mobiliz[ing] thousands of people across the nation at the grass roots level [to become] dedicated GOPAC activists;'' and ''making great strides in continuing to recruit activists all across America to become involved with the Republican party.'' The persons who conducted the ACTV project on behalf of ALOF were GOPAC officers, employees, or consultants. In essence, the transfer of the AOW project from GOPAC to ALOF was more in name than substance, since the same activities were conducted by the same persons in the same manner with the same goals. Through the use of ALOF, however, these persons were able to raise tax-deductible charitable contributions to support the ACTV project, funding that would not have been available to GOPAC on a tax-deductible basis.

Taken together, according to Ms. Roady, the facts as described above show that in addition to its educational purpose, another purpose of the ACTV project was to benefit GOPAC and, through it, Republican entities and candidates, by continuing to conduct the AOW project under a new name and through a section 501(c)(3) organization that could raise funding for the project through tax-deductible charitable contributions. This benefit was not merely incidental. To the contrary, the evidence supports a finding that one of the main purposes for transferring the project to ALOF was to make possible the continuation of activities that substantially benefited GOPAC and Republican entities and candidates.

For these reasons, Ms. Roady concluded that one of the purposes of Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval was to provide more than an incidental benefit to GOPAC and Republican entities and candidates in violation of the private benefit prohibition.

b. Campaign intervention prohibition

As with respect to the private benefit prohibition, the legal authorities discussed above make it clear, according to Ms. Roady, that the analysis of whether there is a violation of the campaign intervention prohibition does not turn on whether the television programs had a legitimate educational purpose. In the IRS CPE Manual, the IRS explained that ''activities that meet the [educational] methodology test * * * may nevertheless constitute participation or intervention in a political campaign.'' IRS CPE Manual at 415. See also New York Bar, 858 F.2d 876 (2d Cir. 1988); Rev. Proc. 86–43. Nor does the analysis turn on the fact that the television programs did not expressly urge viewers to ''support GOPAC,'' ''vote Republican,'' or ''vote for Mr. Gingrich.'' The IRS does not follow the express advocacy standard applied by the FEC, and it is not necessary to advocate the election or defeat of a clearly identified candidate to violate the campaign intervention prohibition. IRS CPE Manual at 413. The determination as to whether there is a violation of the campaign intervention prohibition requires an overall ''facts and circumstances'' analysis that cannot be made solely by reference to the content of the television programs.

The central issue is whether the television programs provided support to GOPAC. When Congress enacted section 527 in 1974, the legislative history explained that the provision was not intended to affect the prohibition against electioneering activity contained in section 501(c)(3). The IRS regulations under section 527 provide that section 501(c)(3) organizations are not permitted to establish or

[71] The one known public comment on the matter by Ms. Roady is found in the following paragraph from a New York Times article: ''Clearly, it's an aggressive position,'' said Celia Roady, a Washington lawyer and chairwoman of the American Bar Association's committee on tax-exempt organizations, who stressed that she was not talking for the association. ''Whether it's too aggressive and crosses the line, I don't know. Clearly, it's more aggressive than many exempt organizations would go forward with.''

New York Times, section A, page 12 (Feb. 20, 1995). (Ex. 144). In the same article, Mr. Gingrich is quoted as saying that he acted aggressively in regard to 501(c)(3) law: ''Whoa,'' [Mr. Gingrich] said, when asked after class one recent Saturday if the course nears the edge of what the law allows. ''Goes right up to the edge. What's the beef? Doesn't go over the edge, doesn't break any law, isn't wrong. It's aggressive, it's entrepreneurial, it's risk taking.''

New York Times, section A, page 12, column 1 (Feb. 20, 1995).

[72] A detailed discussion of the law pertaining to organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code is attached as an Appendix to this Report.

[73] After Ms. Roady met with the Subcommittee to discuss the tax-exempt organizations law and her conclusions regarding Renewing American Civilization, she met with the Special Counsel to discuss the ACTV project. Although she did not formally present her conclusions to the Subcommittee, the legal principles she explained during her meetings with the Subcommittee with respect to Renewing American Civilization were equally applicable to the facts surrounding the ACTV project and support her conclusions set forth in this section of the Report.

support a PAC. Treas. Reg. § 1.527–6(g). Under the applicable legal standards, there is a violation of the campaign intervention prohibition with respect to ALOF if the evidence shows that the ACTV project provided support to GOPAC, even though the television programs were educational and were not used as a means to expressly advocate the election or defeat of a particular candidate.

According to Ms. Roady, there is substantial evidence of such support in this case. As discussed above, the evidence shows that the ACTV project conducted by ALOF was a continuation of AOW, a partisan, political project undertaken by GOPAC. Mr. Gingrich himself described ACTV as a continuation of the AOW project. The activities conducted by ALOF with respect to the ACTV project were the same as the activities that had been conducted by GOPAC with respect to the AOW project. The persons who conducted the ACTV project on behalf of ALOF were GOPAC officers, employees, or consultants. Shifting the project to ALOF allowed the parties to raise some tax-deductible charitable contributions to conduct what amounted to the continuation of a GOPAC project for partisan, political purposes. For these reasons, Ms. Roady concluded that Mr. Gingrich's activities on behalf of ALOF and the activities of others on behalf of ALOF with Mr. Gingrich's knowledge and approval provided support to GOPAC in violation of the campaign intervention prohibition.

2. THE RENEWING AMERICAN CIVILIZATION COURSE

a. Private benefit prohibition

The determination of whether there is a violation of the private benefit prohibition does not depend on whether the teaching and dissemination of the course served an educational purpose, and cannot be made simply by analyzing the content of Mr. Gingrich's lectures. The course met the definition of ''educational'' under section 501(c)(3) and served an educational purpose. (11/15/96 Roady Tr. 7). Nevertheless, there is a violation of section 501(c)(3) if another purpose of the course was to provide more than an incidental private benefit. (11/15/96 Roady Tr. 17). Making this determination requires an analysis of the facts to find out whether Mr. Gingrich's activities on behalf of KSCF, PFF, and Reinhardt and the activities of others with his knowledge and approval had another nonexempt purpose to provide more than an incidental benefit to private parties such as Mr. Gingrich, GOPAC, and other Republican entities and candidates. In this case, there is substantial evidence that these parties were intended to and did receive more than an incidental benefit from the activities conducted with respect to the course. (11/15/96 Roady Tr. 78, 123, 124, 130, 131, 142–145, 173, 195).

In summary, according to Ms. Roady, the evidence shows that the course was developed by Mr. Gingrich in the context of a broader movement. (11/15/96 Roady Tr. 127–130, 134–135, 196). This movement was intended to have political consequences that would benefit Mr. Gingrich in his re-election efforts, GOPAC in its national political efforts, and Republican party entities and candidates in seeking to attain a Republican majority. The goals of the movement were expressed in various ways, and included arousing 200,000 activists interested in renewing American civilization by replacing the welfare state with an opportunity society and having the Republican party adopt the message of Renewing American Civilization so as to attract those activists to the party. It was intended that a Republican majority would be part of the movement, and that the Republican party would be identified with the ''opportunity society'' and the Democratic party with the ''welfare state.'' (11/15/96 Roady Tr. 128, 130, 142, 145–148, 217–218; 11/19/96 Roady Tr. 35, 41).

The movement, the message of the movement, and the course were all called ''Renewing American Civilization.'' Mr. Gingrich's lectures in the course were based on the same principles as the message of the movement, and the course was an important vehicle for disseminating the message of the movement. Mr. Gingrich stated that the course was ''clearly the primary and dominant method [of disseminating the message of the movement.]'' Mr. Gingrich used the Renewing American Civilization message in almost every political and campaign speech he made in 1993 and 1994. He was instrumental in determining that virtually the entire political program for GOPAC for 1993 and 1994 would be centered on developing, disseminating, and using the message of Renewing American Civilization. (11/15/96 Roady Tr. 125–127, 144–145, 148–149, 153, 177, 218).

Although GOPAC's financial resources were not sufficient to enable it to carry out all of the political programs at its usual level during this period, it had many roles in regard to the course. These roles included development of the course content which was coordinated in advance with GOPAC charter members, fundraising for the course on behalf of the section 501(c)(3) organizations, and promotion of the course. GOPAC envisioned a partisan, political role for the course. (11/15/96 Roady Tr. 197–202, 208–209).

From 1993 to 1995, KSCF and PFF spent most of the money they had raised for the course on the dissemination of the 20 hours taught by Mr. Gingrich. These funds were raised primarily through tax-deductible charitable contributions to KSCF and to PFF,[74] funding that would not have been available had the project been conducted by GOPAC or another political or noncharitable organization.

According to Ms. Roady, the facts as set forth above show that, although the Renewing American Civilization course served an educational purpose, it had another purpose as well. (11/19/96 Roady Tr. 37, 40). The other purpose was to provide a means for developing and disseminating the message of Renewing American Civilization by replacing the welfare state with an opportunity society. That was the main message of GOPAC and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. Through the efforts of Mr. Gingrich and others acting with his knowledge and approval, tax-deductible charitable contributions were raised to support the dissemination of a course in furtherance of Mr. Gingrich's political strategies. (11/19/96 Roady Tr. 37, 38). Mr. Gingrich encouraged GOPAC, House Republicans and other Republican entities and candidates to use the course in their political strategies as well. (11/15/96 Roady Tr. 145, 152, 173).

The partisan, political benefit to these parties was intended from the outset, and this benefit cannot be considered merely incidental. To the contrary, the evidence supports a finding that one of Mr. Gingrich's main purposes for teaching the course was to develop and disseminate the ideas, language, and concepts of Renewing American Civilization as an integral part of a broad movement intended to have political consequences that would benefit him in his re-election efforts, GOPAC in its political efforts, and other Republican entities and candidates in seeking to attain a Republican majority. For these reasons, Ms. Roady concluded that one of the purposes of Mr. Gingrich's activities on behalf of KSCF, PFF and Reinhardt in regard to the course entitled ''Renewing American Civilization'' and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval was to provide more than an incidental benefit to Mr. Gingrich, GOPAC, and other Republican entities and candidates in violation of the private benefit prohibition. (11/15/96 Roady Tr. 122, 125, 127, 143–145, 148, 152, 153, 187–189, 213–217).

b. Campaign intervention prohibition

As discussed above, neither the fact that the content of the Renewing American Civilization course is educational within the meaning of section 501(c)(3) nor the fact that the course lectures do not contain expressions of support or opposition for a particular candidate precludes a finding that there is a violation of the campaign intervention prohibition. Section 501(c)(3) organizations are prohibited from establishing or supporting PACs, and from providing support to candidates in their campaign activities. The relevant issue is whether the course provided support to GOPAC or to Mr. Gingrich in his capacity as a candidate.

According to Ms. Roady, there is substantial evidence of such support in this case. As discussed above, the evidence shows that the course was developed by Mr. Gingrich as a part of a broader political movement to renew American civilization by replacing the welfare state with an opportunity society. The course was an important vehicle for disseminating the message of that movement. The message of replacing the welfare state with the opportunity society was also used in a partisan, political fashion. The ''welfare state'' was associated with Democrats and the ''opportunity society'' was associated with Republicans. The message of the course was also the main message of GOPAC during 1993 and 1994 and the main message of virtually every political and campaign speech made by Mr. Gingrich in 1993 and 1994. Through the use of section 501(c)(3) organizations, Mr. Gingrich and others acting with his knowledge and approval raised tax-deductible charitable contributions which were used to support a course designed, developed and disseminated in a manner that provided support to GOPAC in its political programs and to Mr. Gingrich in his re-election campaign. For these reasons, Ms. Roady concluded that Mr. Gingrich's activities on behalf of KSCF, PFF and Reinhardt and the activities of others on behalf of those organizations with Mr. Gingrich's knowledge and approval provided support to GOPAC and to Mr. Gingrich in violation of the campaign intervention prohibition. (11/15/96 Roady Tr. 171–175, 194).

D. Advice Ms. Roady Would Have Given

Had Mr. Gingrich or others associated with ACTV or Renewing American Civilization consulted with Ms. Roady prior to conducting these activities under the sponsorship of 501(c)(3) organizations, she would have advised that they not do so for the reasons set forth above. During her testimony before the Subcommittee, she was asked what her advice would have been to Mr. Gingrich and others associated with ACTV and Renewing American Civilization. She said that she would have recommended the use of a 501(c)(4) organization to pay for the dissemination of the course, as long as the dissemination was not the primary activity of the 501(c)(4) organization. If this had been done, contributions for ACTV and the course would not have been tax-deductible. (11/15/96 Roady Tr. 207–208).

VII. SUMMARY OF CONCLUSIONS OF MR. GINGRICH'S TAX COUNSEL

A. Introduction

During the Preliminary Inquiry, Mr. Gingrich's lawyer forwarded to the Subcommittee

[74] Some funding came from the sale of videotapes and audiotapes of the course. (7/12/96 Eisenach Tr. 283).

a legal opinion letter and follow-on letter regarding the tax questions at issue. The letters were prepared by attorney James P. Holden. At Mr. Gingrich's request, Mr. Holden and his partner who helped him prepare the letters, Susan Serling, met with the Subcommittee on December 12, 1996, to discuss his conclusions. The purpose of the letters was to express Mr. Holden's conclusions regarding whether any violation of section 501(c)(3) occurred with respect to the Renewing American Civilization course.

His understanding of the facts of the matter was based on a review of the course book prepared for the course, videotapes of the course, documents produced by KSC pursuant the Georgia Opens Records Act, PFF's application to the IRS for exemption, newspaper articles, discussions with Mr. Baran, Mr. Eisenach, and counsel to PFF and KSCF.[75]

B. Qualifications of Mr. Gingrich's Tax Counsel

Mr. Holden is a partner at the Washington, D.C. law firm of Steptoe and Johnson. He was an adjunct professor at Georgetown University Law Center from 1970 to 1983. He is co-author of ''Ethical Problems in Federal Tax Practice'' and ''Standards of Tax Practice.'' He is the author of numerous tax publications and a speaker at numerous tax institutes. He was chair of the American Bar Association Section of Taxation from 1989 to 1990; chair of the Advisory Group to the Commissioner of Internal Revenue from 1992 to 1993; and chair of the IRS Commissioner's Review Panel on Integrity Controls from 1989 to 1990. He was a trustee and president of the American Tax Policy Institute from 1993 to 1995 and a regent of the American College of Tax Counsel. He is or was a member of the following organizations: American Law Institute (consultant, Federal Income Tax Project); Advisory Group to Senate Finance Committee Staff regarding Subchapter C revisions (1984–1985); Board of Advisors, New York University/Internal Revenue Service Continuing Professional Education Program (1987–1990); and BNA Tax Management Advisory Board. He received a J.D. degree from Georgetown University Law Center in 1960 and a B.S. degree from the University of Colorado in 1953.

His experience in 501(c)(3) law stems principally from one client and one case that has been before the IRS for the past six years. (12/12/96 Holden Tr. 21).[76] He said during his testimony, ''I don't pretend today to be a specialist in exempt organizations. * * * I pretend to be an expert in the political aspects of such organizations.'' (12/12/96 Holden Tr. 21). The one case Mr. Holden worked on has not been resolved and he has spent, on average, about 30 percent of his time for the last six years on this case. (12/12/96 Holden Tr. 24). He has never been a member of any organization or committee concerned principally with tax-exempt organizations law. (12/12/96 Holden Tr. 25). He does not have any publications in the exempt organizations field. (12/12/96 Holden Tr. 25). He has never given any speeches on exempt organizations law nor has he been an expert witness with respect to exempt organizations law. (12/12/96 Holden Tr. 26).

When Mr. Baran asked Mr. Holden to prepare his opinion letter, Mr. Baran did not ask what qualifications Mr. Holden had in the exempt organizations area. (12/12/96 Holden Tr. 32). Mr. Holden did not give Mr. Baran any information regarding his background in exempt organizations law other than the names of two references. (12/12/96 Holden Tr. 33).

Mr. Holden's partner who helped prepared the opinion, Susan Serling, does not have experience in the exempt organizations field other than with respect to the one case referred to above that is still before the IRS. (12/12/96 Holden Tr. 27). She is not a member of the ABA Exempt Organizations Committee and does not have any publications in the exempt organizations field. She has never given any speeches pertaining to exempt organizations law and has never testified as an expert witness with respect to exempt organizations law. (12/12/96 Holden Tr. 27).

C. Summary of Conclusions of Mr. Gingrich's Tax Counsel

As set forth in Mr. Holden's opinion letter, his follow-on letter, and in his testimony, it was Mr. Holden's opinion, based on his review of the facts available to him, that ''there would be no violation of section 501(c)(3) if an organization described in that section were to conduct 'Renewing American Civilization' as its primary activity.'' (9/6/96 Holden Ltr. 4). In arriving at this opinion, Mr. Holden evaluated the facts in light of the requirements:

1. that a section 501(c)(3) organization be operated exclusively for an exempt purpose;
2. that the organization serve a public rather than a private interest;
3. that the earnings of an organization not inure to the benefit of any person;
4. that no substantial part of the activities of the organization consist of attempting to influence legislation; and
5. that the organization not participate or intervene in any political campaign in support of or in opposition to any candidate for public office.

(9/6/96 Holden Ltr. 4). A discussion of Mr. Holden's views on the two principal tax questions at issue before the Subcommittee—the private benefit prohibition and campaign intervention prohibition—is set forth below.

1. PRIVATE BENEFIT PROHIBITION

With respect to whether Renewing American Civilization violated the private benefit prohibition described above, Mr. Holden's opinion and follow-on letter focused exclusively on the *American Campaign Academy case.* His letters did not refer to other precedent or IRS statements pertaining to the private benefit prohibition. In evaluating whether Renewing American Civilization created any discernible secondary benefit, in the terms used by the Court in *American Campaign Academy,* Mr. Holden considered whether the course provided an ''identifiable benefit'' to GOPAC or the Republican party. He concluded that it did not.

Following our review of the course materials, the course syllabi, and video tapes of the course lectures, we have not been able to identify any situation in which students of the course were advised to vote Republican, join the Republican party, join GOPAC, or support Republicans in general. Rather, the course explored broad aspects of American civilization through Mr. Gingrich's admittedly partisan viewpoint.

(9/17/96 Holden Ltr. 5). Mr. Holden also wrote:

From our review of the course materials * * * and their presentation, it appears to us that the educational message was not narrowly targeted to benefit particular organizations or persons beyond the students themselves.

(9/6/96 Holden Ltr. 58). During his testimony before the Subcommittee, Mr. Holden said that because the course was educational within the meaning of the ''methodology test'' referred to above, he could not ''conceive'' of how the broad dissemination of its message could violate 501(c)(3). (12/12/96 Holden Tr. 71).

Now, when we get into the course—and I am saying I am going to look at the activities, and if I have a clean educational message, then my organization is entitled to disseminate that message as broadly as we have the resources to do [for any purpose as long as it is] serving the public with that in the sense that this message has utility to the public.

(12/12/96 Holden Tr. 113–114). In coming to his conclusion that the course did not violate the private benefit prohibition, Mr. Holden made several findings of fact and several assumptions. For example, he wrote that he considered the facts that established a close connection between individuals who were active in GOPAC and the development and promotion of the course. As he characterized it, GOPAC's former Executive Director and GOPAC employees became employees or contractors to the organizations that conducted the course. Individuals, foundations, and corporations that provided financial support for the course were also contributors to GOPAC or Mr. Gingrich's political campaigns. GOPAC employees solicited contributions for the course. (9/6/96 Holden Ltr. 4). Furthermore, documents he reviewed:

provide[d] evidence that the course was developed in a political atmosphere and as part of a larger political strategy. The documents indicate that Mr. Gingrich and GOPAC evolved a political theme that they denominated ''Renewing American Civilization'' and that, in their political campaign capacities, they intended to press this theme to the advantage of Republican candidates.

(9/17/96 Holden Ltr. 2). Mr. Holden assumed a political motivation behind the development of the course. As described in his opinion letter:

[T]he individuals who controlled GOPAC and who participated in promoting the course viewed the course as desirable in a political context, and many of their expressions and comments evidence a political motive and interest. * * * Mr. Gingrich is a skilled politician whose ideology finds expression in a political message, and he is interested in maximum exposure of that message and in generating interest in those who might be expected to become advocates of the message. In sum, we have not assumed that the development and promotion of the course were free from political motivation.

(9/6/96 Holden Ltr. 4–5). Furthermore, Mr. Holden said that when preparing his opinion, he made the ''critical assumption that the interests of the political persona surrounding GOPAC were advanced by creating this course.'' (12/12/96 Holden Tr. 72). In this regard, Mr. Holden also said during his testimony:

We have taken as an assumption that the intent [of the course] was to benefit the political message. If someone told me that teaching the course actually resulted in the benefit, I guess I wouldn't be surprised because that was our understanding of the objective. * * * I accept[ed] for purposes of our opinion that there was an intent to advance the political message by utilizing a (c)(3).

(12/12/96 Holden Tr. 83). In Mr. Holden's opinion, however, the political motivation or strategy behind the creation of the course is

[75] Mr. Holden and his partner conferred with Mr. Eisenach for about three hours. (12/12/96 Holden Tr. 38). The conversation with KSCF counsel, via telephone, lasted about 30 minutes. (12/12/96 Holden Tr. 39). The conversation with PFF's counsel lasted about two hours. (12/12/96 Holden Tr. 38–39). Mr. Holden did not talk to Mr. Gingrich prior to writing the opinion. (12/12/96 Holden Tr. 43). He also did not talk to anyone else involved in the course, such as Mr. Hanser, Ms. Rogers, Ms. Nelson, Mr. Mescon, or Ms. Minnix. (12/12/96 Holden Tr. 43–44).

[76] Although Mr. Holden declined to identify the client in this case, he said that the case ''is perhaps the largest case the Internal Revenue Service has before it on this whole issue.'' (12/12/96 Holden Tr. 20–21).

irrelevant when determining whether a violation of the private benefit prohibition occurred.

It is not the presence of politicians or political ideas that controls. The pertinent law does not turn on the political affiliations or political motivations of the principal participants.

(9/6/96 Holden Ltr. 6). According to Mr. Holden, the issue of whether a violation of 501(c)(3) occurred ''may not be resolved by a determination that the individuals who designed and promoted the course acted with political motivation.'' (9/17/96 Holden Ltr. 4). In his opinion, when determining whether an organization violated the private benefit prohibition, it is necessary to determine whether an organization's activities in fact served a private interest. (12/12/96 Holden Tr. 80). What motivates the activities is irrelevant.

I'm saying it's irrelevant to look to what caused an individual or group of individuals to form a (c)(3) or to utilize a 501(c)(3) organization. The question instead is on the activities—the focus instead is on the activities of the organization and whether they violated the operational test. I think that's a critical distinction.

(12/12/96 Holden Tr. 61). He said that he was ''aware of no authority that would hold that because one is motivated to establish a 501(c)(3) organization by business, political, or other motivation, that means that the organization cannot operate in a manner that satisfies 501(c)(3), because we are talking about an operational test.'' (12/12/96 Holden Tr. 17–18). Mr. Holden cited *American Campaign Academy* as an authority for his conclusion that an organization's activity must itself benefit a targeted group and that motivation of an organization's agents in conducting that activity is irrelevant. Mr. Holden said:

[In American Campaign Academy] [t]he focus was, instead, on the operational test and whether the activities of the organization evidenced a purpose to serve a private interest. But you have to find that in the activities of the organization and not in some general notion of motivation or background purpose.

(12/12/96 Holden Tr. 61). In light of these and similar comments made by Mr. Holden, the Special Counsel asked Mr. Holden to comment on statements found in the *American Campaign Academy* case at page 1064. The statements are in a section of the case under the heading ''Operational Test'' and are as follows:

The operational test examines the *actual purpose* for the organization's activities and *not* the nature of the activities or the organization's statement of purpose. (citations omitted). (emphasis supplied).

In testing compliance with the operational test, we look beyond the four corners of the organization's charter to discover ''the actual objects *motivating* the organization and the subsequent conduct of the organization.'' (citations omitted). (emphasis supplied).

What an organization's purposes are and what purposes its activities support are questions of fact. (citations omitted).

(12/12/96 Holden Tr. 75–76). After the Special Counsel brought these sections of the case to Mr. Holden's attention, the following exchange occurred:

Mr. Holden: May I refer you to the last sentence before the next heading, ''Operating Primarily for Exempt Purposes.'' The last sentence before that says: ''The sole issue for declaration [sic] is whether respondent properly determined that petitioner failed to satisfy the first condition of the operational test by not primarily engaging in activities, which is not for exempt purposes.''

It's an activities test. And this is where the courts say this is the sole issue. The stuff before, they're just kind of reciting the law. When he gets to this, he said this is what we have to determine.

Mr. Cole: But in reciting the law, don't they say, in testing compliance with the operational test, we look beyond the four corners of the organization's charter to discover the actual objects motivating the organization? Prior to that, they say the operational test examines the actual purpose for the organization's activities, not the nature of the activities or the organization's statement of purpose.

I grant you that is the statement of the law, but you are saying that has no significance?

Mr. Holden: That's not the case Judge Nims decided. * * *

(12/12/96 Holden Tr. 77).

2. CAMPAIGN INTERVENTION PROHIBITION

In his opinion letter, Mr. Holden wrote that it was ''important to note that section 501(c)(3) does not, as is often suggested, bar 'political activity' [by 501(c)(3) organization].'' (9/6/96 Holden Ltr. 68). The prohibition is more limited and prohibits an organization from participating in or intervening in any political campaign on behalf of or in opposition to any candidate for public office. In order for an organization to violate this prohibition, there must exist a campaign, a candidate, a candidate seeking public office, and an organization that participates or intervenes on behalf of or in opposition to that candidate. (9/6/96 Holden Ltr. 68–69). Mr. Holden concluded that the course did not violate this prohibition.

The [course] materials contain no endorsement of or opposition to the candidacy of any person, whether expressed by name or through the use of a label that might be taken as a stand-in for a candidate. While the materials are critical of what is referred to as the ''welfare state'' and laudatory of what is described as an ''opportunity society,'' none of this is properly characterized as personalized to candidates, directly or indirectly.

(9/6/96 Holden Ltr. 72). During his testimony before the Subcommittee, Mr. Holden said that the course contained issue advocacy in the sense that it called for the replacement of the welfare state with the opportunity society. (12/12/96 Holden Tr. 103–104). He also said that this issue—the replacement of the welfare state with an opportunity society—was closely identified with Mr. Gingrich and his political campaigns. (12/12/96 Holden Tr. 104). He, however, did not see this as a basis for concluding that the course violated the prohibition on intervention in a political campaign because ''Mr. Gingrich [had not] captured [this issue] to the point where it is not a legitimate public interest issue for discussion in a purely educational setting, even where he is the instructor.'' (12/12/96 Holden Tr. 104).[77]

D. Advice Mr. Holden Would Have Given

During his appearance before the Subcommittee, Mr. Holden was asked about what type of organization he would have advised Mr. Gingrich and others to use in order to conduct and disseminate Renewing American Civilization had he been asked in advance. He said that he would not have advised the use of a 501(c)(3) organization because the mix of politics and tax-deductible funds is too ''explosive.''

I would have advised them not to do the activity through a (c)(3). I have already expressed that view to the Speaker. He didn't consult me in advance, but I said, if I had been advising you in advance. He said, why not. I said, because the intersection of political activity and 501(c)(3) is such an explosive mix in terms of the IRS view of things that I would not advise you to move that close to the issue. You should find a way of financing the course that doesn't involve the use of 501(c)(3) funds. That would have been my advice to him.

I said, that doesn't mean I conclude that what you did is a violation. In fact, I think we are kind of fairly far out beyond the frontiers of what has been decided in the past in this area. We are looking at the kind of case that I do not think has ever been presented. I do not see how anyone can conclude that this is an open and shut case. It just is not of that character.

(12/12/96 Holden Tr. 132–134). Mr. Holden said that an appropriate vehicle for the course might have been a 501(c)(4) organization because such an organization can engage in some political activity and the activity would not have used tax-deductible funds. (12/12/96 Holden Tr. 132–134). Later, Mr. Holden reiterated that he would have not recommended that Renewing American Civilization be sponsored and funded by a 501(c)(3) organization and pointed out such activities are highly likely to attract the attention of the IRS.

[T]hose funds are deductible and the conjunction of politics and a (c)(3) organization is so explosive as a mix that it is bound to attract the attention of the Internal Revenue Service. I wouldn't have been thinking about this committee. I would have been thinking about whether the Internal Revenue Service would have been likely to challenge.

(12/12/96 Holden Tr. 146). After Mr. Holden made this comment, the following exchange occurred:

Ms. Pelosi: So it would have raised questions[?]

Mr. Holden: Yes.

Mr. Goss: Isn't that a little bit akin to having a yacht and an airplane on your tax return for business purposes[?]

Mr. Holden: It is one of those things that stands out.

(12/12/96 Holden Tr. 146–147).

VIII. SUMMARY OF FACTS PERTAINING TO STATEMENTS MADE TO THE COMMITTEE

A. Background

On or about September 7, 1994, Ben Jones, Mr. Gingrich's Democratic opponent in 1994, filed with the Committee a complaint against Mr. Gingrich. The complaint centered on the course. Among other things, it alleged that Mr. Gingrich had used his congressional staff to work on the course and that he had misused organizations that were exempt from taxation under section 501(c)(3) of the Internal Revenue Code because the course was a partisan, political project, with significant involvement by GOPAC, and was not a permissible activity for a section 501(c)(3) organization. (Ex. 135).

[77] See also 12/12/96 Holden Tr. 103:

Mr. Schiff: But if you are providing 501(c)(3) raised money to pay for that candidate to give the same message, which is his political message, I think, for all substantial purposes, aren't you then, in effect, intervening or even endorsing the candidate by using that type of money to allow him to get his message further than it would get in the absence of that money?

Mr. Holden: I go back to the fact that we have a clean curriculum that we were talking about in a hypothetical and in the judgment that we reached about this case, and I don't believe that merely because a political figure takes a particular set of values and articulates them as a political theme, that that so captures that set of values that a 501(c)(3) organization cannot legitimately educate people about that same set of values.

Mr. Schiff: With the same messenger?

Mr. Holden: It doesn't seem to me that that compels a conclusion that there's a violation of 501(c)(3).

On or about October 4, 1994, Mr. Gingrich wrote the Committee in response to the complaint and primarily addressed the issues concerning the use of congressional staff for the course. In doing so he stated:

I would like to make it abundantly clear that those who were paid for course preparation were paid by either the Kennesaw State Foundation, [sic] the Progress and Freedom Foundation or GOPAC. * * * Those persons paid by one of the aforementioned groups include: Dr. Jeffrey Eisenach, Mike DuGally, Jana Rogers, Patty Stechschultez [sic], Pamela Prochnow, Dr. Steve Hanser, Joe Gaylord and Nancy Desmond.

(Ex. 136, p. 2). After the Committee received and reviewed Mr. Gingrich's October 4, 1994 letter, it sent him a letter dated October 31, 1994, asking for additional information concerning the allegations of misuse of tax-exempt organizations in regard to the course. The Committee also asked for information relating to the involvement of GOPAC in various aspects of the course. As set forth in the letter, the Committee wrote:

There is, however, an allegation which requires explanation before the Committee can finalize its evaluation of the complaint. This is the allegation that, in seeking and obtaining funding for your course on Renewing American Civilization, you improperly used tax-exempt foundations to obtain taxpayer subsidization of political activity.

* * * * *

Your answers to [questions set forth in the letter] would be helpful to the Committee in deciding what formal action to take with respect to the complaint.

* * * * *

A number of documents submitted by Ben Jones, however, raise questions as to whether the course was in fact exclusively educational in nature, or instead constituted partisan political activity intended to benefit Republican candidates.

(Ex. 137, pp. 1–2).

B. Statements Made by Mr. Gingrich to the Committee, Directly or Through Counsel

1. MR. GINGRICH'S DECEMBER 8, 1994 LETTER TO THE COMMITTEE

In a letter dated December 8, 1994, Mr. Gingrich responded to the Committee's October 31, 1994 letter. (Ex. 138). In that letter, Mr. Gingrich made the following statements, which he has admitted were inaccurate, incomplete, and unreliable.

1. [The course] was, by design and application, completely non-partisan. It was and remains about ideas, not politics. (Ex. 138, p. 2).

2. The idea to teach ''Renewing American Civilization'' arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen * * *. (Ex. 138, p. 4).

3. The fact is, ''Renewing American Civilization'' and GOPAC have never had any official relationship. (Ex. 138, p. 4).

4. GOPAC * * * is a political organization whose interests are not directly advanced by this non-partisan educational endeavor. (Ex. 138, p. 5).

5. As a political action committee, GOPAC never participated in the administration of ''Renewing American Civilization.'' (Ex. 138, p. 4).

6. Where employees of GOPAC simultaneously assisted the project, they did so as private, civic-minded individuals contributing time and effort to a 501(c)(3) organization. (Ex. 138, p. 4).

7. Anticipating media or political attempts to link the Course to [GOPAC], ''Renewing American Civilization'' organizers went out of their way to avoid even the appearances of improper association with GOPAC. Before we had raised the first dollar or sent out the first brochure, Course Project Director Jeff Eisenach resigned his position at GOPAC. (Ex. 138, p. 4).

The goal of the letter was to have the complaint dismissed. (11/13/96 Gingrich Tr. 36).

2. MARCH 27, 1995 LETTER OF MR. GINGRICH'S ATTORNEY TO THE COMMITTEE

On January 26, 1995, Representative Bonior filed with the Committee an amended version of the Ben Jones complaint against Mr. Gingrich. (Ex. 139). Among other things, the complaint re-alleged that the Renewing American Civilization course had partisan, political purposes and was in violation of section 501(c)(3). The complaint also alleged substantial involvement of GOPAC in the course. (Ex. 139, pp. 1–7). In a letter dated March 27, 1995, Mr. Baran, Mr. Gingrich's attorney and a partner at the law firm of Wiley, Rein and Fielding, filed a response on behalf of Mr. Gingrich to the amended complaint. (Ex. 140, PFF 4347). Prior to the letter being delivered, Mr. Gingrich reviewed it and approved its submission to the Committee. (7/18/96 Gingrich Tr. 274–275).

Mr. Cole: If there was anything inaccurate in the letter, would you have told Mr. Baran to change it?

Mr. Gingrich: Absolutely.

(7/18/96 Gingrich Tr. 275).

The letter contains the following statements, which Mr. Gingrich has admitted were inaccurate, incomplete, and unreliable.

1. As Ex. 13 demonstrates, the course solicitation * * * materials are completely non-partisan. (Ex. 140, p. 19, fn. 7).

2. GOPAC did not become involved in the Speaker's academic affairs because it is a political organization whose interests are not advanced by this non-partisan educational endeavor. (Ex. 140, p. 35).

3. The Renewing American Civilization course and GOPAC have never had any relationship, official or otherwise. (Ex. 140, p. 35).

4. As noted previously, GOPAC has had absolutely no role in funding, promoting, or administering Renewing American Civilization. (Ex. 140, pp. 34–35).

5. GOPAC has not been involved in course fundraising and has never contributed any money or services to the course. (Ex. 140, p. 28).

6. Anticipating media or political attempts to link the course to GOPAC, course organizers went out of their way to avoid even the appearance of associating with GOPAC. Prior to becoming Course Project Director, Jeffrey Eisenach resigned his position at GOPAC and has not returned. (Ex. 140, p. 36).

The purpose of Mr. Baran's letter was to have the Committee dismiss the complaints against Mr. Gingrich. (11/13/96 Gingrich Tr. 35–36).

C. Subcommittee's Inquiry Into Statements Made to the Committee

On September 26, 1996, the Subcommittee expanded the scope of the Preliminary Inquiry to determine:

[w]hether Representative Gingrich provided accurate, reliable, and complete information concerning the course entitled ''Renewing American Civilization,'' GOPAC's relationship to the course entitled ''Renewing American Civilization,'' or the Progress and Freedom Foundation in the course of communicating with the Committee, directly or through counsel * * *.

On October 1, 1996, the Subcommittee requested that Mr. Gingrich produce to the Subcommittee all documents that were used or relied upon to prepare the letters at issue—the letters dated October 4, 1994, December 8, 1994 and March 27, 1995. Mr. Gingrich responded to the Committee's request on October 31, 1996. (Ex. 141). In his response, Mr. Gingrich described how extremely busy he was at the time the October 4, 1994, and December 8, 1994 letters were prepared. He said, the October 4, 1994 letter was written ''in [the] context of exhaustion and focused effort'' on finishing a congressional session, traveling to over a hundred congressional districts, tending to his duties as Whip, and running for re-election in his district. (Ex. 141, p. 1). At the time of the December 8, 1994 letter, he said that he and his staff were ''making literally hundreds of decisions'' as part of the transition in the House from Democratic to Republican Control. (Ex. 141, p. 2; 11/13/96 Gingrich Tr. 6, 10, 26). With respect to his level of activity at the time the March 27, 1995 letter was created Mr. Gingrich said the following:

[W]e were going through passing the Contract with America in a record 100 days in what many people believe was a forced march. I was, in parallel, beginning to lay out the base for the balanced budget by 2002, and I was, frankly, being too noisy publicly and damaging myself in the process.

I had three projects—four; I was writing a book. So those four projects were ongoing as I was going home to report to my district, and we were being battered as part of this continuum by Bonior and others, and we wanted it handled in a professional, calm manner. We wanted to honor the Ethics process.

(11/13/96 Gingrich Tr. 33–34).

Mr. Gingrich wrote in his October 31, 1996 response to the Subcommittee that ''although [he] did not prepare any of the letters in question, in each case [he] reviewed the documents for accuracy.'' (Ex. 141, p. 3). Specifically, with respect to the October 4, 1994 letter, his assistant, Annette Thompson Meeks, showed him the draft she had created and he ''read it, found it accurate to the best of [his] knowledge, and signed it.'' (Ex. 141, p. 2). With respect to the December 8, 1994 letter, he wrote, ''Again I would have read the letter carefully and concluded that it was accurate to the best of my knowledge and then signed it.'' (Ex. 141, p. 2). With respect to the March 27, 1995 letter, he wrote that he ''read [it] to ensure that it was consistent with [his] recollection of events at that time.'' (Ex. 141, p. 3).

D. Creation of the December 8, 1994 and March 27, 1995 Letters

Mr. Gingrich appeared before the Subcommittee on November 13, 1996 to testify about these letters.[78] He began his testimony by stating that the ''ethics process is very important.'' (11/13/96 Gingrich Tr. 4). He then went on to state:

On Monday I reviewed the 380-page [July 1996] interview with Mr. Cole, and I just want to begin by saying to the [C]ommittee that I am very embarrassed to report that I have concluded that reasonable people could conclude, looking at all the data, that the letters are not fully responsive, and, in fact, I think do fail to meet the standard of accurate, reliable and complete.

[78] Mr. Gingrich appeared twice before the Subcommittee to discuss these letters. The first time was on November 13, 1996, in response to a request from the Subcommittee that he appear and testify about the matter under oath. The second time was on December 10, 1996, as part of his opportunity to address the Subcommittee pursuant to Rule 17(a)(3) of the Committee's Rules. Pursuant to Committee Rules, that appearance was also under oath.

(11/13/96 Gingrich Tr. 5). Mr. Gingrich said several times that it was only on the Monday before his testimony—the day when he reviewed the transcript of his July interview with Mr. Cole—that he realized the letters were inaccurate, incomplete, and unreliable. (11/13/96 Gingrich Tr. 5, 8, 10, 149, 150, 195; 12/10/96 Gingrich Tr. 75). In his testimony before the Subcommittee the next month, Mr. Gingrich ''apologized for what was clearly a failure to communicate accurately and completely with this [C]ommittee.'' (12/10/96 Gingrich Tr. 5). Mr. Gingrich said the errors were a result of ''a failure to communicate involving my legal counsel, my staff and me.''

(12/10/96 Gingrich Tr. 5). Mr. Gingrich went on to say:

After reviewing my testimony, my counsel's testimony, and the testimony of two of his associates, the ball appears to have been dropped between my staff and my counsel regarding the investigation and verification of the responses submitted to the [C]ommittee.

As I testified, I erroneously, it turns out, relied on others to verify the accuracy of the statements and responses. This did not happen. As my counsel's testimony indicates, there was no detailed discussion with me regarding the submissions before they were sent to the [C]ommittee. Nonetheless, I bear responsibility for them, and I again apologize to the [C]ommittee for what was an inadvertent and embarrassing breakdown.

* * * * *

At no time did I intend to mislead the [C]ommittee or in any way be less than forthright.

(12/10/96 Gingrich Tr. 5–7). Of all the people involved in drafting, reviewing, or submitting the letters, the only person who had first-hand knowledge of the facts contained within them with respect to the Renewing American Civilization course was Mr. Gingrich.

1. CREATION OF THE DECEMBER 8, 1994 LETTER

According to Mr. Gingrich, after he received the Committee's October 31, 1994 letter, he decided that the issues in the letter were too complex to be handled by his office and he sought the assistance of an attorney. (11/13/96 Gingrich Tr. 11). Mr. Gaylord, on behalf of Mr. Gingrich, contacted Jan Baran and the Mr. Baran's firm began representing Mr. Gingrich on November 15, 1994. (11/14/96 Gaylord Tr. 16;[79] 11/13/96 Baran Tr. 4;[80] 12/10/96 Gingrich Tr. 5). The response prepared by Mr. Baran's firm became the letter from Mr. Gingrich to the Committee dated December 8, 1994.

According to Mr. Baran, he did not receive any indication from Mr. Gaylord or Mr. Gingrich that Mr. Baran was to do any kind of factual review in order to prepare the response. (11/13/96 Baran Tr. 47–48).[81] Mr. Baran and his staff did not seek or review documents other than those attached to the complaint of Mr. Jones and the Committee's October 31, 1994 letter to Mr. Gingrich[82] and did not contact GOPAC, Kennesaw State College, or Reinhardt College. (11/13/96 Baran Tr. 13, 15, 18). Mr. Baran did not recall speaking to Mr. Gingrich about the letter other than possibly over dinner on December 9, 1994—one day after the letter was signed by Mr. Gingrich. (11/13/96 Baran Tr. 18, 33). Mr. Baran did contact Mr. Eisenach, but did not recall the ''nature of the contact.'' (11/13/96 Baran Tr. 16). Mr. Eisenach said he had no record of ever having spoken to Mr. Baran about the letter and does not believe that he did so. (11/14/96 Eisenach Tr. 18–19, 22). The conversation he had with Mr. Baran concerned matters unrelated to the letter. (11/14/96 Eisenach Tr. 17–18). Mr. Eisenach also said that no one has ever given him a copy of the December 8, 1994 letter and asked him to verify its contents. (11/14/96 Eisenach Tr. 22).

The other attorney at Wiley, Rein and Fielding involved in preparing the response was Bruce Mehlman. (11/13/96 Baran Tr. 19; 11/19/96 Mehlman Tr. 17). He was a first-year associate who had been at Wiley, Rein and Fielding since September 1994. (11/19/96 Mehlman Tr. 5).[83] Mr. Mehlman's role was to create the first draft. (11/19/96 Mehlman Tr. 15). The materials Mr. Mehlman had available to him to prepare the draft were:

1. correspondence between Mr. Gingrich and the Committee, including the October 4, 1994 letter;
2. course videotapes;
3. the book used in the course called ''Renewing American Civilization'';
4. a course brochure;
5. the complaint filed by Ben Jones against Mr. Gingrich; and
6. documents produced pursuant to a Georgia Open Records Act request.

(11/19/96 Mehlman Tr. 15–16, 20). Mr. Mehlman said that he did not attempt to gather any other documents because he did not see a need to go beyond these materials in order to prepare a response. (11/19/96 Mehlman Tr. 19–20). With the exception of contacting his brother, who had taken the course,[84] Mr. Mehlman did not make any inquiries of people regarding the facts of the matter. (11/19/96 Mehlman Tr. 18). He did not, for example, contact GOPAC or Mr. Eisenach. (11/19/96 Mehlman Tr. 28). After he completed his first draft, he gave it to Mr. Baran. (11/19/96 Mehlman Tr. 22). He assumed that Mr. Baran would make sure that any factual questions would have been answered to his satisfaction before the letter went out. (11/19/96 Mehlman Tr. 51). However, Mr. Mehlman did not know what, if anything, Mr. Baran did with the draft after he gave it to him. (11/19/96 Mehlman Tr. 22).

When Mr. Gaylord asked Mr. Baran to prepare the letter, it was Mr. Baran's understanding that Annette Thompson Meeks, an Administrative Assistant for Mr. Gingrich's office, would help. (11/13/96 Baran Tr. 5, 7). According to Mr. Baran, Ms. Meeks' role was:

basically to take a draft product from us and review it for accuracy [from] her personal knowledge and basically make sure that it was acceptable. And in that regard, I believed that she may have spoken with other people to confirm that, but you will be talking to her, and you will have to confirm it with her. I tried to not talk to her about that.

(11/13/96 Baran Tr. 10). Mr. Baran described the process for reviewing the letter as follows:

Well, you know, as a counsel who was retained relatively late in that process at that time and as someone who had no firsthand knowledge about any of the underlying activities and with a marching order of trying to prepare a draft that was usable by the staff, we were pretty much focused on getting something together and over to Annette Meeks so that it could be used. Verification was something that would have been available through those who had firsthand knowledge about these facts, who had reviewed the draft.

(11/13/96 Baran Tr. 15). Mr. Baran did not, however, know whether the letter was reviewed by others to determine its accuracy. (11/13/96 Baran Tr. 48).

Ms. Meeks said that at the time the letter was being prepared, she had no knowledge of whether:

1. the course was a political or partisan activity by design or application;
2. GOPAC was involved in the course;
3. GOPAC was benefited by the course;
4. GOPAC created, funded, or administered the course;
5. the idea to teach the course arose wholly independent of GOPAC;
6. Mr. Gingrich's motivation for teaching the course arose not as a politician but rather as a historian;
7. Mr. Eisenach resigned his position at GOPAC.

(11/14/96 Meeks Tr. 45–47). Ms. Meeks also said she was unaware that GOPAC's theme was Renewing American Civilization. (11/14/96 Meeks Tr. 88).

Ms. Meeks said she had no role in drafting the letter, did not talk to anyone to verify that the facts in the letter were accurate, and had no knowledge of how the facts in the letter were checked for accuracy. (11/14/96 Meeks Tr. 39, 48, 51). She did not indicate to Mr. Baran that she had given the letter to anyone for the purpose of checking its accuracy. (11/14/96 Meeks Tr. 87). In this regard, Ms. Meeks said:

I will be very frank and tell you I don't know how [Mr. Baran] composed this information as far as who he spoke with. I was not privy to any of that. The only thing I could add to my answer is that once counsel is retained, we were kind of out of the picture as far as the process, other than typing and transmitting.

(11/14/96 Meeks Tr. 92). She said her role was to provide Mr. Baran with: background information about Mr. McCarthy (the Committee's counsel who had conferred with Mr. Gingrich about the course in 1993); a copy of the October 4, 1994 letter from Mr. Gingrich to the Committee; copies of papers relating to Mr. Hanser's employment with Mr. Gingrich's congressional office; and copies of the course videotapes. (11/14/96 Meeks Tr. 36–37).

Mr. Gaylord had a similar expectation in that, by retaining Wiley, Rein and Fielding, the firm was:

both protecting us and had done the proper and correct investigation in the preparation of the letters and that they, in fact, did their job because that's what they were paid to do. And I presumed that they had extracted the information from Dr. Eisenach and others who were involved specifically in the course.

[79] Mr. Gaylord was the one to contact the firm because his position was ''advisor to Congressman Gingrich'' and he coordinated ''all of the activities that were outside the official purview of [Mr. Gingrich's] congressional responsibilities.'' (11/14/96 Gaylord Tr. 19; 11/13/96 Baran Tr. 7).

[80] Mr. Gingrich waived his attorney/client privilege and asked Mr. Baran to testify before the Committee. (11/13/96 Gingrich Tr. 5).

[81] Mr. Gaylord said that he did not give any instructions to Mr. Baran about how the response should be prepared. (11/14/96 Gaylord Tr. 16–17). Mr. Baran, however, recalled that Mr. Gaylord said that the response should be completed quickly ''because there was hope that the Ethics Committee would meet before the end of the year to consider this matter'' and that it should not be too expensive. (11/13/96 Baran Tr. 7, 46–48).

[82] The attachments to the October 31, 1994 letter were selected from materials that were part of the complaint filed by Mr. Jones.

[83] Mr. Mehlman left Wiley, Rein & Fielding in February 1996 and is now an attorney with the National Republican Congressional Committee. (11/19/96 Mehlman Tr. 5).

[84] The information obtained from his brother used as the basis of the statement in Mr. Gingrich's response that the course contained ''as many references to Franklin Roosevelt, Jimmy Carter, and Martin Luther King, Jr. as there are to Ronald Reagan or Margaret Thatcher.'' (11/19/96 Mehlman Tr. 20). Mr. Mehlman, however, personally reviewed only one course videotape. (11/19/96 Mehlman Tr. 21).

(11/14/96 Gaylord Tr. 62). Mr. Gaylord, however, did not know what inquiry Mr. Baran made in order to prepare the letter. (11/14/96 Gaylord Tr. 17).

After Mr. Baran sent Ms. Meeks a draft of the letter, Ms. Meeks re-typed the letter and sent the new version to Mr. Baran to verify that it was identical to what he had sent her. She then recalled faxing a copy to Mr. Gaylord and to Mr. Gingrich's executive assistant ''to get Newt to take a look at it.'' (11/14/96 Meeks Tr. 43–44). Mr. Gingrich said about his review of the letter:

And I think in my head, I was presented a document—I am not trying to blame anybody, or I am not trying to avoid this, I am trying to explain how it happened. I was presented a document and told, this is what we have collectively decided is an accurate statement of fact. I read the document, and it did not at any point leap out to me and say, boy, you had better modify paragraph 3, or that this phrase is too strong and too definitive. I think I read it one time, so that seems right to me, and I signed it.

(11/13/96 Gingrich Tr. 11). See also 11/13/96 Gingrich Tr. 10 (at the time he read the letter, ''nothing leaped out at [him] and said, 'this is wrong' '') and 11/13/96 Gingrich Tr. 16 (the letter ''seemed accurate'' to him).[85]

Mr. Gaylord did not recall whether he reviewed the letter prior to its being sent to the Committee. (11/14/96 Gaylord Tr. 18). Mr. Gaylord said that the statement that GOPAC had no role in the administration of the course was incorrect. (11/14/96 Gaylord Tr. 30–31). Mr. Gaylord said that the statement that GOPAC employees contributed time as private, civic-minded people was incorrect. (11/14/96 Gaylord Tr. 31). Mr. Gaylord was not asked to verify the facts in the letters. (11/14/96 Gaylord Tr. 20, 33).

2. BASES FOR STATEMENTS IN THE DECEMBER 8, 1994 LETTER

During their testimony, those involved in the creation of the letter were unable to explain the bases for many of the statements in the letter. Explanations were, however, given for the bases of some of the statements. A summary of those bases is set forth below.

1. [The course] was, by design and application, completely non-partisan. It was and remains about ideas, not politics. (Ex. 138, p. 2).

Mr. Baran said that the basis for this statement was his review of the course tapes and course materials. (11/13/96 Baran Tr. 19). Mr. Mehlman said the following about his understanding of the basis of this statement:

Well, I don't specifically recall. If I had to assume, it would be some of the [Georgia Open Records Act] documents or some of the course materials that purport to be nonpartisan, or to have created a course that was nonpartisan, that certainly would explain design.

As far as in application, probably the reference made by my brother who had seen the course, who had participated in it, I suppose, and my general basic review of the initial writings about the course and viewing the first videotape of the course, suggested that the course was nonpartisan.

(11/19/96 Mehlman Tr. 24–25).

According to Mr. Baran, the letter to the College Republicans—which was one of the attachments to the September 7, 1994 Jones complaint (Ex. 81)—did not raise a question in his mind that the course was partisan or about politics. (11/13/96 Baran Tr. 23).

2. ''The idea to teach 'Renewing American Civilization' arose wholly independent of GOPAC, because the course, unlike the committee, is non-partisan and apolitical. My motivation for teaching these ideas arose not as a politician, but rather as a former educator and concerned American citizen * * *.'' (Ex. 138, p. 4).

Mr. Baran said that the basis of this statement was a review of the course tapes and the belief that the course had originated from a January 25, 1993 speech Mr. Gingrich had given on the House floor. (11/13/96 Baran Tr. 24–25). At the time the letter was drafted, Mr. Baran was unaware of Mr. Gingrich's December 1992 meeting with Owen Roberts where Mr. Gingrich first laid out his ideas for the Renewing American Civilization movement and course. (11/13/96 Baran Tr. 25). Mr. Mehlman did not speak with Mr. Gingrich about his motivations for the course and did not know if Mr. Baran had spoken with Mr. Gingrich about his motivations for teaching the course. (11/19/96 Mehlman Tr. 27).

3. ''The fact is, 'Renewing American Civilization' and GOPAC have never had any official relationship.'' (Ex. 38, p. 4).

Mr. Baran said about this statement:

Well, I think the basis of [this] statement[] [was] essentially the characterizations that had been placed on the relationship between the course and GOPAC by people like Jeff Eisenach[86] at that time, and it was consistent with my limited knowledge of GOPAC's association with the course at that time. . . .

You know, the various materials, some of which we went through this morning, were items that came to my attention in the course of the document production, which commenced, I think, around April of this year and took quite a bit of time, or that came up in the course of your interviews with Mr. Gingrich.

* * * * *

Well, I think the basis is that these statements were being reviewed by people who would presumably be in a position to correct me if there [sic] was wrong.

(11/13/96 Baran Tr. 36–37).

When asked about the appearance of GOPAC fax cover sheets on documents pertaining to the course, Mr. Baran said that such faxes raised questions in his mind but that he ''had an understanding at that time that those questions were addressed by an explanation that there were either incidental or inadvertent uses of GOPAC resources or there were uses of GOPAC resources that were accounted for by Mr. Eisenach.'' (11/13/96 Baran Tr. 21). Mr. Baran could not recall how he came to this understanding. (11/13/96 Baran Tr. 21–22).

With respect to whether Mr. Baran knew that GOPAC was involved in raising funds for the course, Mr. Baran said:

At that time my recollection of quote, GOPAC being involved in fund-raising [unquote] was focused on Ms. Prochnow, the finance director who I don't know and have never met, but whose role was characterized, I believe, by Jeff Eisenach to me at some point, as having helped raise a couple of contributions, I think, Cracker Barrel was one of them, that is a name that sticks in my mind. But it was characterized as being sort of ancillary and just really not material.

(11/13/96 Baran Tr. 41).

3. CREATION OF THE MARCH 27, 1995 LETTER

In addition to the associate, Mr. Mehlman, who had worked with Mr. Baran in drafting Mr. Gingrich's December 8, 1994 letter to the Committee, another associate, Michael Toner, helped Mr. Baran draft what became the March 27, 1995 letter.[87] (11/19/96 Toner Tr. 10–11). As with the December 8, 1994 letter, Mr. Baran did not receive any indication from Mr. Gaylord or Mr. Gingrich that Mr. Baran was to do any kind of factual review in order to prepare the March 27, 1995 letter. (11/13/96 Baran Tr. 48). Mr. Baran did not recall contacting anyone outside the law firm for facts relevant to the preparation of the letter with respect to the course. He said that ''the facts about the course, frankly, didn't seem to have changed any from the December period to the March period. And our focus seemed to be elsewhere.'' (11/13/96 Baran Tr. 28). Both Mr. Mehlman and Mr. Toner said that they did not contact anyone with knowledge of the facts at issue in order to prepare the letter. (11/19/96 Toner Tr. 21–22, 38; 11/19/96 Mehlman Tr. 38).

Ms. Meeks said that she had no role in the preparation of the letter. (11/14/96 Meeks Tr. 50). She saw it for the first time one day prior to her testimony before the Subcommittee in November 1996. (11/14/96 Meeks Tr. 50). Mr. Eisenach said that he did not have any role in the preparation of the letter nor was he asked to review it prior to its submission to the Committee. (11/14/96 Eisenach Tr. 24–25). Mr. Gaylord said that he had no role in the preparation of the letter and did not provide any information that is in the letter. (11/14/96 Gaylord Tr. 20). He also said that he did not discuss the letter with Mr. Gingrich or Mr. Baran at the time of its preparation. (11/14/96 Gaylord Tr. 21). Mr. Gaylord said that he did not know where Baran obtained the facts for the letter. He ''presumed'' that Mr. Baran and his associates had gathered the facts. (11/14/96 Gaylord Tr. 21–22).

Mr. Baran said that his role in creating the letter was to meet with Mr. Mehlman and Mr. Toner, review the status of their research and drafting and review their drafts. (11/13/96 Baran Tr. 28). Mr. Mehlman and Mr. Toner divided responsibility for drafting portions of the letter. (11/19/96 Toner Tr. 12–14; 11/19/96 Mehlman Tr. 36, 37, 40). Mr. Baran also made edits to the letter. (11/19/96 Mehlman Tr. 40). During his interview, Mr. Toner stressed that there were many edits to the letter by Mr. Baran, Mr. Mehlman, and himself and he could, therefore, not explain who had drafted particular sentences in the letter. (*see, e.g,* 11/19/96 Toner Tr. 34).

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[85] In early July 1993, Mr. Gingrich was interviewed about the course by a student reporter with the KSC newspaper. In that interview the following exchange took place:

Interviewer: And how is GOPAC involved in this?

Mr. Gingrich: It's not involved in this at all.

Interviewer: Are you going to bring a lot of your ideas to GOPAC though?

Mr. Gingrich: Absolutely. Every single one of them.

(Ex. 142, p. 10).

In other interviews over the past few years, Mr. Gingrich has made other statements about GOPAC's involvement in the course. They have included, for example, the following:

1.''GOPAC had the most incidental involvement at the very beginning of the process.'' (Atlanta Constitution, section A, page 1 (Sept. 19, 1993)).

2.''GOPAC provided some initial ideas on who might be interested in financing the course; that's all they did.'' (Associated Press, AM cycle, (Sept. 2, 1993)).

3.''The initial work was done before we talked with Kennesaw State College at GOPAC in organizing our thoughts.'' (The Hotline, American Political Network, Inc. (Sept. 7, 1993)).

[86] Earlier in his testimony and as described above, Mr. Baran said that he had contacted Mr. Eisenach at the time the letter was being prepared, but did not recall the ''nature of the contact.'' (11/13/96 Baran Tr. 16). As also discussed above, Mr. Eisenach recalled having a discussion with Mr. Baran at the time the letter was being prepared, but about topics unrelated to the letter. (11/14/96 Eisenach Tr. 17–18).

[87] Mr. Toner has been an associate attorney with Wiley, Rein and Fielding since September 1992, except for a period during which we he worked with the Dole/Kemp campaign. (11/19/96 Toner Tr. 6).

After the letter was drafted, Mr. Baran said that Mr. Baran and his associates then ''would have sent a draft that they felt comfortable with over to the Speaker's office.'' (11/13/96 Baran Tr. 28). Mr. Baran, Mr. Toner, and Mr. Mehlman each said during their testimony that they assumed that Mr. Gingrich or someone in his office reviewed the letter for accuracy before it was submitted to the Committee. (11/19/96 Toner Tr. 16, 40, 44; 11/13/96 Baran Tr. 32–33, 37–38; Mehlman Tr. 41). They, however, did not know whether Mr. Gingrich or anyone in his office with knowledge of the facts at issue ever actually reviewed the letter prior to its submission to the Committee. (11/19/96 Toner Tr. 17, 40, 44; 11/13/96 Baran Tr. 37–38; Mehlman Tr. 41).

With respect to Mr. Baran's understanding of whether Mr. Gingrich reviewed the letter, the following exchange occurred:

Mr. Cole: Did you have any discussions with Mr. Gingrich concerning this letter prior to it going to the committee?

Mr. Baran: I don't recall any. I just wanted to make sure that he did review it before it was submitted.

Mr. Cole: How did you determine that he had reviewed it?

Mr. Baran: I don't recall today, but I would not file anything until I had been assured by somebody that he had read it.

Mr. Cole: Would that assurance also have involved him reading it and not objecting to any of the facts that are asserted in the letter?

Mr. Baran: I don't know what his review process was regarding this letter.

* * * * *

Mr. Cole: If he just read it, you may still be awaiting comments from him. Would you have made sure that he had read it and approved it, or just the fact that he read it is all you would have been interested in, trying to make sure that we don't blur that distinction?

Mr. Baran: No, I would have wanted him to be comfortable with this on many levels.

Mr. Cole: And were you satisfied that he was comfortable with it prior to filing it with the committee?

Mr. Baran: Yes.

Mr. Cole: Do you know how you were satisfied?

Mr. Baran: I can't recall the basis upon which that happened.

(11/13/96 Baran Tr. 32–33).

4. BASES FOR STATEMENTS IN THE MARCH 27, 1995 LETTER

With respect to the bases for the statements in the letter in general, Mr. Baran said that it was largely based on the December 8, 1994 letter and any information he and his associates relied on to prepare it. (11/13/96 Baran Tr. 37–38).

IX. Analysis and Conclusion

A. Tax Issues

In reviewing the evidence concerning both the AOW/ACTV project and the Renewing American Civilization project, certain patterns became apparent. In both instances, GOPAC had initiated the use of the messages as part of its political program to build a Republican majority in Congress. In both instances there was an effort to have the material appear to be non-partisan on its face, yet serve as a partisan, political message for the purpose of building the Republican Party.

Under the ''methodology test'' set out by the Internal Revenue Service, both projects qualified as educational. However, they both had substantial partisan, political aspects. Both were initiated as political projects and both were motivated, at least in part, by political goals.

The other striking similarity is that, in both situations, GOPAC was in need of a new source of funding for the projects and turned to a 501(c)(3) organization for that purpose. Once the projects had been established at the 501(c)(3) organizations, however, the same people continued to manage it as had done so at GOPAC, the same message was used as when it was at GOPAC, and the dissemination of the message was directed toward the same goal as when the project was at GOPAC—building the Republican Party. The only significant difference was that the activity was funded by a 501(c)(3) organization.

This was not a situation where one entity develops a message through a course or a television program for purely educational purposes and then an entirely separate entity independently decides to adopt that message for partisan, political purposes. Rather, this was a coordinated effort to have the 501(c)(3) organization help in achieving a partisan, political goal. In both instances the idea to develop the message and disseminate it for partisan, political use came first. The use of the 501(c)(3) came second as a source of funding.

This factual analysis was accepted by all Members of the Subcommittee and the Special Counsel. However, there was a difference of opinion as to the result under 501(c)(3) when applying the law to these facts. Ms. Roady, the Subcommittee's tax expert, was of the opinion that the facts presented a clear violation of 501(c)(3) because the evidence showed that the activities were intended to benefit Mr. Gingrich, GOPAC, and other Republican candidates and entities. Mr. Holden, Mr. Gingrich's tax attorney, disagreed. He found that the course was nonpartisan in its content, and even though he assumed that the motivation for disseminating it involved partisan, political goals, he did not find a sufficiently narrow targeting of the dissemination to conclude that it was a private benefit to anyone.

Some Members of the Subcommittee and the Special Counsel agreed with Ms. Roady and concluded that there was a clear violation of 501(c)(3) with respect to AOW/ACTV and Renewing American Civilization. Other Members of the Subcommittee were troubled by reaching this conclusion and believed that the facts of this case presented a unique situation that had not previously been addressed by the legal authorities. As such, they did not feel comfortable supplanting the functions of the Internal Revenue Service or the Tax Court in rendering a ruling on what they believed to be an unsettled area of the law.

B. Statements Made to the Committee

The letters Mr. Gingrich submitted to the Committee concerning the Renewing American Civilization complaint were very troubling to the Subcommittee. They contained definitive statements about facts that went to the heart of the issues placed before the Committee. In the case of the December 8, 1994 letter, it was in response to a direct request from the Committee for specific information relating to the partisan, political nature of the course and GOPAC's involvement in it.

Both letters were efforts by Mr. Gingrich to have the Committee dismiss the complaints without further inquiry. In such situations, the Committee does and should place great reliance on the statements of Members.

The letters were prepared by Mr. Gingrich's lawyers. After the Subcommittee deposed the lawyers, the reasons for the statements being in the letters was not made any clearer. The lawyers did not conduct any independent factual research. Looking at the information the lawyers used to write the letters, the Subcommittee was unable to find any factual basis for the inaccurate statements contained therein. A number of exhibits attached to the complaint were fax transmittal sheets from GOPAC. While this did not on its face establish anything more than GOPAC's fax machine having been used for the project, it certainly should have put the attorneys on notice that there was some relationship between the course and GOPAC that should have been examined before saying that GOPAC had absolutely no involvement in the course.

The lawyers said they relied on Mr. Gingrich and his staff to ensure that the letters were accurate; however, none of Mr. Gingrich's staff had sufficient knowledge to be able to verify the accuracy of the facts. While Mr. Gaylord and Mr. Eisenach did have sufficient knowledge to verify many of the facts, they were not asked to do so. The only person who reviewed the letters for accuracy, with sufficient knowledge to verify those facts, was Mr. Gingrich.

The Subcommittee considered the relevance of the reference to GOPAC in Mr. Gingrich's first letter to the Committee dated October 4, 1994. In that letter he stated that GOPAC was one of the entities that paid people to work on the course. Some Members of the Subcommittee believed that this was evidence of lack of intent to deceive the Committee on Mr. Gingrich's part because if he had planned to hide GOPAC's involvement, he would not have made such an inconsistent statement in the subsequent letters. Other Members of the Subcommittee and the Special Counsel appreciated this point, but believed the first letter was of little value. The statement in that letter was only directed to establishing that Mr. Gingrich had not used congressional resources in developing the course. The first letter made no attempt to address the tax issues, even though it was a prominent feature of the complaint. When the Committee specifically focused Mr. Gingrich's attention on that issue and questions concerning GOPAC's involvement in the course, his response was not accurate.

During his testimony before the Subcommittee, Mr. Gingrich stated that he did not intend to mislead the Committee and apologized for his conduct. This statement was a relevant consideration for some Members of the Subcommittee, but not for others.

The Subcommittee concluded that because these inaccurate statements were provided to the Committee, this matter was not resolved as expeditiously as it could have been. This caused a controversy over the matter to arise and last for a substantial period of time, it disrupted the operations of the House, and it cost the House a substantial amount of money in order to determine the facts.

C. Statement of Alleged Violation

Based on the information described above, the Special Counsel proposed a Statement of Alleged Violations (''SAV'') to the Subcommittee on December 12, 1996. The SAV contained three counts: (1) Mr. Gingrich's activities on behalf of ALOF in regard to AOW/ACTV, and the activities of others in that regard with his knowledge and approval, constituted a violation of ALOF's status under section 501(c)(3); (2) Mr. Gingrich's activities on behalf of Kennesaw State College Foundation, the Progress and Freedom Foundation, and Reinhardt College in regard to the Renewing American Civilization course, and the activities of others in that regard with his knowledge and approval, constituted a violation of those organizations' status under section 501(c)(3); and (3) Mr. Gingrich had provided information to the Committee,

directly or through counsel, that was material to matters under consideration by the Committee, which Mr. Gingrich knew or should have known was inaccurate, incomplete, and unreliable.

1. DELIBERATIONS ON THE TAX COUNTS

There was a difference of opinion regarding whether to issue the SAV as drafted on the tax counts. Concern was expressed about deciding this tax issue in the context of an ethics proceeding. This led the discussion to the question of the appropriate focus for the Subcommittee. A consensus began to build around the view that the proper focus was on the conduct of the Member, rather than a resolution of issues of tax law. From the beginning of the Preliminary Inquiry, there was a desire on the part of each of the Members to find a way to reach a unanimous conclusion in this matter. The Members felt it was important to confirm the bipartisan nature of the ethics process.

The discussion turned to what steps Mr. Gingrich had taken in regard to these two projects to ensure they were done in accord with the provisions of 501(c)(3). In particular, the Subcommittee was concerned with the fact that: (1) Mr. Gingrich had been ''very well aware'' of the *American Campaign Academy* case prior to embarking on these projects; (2) he had been involved with 501(c)(3) organizations to a sufficient degree to know that politics and tax-deductible contributions are, as his tax counsel said, an ''explosive mix;'' (3) he was clearly involved in a project that had significant partisan, political goals, and he had taken an aggressive approach to the tax laws in regard to both AOW/ACTV; and (4) Renewing American Civilization projects. Even Mr. Gingrich's own tax lawyer told the Subcommittee that if Mr. Gingrich had come to him before embarking on these projects, he would have advised him to not use a 501(c)(3) organization for the dissemination of AOW/ACTV or Renewing American Civilization. Had Mr. Gingrich sought and followed this advice, he would not have used the 501(c)(3) organizations, would not have had his projects subsidized by taxpayer funds, and would not have created this controversy that has caused significant disruption to the House. The Subcommittee concluded that there were significant and substantial warning signals to Mr. Gingrich that he should have heeded prior to embarking on these projects. Despite these warnings, Mr. Gingrich did not seek any legal advice to ensure his conduct conformed with the provisions of 501(c)(3).

In looking at this conduct in light of all the facts and circumstances, the Subcommittee was faced with a disturbing choice. Either Mr. Gingrich did not seek legal advice because he was aware that it would not have permitted him to use a 501(c)(3) organization for his projects, or he was reckless in not taking care that, as a Member of Congress, he made sure that his conduct conformed with the law in an area where he had ample warning that his intended course of action was fraught with legal peril. The Subcommittee decided that regardless of the resolution of the 501(c)(3) tax question, Mr. Gingrich's conduct in this regard was improper, did not reflect creditably on the House, and was deserving of sanction.

2. DELIBERATIONS CONCERNING THE LETTERS

The Subcommittee's deliberation concerning the letters provided to the Committee centered on the question of whether Mr. Gingrich intentionally submitted inaccurate information. There was a belief that the record developed before the Subcommittee was not conclusive on this point. The Special Counsel suggested that a good argument could be made, based on the record, that Mr. Gingrich did act intentionally, however it would be difficult to establish that with a high degree of certainty.

The culmination of the evidence on this topic again left the Subcommittee with a disturbing choice. Either Mr. Gingrich intentionally made misrepresentations to the Committee, or he was again reckless in the way he provided information to the Committee concerning a very important matter.

The standard applicable to the Subcommittee's deliberations was whether there is reason to believe that Mr. Gingrich had acted as charged in this count of the SAV. All felt that this standard had been met in regard to the allegation that Mr. Gingrich ''knew'' that the information he provided to the Committee was inaccurate. However, there was considerable discussion to the effect that if Mr. Gingrich wanted to admit to submitting information to the Committee that he ''should have known'' was inaccurate, the Subcommittee would consider deleting the allegation that he knew the information was inaccurate. The Members were of the opinion that if there were to be a final adjudication of the matter, taking into account the higher standard of proof that is involved at that level, ''should have known'' was an appropriate framing of the charge in light of all the facts and circumstances.

3. DISCUSSIONS WITH MR. GINGRICH'S COUNSEL AND RECOMMENDED SANCTION

On December 13, 1996, the Subcommittee issued an SAV charging Mr. Gingrich with three counts of violations of House Rules. Two counts concerned the failure to seek legal advice in regard to the 501(c)(3) projects, and one count concerned providing the Committee with information which he knew or should have known was inaccurate.

At the time the Subcommittee voted this SAV, the Members discussed the matter among themselves and reached a consensus that it would be in the best interests of the House for the matter to be resolved without going through a disciplinary hearing. It was estimated that such a hearing could take up to three months to complete and would not begin for several months. Because of this, it was anticipated that the House would have to deal with this matter for another six months. Even though the Subcommittee Members felt that it would be advantageous to the House to avoid a disciplinary hearing, they all were committed to the proposition that any resolution of the matter had to reflect adequately the seriousness of the offenses. To this end, the Subcommittee Members discussed and agreed upon a recommended sanction that was fair in light of the conduct reflected in this matter, but explicitly recognized that the full Committee would make the ultimate decision as to the recommendation to the full House as to the appropriate sanction. In determining what the appropriate sanction should be in this matter, the Subcommittee and Special Counsel considered the seriousness of the conduct, the level of care exercised by Mr. Gingrich, the disruption caused to the House by the conduct, the cost to the House in having to pay for an extensive investigation, and the repetitive nature of the conduct.

As is noted above, the Subcommittee was faced with troubling choices in each of the areas covered by the Statement of Alleged Violation. Either Mr. Gingrich's conduct in regard to the 501(c)(3) organizations and the letters he submitted to the Committee was intentional or it was reckless. Neither choice reflects creditably on the House. While the Subcommittee was not able to reach a comfortable conclusion on these issues, the fact that the choice was presented is a factor in determining the appropriate sanction. In addition, the violation does not represent only a single instance of reckless conduct. Rather, over a number of years and in a number of situations, Mr. Gingrich showed a disregard and lack of respect for the standards of conduct that applied to his activities.

Under the Rules of the Committee, a reprimand is the appropriate sanction for a serious violation of House Rules and a censure is appropriate for a more serious violation of House Rules. Rule 20(g), Rules of the Committee on Standards of Official Conduct. It was the opinion of the Subcommittee that this matter fell somewhere in between. Accordingly, the Subcommittee and the Special Counsel recommend that the appropriate sanction should be a reprimand and a payment reimbursing the House for some of the costs of the investigation in the amount of $300,000. Mr. Gingrich has agreed that this is the appropriate sanction in this matter.

Beginning on December 15, 1996, Mr. Gingrich's counsel and the Special Counsel began discussions directed toward resolving the matter without a disciplinary hearing. The discussions lasted through December 20, 1996. At that time an understanding was reached by both Mr. Gingrich and the Subcommittee concerning this matter. That understanding was put on the record on December 21, 1996 by Mr. Cole follows:

Mr. Cole: The subcommittee has had an opportunity to review the facts in this case, and has had extensive discussion about the appropriate resolution of this matter.

Mr. Cardin: If I might just add here to your next understanding, the Members of the subcommittee, prior to the adoption of the Statement of Alleged Violation, were concerned that the nonpartisan deliberations of the subcommittee continue beyond the findings of the subcommittee. Considering the record of the full Ethics Committee in the 104th Congress and the partisan environment in the full House, the Members of the subcommittee felt that it was important to exercise bipartisan leadership beyond the workings of the subcommittee. * * *

Mr. Cole: It was the opinion of the Members of the subcommittee and the Special Counsel, that based on the facts of this case as they are currently known, the appropriate sanction for the conduct described in the original Statement of Alleged Violations is a reprimand and the payment of $300,000 toward the cost of the preliminary inquiry.

In light of this opinion, the subcommittee Members and the Special Counsel intend to recommend to the full committee that this be the sanction recommended by the full committee to the House. The Members also intend to support this as the sanction in the committee and on the Floor of the House.

However, if new facts are developed or brought to the attention of the Members of the subcommittee, they are free to change their opinions.

The Subcommittee, through its counsel, has communicated this to Mr. Gingrich, through his counsel. Mr. Gingrich has agreed that if the subcommittee will amend the Statement of Alleged Violations to be one count, instead of three counts, however, still including all of the conduct described in the original Statement of Alleged Violations, and will allow the addition of some language which reflects aspects of the record in this matter concerning the involvement of Mr. Gingrich's counsel in the preparation of the letters described in the original Count 3 of the Statement of Alleged Violations,[88] he will admit to the entire Statement of Alleged Violation and agree to the view of the

[88] These changes included the removal of the word ''knew'' from the original Count 3, making the charge read that Mr. Gingrich ''should have known'' the information was inaccurate.

subcommittee Members and the Special Counsel as to the appropriate sanction.

In light of Mr. Gingrich's admission to the Statement of Alleged Violation, the subcommittee is of the view that the rules of the committee will not require that an adjudicatory hearing take place; however, a sanction hearing will need to be held under the rules.

The subcommittee and Mr. Gingrich desire to have the sanction hearing concluded as expeditiously as possible, but it is understood that this will not take place at the expense of orderly procedure and a full and fair opportunity for the full committee to be informed of any information necessary for each Member of the full committee to be able to make a decision at the sanction hearing.

After the subcommittee has voted a new Statement of Alleged Violation, Mr. Gingrich will file his answer admitting to it. The subcommittee will seek the permission of the full committee to release the Statement of Alleged Violation, Mr. Gingrich's answer, and a brief press release which has been approved by Mr. Gingrich's counsel. At the same time, Mr. Gingrich will release a brief press release that has been approved by the subcommittee's Special Counsel.

Both the subcommittee and Mr. Gingrich agree that no public comment should be made about this matter while it is still pending. This includes having surrogates sent out to comment on the matter and attempt to mischaracterize it.

Accordingly, beyond the press statements described above, neither Mr. Gingrich nor any Member of the subcommittee may make any further public comment. Mr. Gingrich understands that if he violates this provision, the subcommittee will have the option of reinstating the original Statement of Alleged Violations and allowing Mr. Gingrich an opportunity to withdraw his answer.

And I should note that it is the intention of the subcommittee that ''public comments'' refers to press statements; that, obviously, we are free and Mr. Gingrich is free to have private conversations with Members of Congress about these matters.[89]

After the Subcommittee voted to issue the substitute SAV, the Special Counsel called Mr. Gingrich's counsel and read to him what was put on the record concerning this matter. Mr. Gingrich's counsel then delivered to the Subcommittee Mr. Gingrich's answer admitting to the Statement of Alleged Violation.

D. Post-December 21, 1996 Activity

Following the release of this Statement of Alleged Violation, numerous press accounts appeared concerning this matter. In the opinion of the Subcommittee Members and the Special Counsel, a number of the press accounts indicated that Mr. Gingrich had violated the agreement concerning statements about the matter. Mr. Gingrich's counsel was notified of the Subcommittee's concerns and the Subcommittee met to consider what action to take in light of this apparent violation. The Subcommittee determined that it would not nullify the agreement. While there was serious concern about whether Mr. Gingrich had complied with the agreement, the Subcommittee was of the opinion that the best interests of the House still lay in resolving the matter without a disciplinary hearing and with the recommended sanction that its Members had previously determined was appropriate. However, Mr. Gingrich's counsel was informed that the Subcommittee believed a violation of the agreement had occurred and retained the right to withdraw from the agreement with appropriate notice to Mr. Gingrich. To date no such notice has been given.

X. SUMMARY OF FACTS PERTAINING TO USE OF UNOFFICIAL RESOURCES

The Subcommittee investigated allegations that Mr. Gingrich had improperly utilized the services of Jane Fortson, an employee of the Progress in Freedom Foundation (''PFF''), in violation of House Rule 45, which prohibits the use of unofficial resources for official purposes.

Ms. Fortson was an investment banker and chair of the Atlanta Housing Project who had experience in urban and housing issues. In January 1995 she moved to Washington, D.C., from Atlanta to work on urban and housing issues as a part-time PFF Senior Fellow and subsequently became a full-time PFF Senior Fellow in April, 1995.

The Subcommittee determined that Mr. Gingrich sought Ms. Fortson's advice on urban and housing issues on an ongoing and meaningful basis. During an interview with Mr. Cole, Mr. Gingrich stated that although he believed he lacked the authority to give Ms. Fortson assignments, he often requested her assistance in connection with urban issues in general and issues pertaining to the District of Columbia in particular. The investigation further revealed that Ms. Fortson appeared to have had unusual access to Mr. Gingrich's official schedule and may have occasionally influenced his official staff in establishing his official schedule.

In her capacity as an unofficial policy advisor to Mr. Gingrich, Ms. Fortson provided ongoing advice to Mr. Gingrich and members of Mr. Gingrich's staff to assist Mr. Gingrich in conducting official duties related to urban issues. Ms. Fortson frequently attended meetings with respect to the D.C. Task Force during which she met with Members of Congress, officials of the District of Columbia, and members of their staffs. Although Mr. Gingrich and principal members of his staff advised the Subcommittee that they perceived Ms. Fortson's assistance as limited to providing information on an informal basis, the Subcommittee discovered other occurrences which suggested that Mr. Gingrich and members of his staff specifically solicited Ms. Fortson's views and assistance with respect to official matters.

The Subcommittee acknowledges that Members may properly solicit information from outside individuals and organizations, including nonprofit and for-profit organizations. Regardless of whether auxiliary services are accepted from a nonprofit or for-profit organization, Members must exercise caution to limit the use of outside resources to ensure that the duties of official staff are not improperly supplanted or supplemented. The Subcommittee notes that although Mr. Gingrich received two letters of reproval from the Committee on Standards regarding the use of outside resources, Ms. Fortson's activities ceased prior to the date the Committee issued those letters to Mr. Gingrich. While the Subcommittee did not find that Ms. Fortson's individual activities violated House Rules, the Subcommittee determined that the regular, routine, and ongoing assistance she provided Mr. Gingrich and his staff over a ten-month period could create the appearance of improper commingling of unofficial and official resources. The Subcommittee determined, however, that these activities did not warrant inclusion as a Count in the Statement of Alleged Violation.

XI. AVAILABILITY OF DOCUMENTS TO INTERNAL REVENUE SERVICE

In light of the possibility that documents which were produced to the Subcommittee during the Preliminary Inquiry might be useful to the IRS as part of its reported ongoing investigations of various 501(c)(3) organizations, the Subcommittee decided to recommend that the full Committee make available to the IRS all relevant documents produced during the Preliminary Inquiry. It is the Committee's recommendation that the House Committee on Standards of Official Conduct in the 105th Congress establish a liaison with the IRS to fulfill its recommendation and that this liaison be established in consultation with Mr. Cole.

APPENDIX

SUMMARY OF LAW PERTAINING TO ORGANIZATIONS EXEMPT FROM FEDERAL INCOME TAX UNDER SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE

A. Introduction

Section 501(a) of the Internal Revenue Code generally exempts from federal income taxation numerous types of organizations. Among these are section 501(c)(3) organizations which include corporations: Organized and operated exclusively for religious, charitable, scientific * * * or educational purposes * * * no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, * * * and which does not participate in, or intervene in * * * any political campaign on behalf of (or in opposition to) any candidate for public office.

I.R.C. § 501(c)(3). Organizations described in section 501(c)(3) are generally referred to as ''charitable'' organizations and contributions to such organizations are generally deductible to the donors. I.R.C. § 170(a)(1), (c)(2).

B. The Organizational Test and the Operational Test

The requirement that a 501(c)(3) organization be ''organized and operated exclusively'' for an exempt purpose has given rise to an ''organizational test'' and an ''operational test.'' Failure to meet either test will prevent an organization from qualifying for exemption under section 501(c)(3). Treas. Reg. § 1.501(c)(3)–1(a); *Levy Family Tribe Foundation* v. *Commissioner*, 69 T.C. 615, 618 (1978).

1. ORGANIZATIONAL TEST

To satisfy the organizational test, an organization must meet three sets of requirements. First, its articles of organization must: (a) limit its purposes to one or more exempt purposes, and (b) not expressly permit substantial activities that do not further those exempt purposes. Treas. Reg. § 1.501(c)(3)–1(b)(1). Second, the articles must not permit: (a) devoting more than an insubstantial part of its activities to lobbying, (b) any participation or intervention in the campaign of a candidate for public office, and (c) objectives and activities that would characterize it as an ''action'' organization. Treas. Reg. § 1.501(c)(3)–1(b)(3). Third, the organization's assets must be dedicated to exempt purposes. Treas. Reg. § 1.501(c)(3)–1(b)(4). The IRS determines compliance with the organizational test solely by reference to an organization's articles of organization.

2. OPERATIONAL TEST

To satisfy the operational test, an organization must be operated ''exclusively'' for an exempt purpose. Though ''exclusively'' in this context does not mean ''solely,'' the presence of a substantial nonexempt purpose will cause an organization to fail the operational test. Treas. Reg. § 1.501(c)(3)–1(c)(1); *The Nationalist Movement* v. *Commissioner*, 102 T.C. 558, 576 (1994). The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the

[89] It was also agreed that in the private conversations Mr. Gingrich was not to disclose the terms of the agreement with the Subcommittee.

number or importance of truly exempt purposes. *Better Business Bureau of Washington, D.C.* v. *United States,* 326 U.S. 276, 283 (1945); *Manning Association* v. *Commissioner,* 93 T.C. 596, 611 (1989).

To meet the operational test under section 501(c)(3) organization, the organization must satisfy the following requirements:[90]

1. The organization must be operated for an exempt purpose, and must serve a public benefit, not a private benefit. Treas. Reg. §1.501(c)(3)–1(d)(1)(ii).

2. It must not be an ''action'' organization. Treas. Reg. §1.501(c)(3)–1(c)(3). An organization is an ''action'' organization if:

a. it participates or intervenes in any political campaign (Treas. Reg. §1.501(c)(3)–1(c)(3)(iii));

b. a substantial part of its activities consists of attempting to influence legislation (Treas. Reg. §1.501(c)(3)–1(c)(3)(ii)); or

c. its primary objective may be attained: only by legislation or defeat of proposed legislation, and it advocates the attainment of such primary objective (Treas. Reg. §1.501(c)(3)–1(c)(3)(iv)).

3. Its net earnings must not inure to the benefit of any person in a position to influence the organization's activities. Treas. Reg. §1.501(c)(3)–1(c)(2).

''[F]ailure to satisfy any of the [above] requirements is fatal to [an organization's] qualification under section 501(c)(3).'' *American Campaign Academy* v. *Commissioner,* 92 T.C. 1053, 1062 (1989).

The application of these requirements, moreover, is a factual exercise. *Id.* at 1064; *Christian Manner International* v. *Commissioner,* 71 T.C. 661, 668 (1979). Thus, in testing compliance with the operational test, courts look ''beyond the four corners of the organization's charter to discover 'the actual objects motivating the organization and the subsequent conduct of the organization.'' *American Campaign Academy,* 92 T.C. at 1064 (citing *Taxation with Representation* v. *United States,* 585 F.2d 1219, 1222 (4th Cir. 1978)); *see also Sound Health Association* v. *Commissioner,* 71 T.C. 158, 184 (1978) (''It is the purpose toward which an organization's activities are directed that is ultimately dispositive of the organization's right to be classified as a section 501(c)(3) organization.'')

''What an organization's purposes are and what purposes its activities support are questions of fact.'' *American Campaign Academy,* 92 T.C. at 1064 (citing *Christian Manner International* v. *Commissioner,* 71 T.C. 661, 668 (1979)). Courts may ''draw factual inferences'' from the record when determining whether organizations meet the requirements of the tax-exempt organization laws and regulations. *Id.* (citing *National Association of American Churches* v. *Commissioner,* 82 T.C. 18, 20 (1984)).

a. ''Educational'' Organizations May Qualify for Exemption Under Section 501(c)(3)

As discussed above, an organization may qualify for exemption under section 501(c)(3) if it is ''educational.''[91] The Regulations define the term ''educational'' as relating to:

(a) [t]he instruction or training of the individual for the purpose of improving or developing his capabilities; or

(b) [t]he instruction of the public on subjects useful to the individual and beneficial to the community.

Treas. Reg. §1.501(c)(3)–1(d)(3)(i). The Regulations continue:

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts as to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

Id. Guidance on the phrase ''advocates a particular position or viewpoint'' can be found in the preceding section in the Regulations pertaining to the definition of ''charitable.''

The fact that an organization, in carrying out its primary purpose, advocates social or civil changes or presents opinion on controversial issues with the intention of molding public opinion or creating public sentiment to an acceptance of its views does not preclude such organization from qualifying under section 501(c)(3) so long as it is not an ''action'' organization.* * *

Treas. Reg. §1.501(c)(3)–1(d)(2).

In applying the Regulations under section 501(c)(3) pertaining to educational organizations, the IRS has stated that its goal is to eliminate or minimize the potential for any public official to impose his or her preconceptions or beliefs in determining whether the particular viewpoint or position is educational. Rev. Proc. 86–43, 1986–2 C.B. 729. IRS policy is to ''maintain a position of disinterested neutrality with respect to the beliefs advocated by an organization.'' *Id.* The focus of the Regulations pertaining to educational organizations and of the IRS's application of these Regulations ''is not upon the viewpoint or position, but instead upon the method used by the organization to communicate its viewpoint or positions to others.'' *Id.*

Two court decisions considered challenges to the constitutionality of the definition of ''educational,'' in the Regulations cited above. One decision held that the definition was unconstitutionally vague. *Big Mama Rag, Inc.* v. *United States,* 631 F.2d 1030 (D.C. Cir. 1980). In *National Alliance* v. *United States,* 710 F.2d 868 (D.C. Dir. 1983), the court upheld the IRS's position that the organization in question was not educational. Without ruling on the constitutionality of the ''methodology test'' used by the IRS in that case to determine whether the organization was educational, the court found that the application of that test reduced the vagueness found in *Big Mama Rag.* The IRS later published the methodology test in Rev. Proc. 86–43 in order to clarify its position on how to determine whether an organization is educational when it advocates particular viewpoints or positions. As set forth in the Revenue Procedure:

The presence of any of the following factors in the presentations made by an organization is indicative that the method used by the organization to advocate its viewpoints or positions is not educational.

(a) The presentation of viewpoints or positions unsupported by facts is a significant portion of the organization's communications.

(b) The facts that purport to support the viewpoints or positions are distorted.

(c) The organization's presentations make substantial use of inflammatory and disparaging terms and express conclusions more on the basis of strong emotional feelings than of objective evaluations.

(d) The approach used in the organization's presentations is not aimed at developing an understanding on the part of the intended audience or readership because it does not consider their background or training in the subject matter.

According to Rev. Proc. 86–43, the IRS uses the methodology test in all situations where the educational purpose of an organization that advocates a viewpoint or position is in question. However, ''[e]ven if the advocacy undertaken by an organization is determined to be educational under [the methodology test], the organization must still meet all other requirements for exemption under section 501(c)(3) * * *'' Rev. Proc. 86–43. That is, organizations deemed to be ''educational'' must also abide by the section 501(c)(3) prohibitions on: (a) private benefit, (b) participating or intervening in a political campaign, (c) engaging in more than insubstantial lobbying activities, and (d) private inurement.

b. To Satisfy the Operational Test, an Organization Must Not Violate the ''Private Benefit'' Prohibition

Section 501(c)(3) requires, inter alia, that an organization be organized and operated exclusively for one or more exempt purposes. Treas. Reg. 1.501(c)(3)–1(d)(1)(ii) provides that an organization does not meet this requirement:

unless it serves a public rather than a private purpose. Thus, * * * it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

The ''private benefit'' prohibition serves to ensure that the public subsidies flowing from section 501(c)(3) status, including income tax exemption and the ability to receive tax-deductible charitable contributions, are reserved for organizations that are formed to serve public and not private interests. Treas. Reg. 1.501(c)(3)–1(c)(1) defines the application of the private benefit prohibition in the context of the operational test:

An organization will be regarded as ''operated exclusively'' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

The Regulations and cases applying them make it clear that the private benefit test focuses on the purpose or purposes served by an organization's activities, and not on the nature of the activities themselves. See, e.g., *B.S.W. Group, Inc.* v. *Commissioner,* 70 T.C. 352 (1978). Where an organization's activities serve more than one purpose, each purpose must be separately examined to determine whether it is private in nature and, if so, whether it is more than insubstantial. *Christian Manner International* v. *Commissioner,* 71 T.C. 661 (1979).

The leading case on the application of the private benefit prohibition in the context of an organization whose activities served both exempt and nonexempt purposes is *Better Business Bureau* v. *United States,* 326 U.S. 279 (1945). Better Business Bureau was a nonprofit organization formed to educate the public about fraudulent business practices, to elevate business standards, and to educate consumers to be intelligent buyers. The Court did not question the exempt purpose of these activities. The Court found, however, that the organization was ''animated'' by the purpose of promoting a profitable business community, and that such business purpose

[90] 501(c)(3) organizations must also: (a) not be operated primarily to conduct an unrelated trade or business (Treas. Reg. §1.501(c)(3)–1(e)(1)), and (b) not violate ''public policy.'' *See Bob Jones University* v. *United States,* 461 U.S. 574 (1983) (educational organization's tax-exempt status denied because of its racially discriminatory policies).

[91] An organization may also qualify for section 501(c)(3) exemption if it is organized and operated for, *e.g.,* ''religious,'' ''charitable,'' or ''scientific'' purposes. The other methods by which an organization can qualify for exemption are not discussed in this summary.

was both nonexempt and more than insubstantial. The Court denied exemption, stating (in language that is cited in virtually all later private benefit cases), that:

[I]n order to fall within the claimed exemption, an organization must be devoted to educational purposes exclusively. This plainly means that the presence of a single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.

Id. at 283.

Many of the cases interpreting the private benefit prohibition involve private benefits that are provided in a commercial context—as in the *Better Business Bureau* case. Impermissible private benefit, however, need not be financial in nature. *Callaway Family Association* v. *Commissioner,* 71 T.C. 340 (1978), involved a family association formed as a nonprofit corporation to study immigration to and migration within the United States by focusing on its own family history and genealogy. The organization's activities included researching the genealogy of Callaway family members in order to publish a family history. The organization argued that its purposes were educational and intended to benefit the general public, asserting that its use of a research methodology focusing on one family's development was a way of educating the public about the country's history.

In *Callaway,* the court noted (and the IRS conceded) that the organization's activities served an educational purpose. The issue was not whether the organization had any exempt purposes, but whether it also engaged in activities that furthered a nonexempt purpose more than insubstantially. Agreeing with the IRS that ''petitioner aimed its organizational drive at Callaway family members, and appealed to them on the basis of their private interests,'' the court concluded that the organization ''engages in nonexempt activities serving a private interest, and these activities are not insubstantial.'' *Id.* at 343–44. Accordingly, the court held that the organization did not qualify for exemption under section 501(c)(3).

Kentucky Bar Foundation v. *Commissioner,* 78 T.C. 921 (1982), is one of the relatively few cases in which a court found private benefit to be insubstantial and therefore not to preclude exemption under section 501(c)(3). The Kentucky Bar Foundation was formed to conduct a variety of activities recognized by the IRS to serve exclusively educational purposes, including a continuing legal education program and the operation of a public law library. The IRS, however, asserted that the Foundation's operation of statewide lawyer referral service also served private purposes. Through the referral service, a person seeking a lawyer was referred to an attorney selected on a rotating basis within a convenient geographic area. The fee for an initial half-hour consultation was $10; any charge for further consultation or work had to be agreed upon by the attorney and the client. The court found that the purposes of the referral service were to assist the general public in locating an attorney to provide a consultation for a reasonable fee, to encourage lawyers to recognize the obligation to provide legal services to the general public, and to acquaint people in need of legal services with the value of consultation with a lawyer to identify and solve legal problems.

The IRS asserted that a purpose of the referral service was to benefit lawyers, particularly to help young law school graduates establish a practice, and that this was a substantial nonexempt purpose. Based on a careful examination of the facts, however, the court found that:

[t]he referral service is open to all responsible attorneys, and there is no evidence a selected group of attorneys are the primary beneficiaries of the service. The referral service is intended to benefit the public and not to serve as a source of referrals. We find any nonexempt purpose served by the referral service and any occasional economic benefit flowing to individual attorneys through a referral incidental to the broad charitable purpose served.

Id. at 926.

Reiterating the proposition that ''the proper focus is the purpose or purposes toward which the activities are directed,'' the court found that the purpose of the legal referral service was to benefit the public, that any private benefit was broadly distributed, not conferred on any select group of attorneys and incidental to the public purpose, and that the organization qualified for exemption under section 501(c)(3). *Id.* at 923, 925–26 (citing *B.S.W. Group* v. *Commissioner,* 70 T.C. 352, 356–57 (1978)).

As the cases described above show, the determination as to whether private benefit is incidental (and therefore permissible) or more than incidental (and therefore prohibited) is inherently factual, and each case must be decided on its own facts and circumstances. See also *Manning Association* v. *Commissioner,* 93 T.C. 596 (1989). The IRS has issued several published and private rulings and general counsel memoranda[92] that further explain the private benefit prohibition. For example, in Rev. Rul. 70–186, 1970–1 C.B. 128, an organization was formed to preserve a lake as a public recreational facility and to improve the lake water's condition. Although the organization's activities benefited the public at large, there were necessarily significant benefits to the individuals who owned lake-front property. The IRS, however, determined that the private benefit to the lake-front property owners was incidental because:

[t]he benefits to be derived from the organization's activities flow principally to the general public through the maintenance and improvement of public recreational facilities. Any private benefits derived by the lakefront property owners do not lessen the public benefits flowing from the organization's operations. In fact, it would be impossible for the organization to accomplish its purposes without providing benefits to the lakefront property owners.

Id.

In Rev. Rul. 75–196, 1975–1 C.B. 155, the IRS ruled that a 501(c)(3) organization operating a law library whose rules essentially limited access and use to local bar association members conferred only incidental benefits to the bar association members. The library's availability only to a designated class of persons was not a bar to recognition of exemption because:

[w]hat is of importance is that the class benefited be broad enough to warrant a conclusion that the educational facility or activity is serving a broad public interest rather than a private interest, and is therefore exclusively educational in nature.

Id. The library was available to a significant number of people, and the restrictions on the library's use were due to the limited size of its facilities. Although attorneys who used the library might derive personal benefit in their practice, the IRS ruled that this benefit was incidental to the library's exempt purpose and a ''logical by-product of an educational process.''

Id.

Two other revenue rulings with similar fact patterns are also helpful in understanding the application of the ''incidental benefits'' concept. In one ruling, the IRS ruled that an organization that limited membership to the residents of one city block did not qualify as a 501(c)(3) organization because the organization's members benefited directly, thus not incidentally, from the organization's activities. Rev. Rul. 75–286, 1975–2 C.B. 210. In another, the IRS ruled that an organization dedicated to beautification of an entire city qualified as a 501(c)(3) organization because benefits flowed to the city's entire population and were not targeted to the organization's members. Rev. Rul. 68–14, 1968–1 C. B. 243. The benefits to the organization's members of living in a cleaner city were considered incidental.

The IRS issued a recent warning about the importance of the private benefit prohibition in Rev. Proc. 96–32, 1996–20 I.R.B. 14, a Revenue Procedure issued for the purpose of establishing standards as to whether organizations that own and operate low income housing (an activity conducted by both nonprofit and for-profit organizations) may qualify for exemption under section 501(c)(3). After reviewing the substantive criteria that must be present to establish that the organization is formed for a charitable purpose, the IRS added a final caution:

If an organization furthers a charitable purpose such as relieving the poor and distressed, it nevertheless may fail to qualify for exemption because private interests of individuals with a financial stake in the project are furthered. For example, the role of a private developer or management company in the organization's activities must be carefully scrutinized to ensure the absence of inurement or impermissible private benefit resulting from real property sales, development fees, or management contracts.

Id.

One of the most detailed explanations of the private benefit prohibition is contained in G.C.M. 39862 (Nov. 22, 1991), involving the permissibility of a hospital's transaction with physicians. In the G.C.M., the IRS explained the prohibition as follows:

Any private benefit arising from a particular activity must be ''incidental'' in both a qualitative and quantitative sense to the overall public benefit achieved by the activity if the organization is to remain exempt. To be qualitatively incidental, a private benefit must occur as a necessary concomitant of the activity that benefits the public at large; in other words, the benefit to the public cannot be achieved without necessarily benefiting private individuals. Such benefits might also be characterized as indirect or unintentional. To be quantitatively incidental, a benefit must be insubstantial when viewed in relation to the public benefit conferred by the activity.

Id.

The IRS also explained that the insubstantiality of the private benefit is measured only in relationship to activity in which the private benefit is present, and not in relation to the organization's overall activities:

It bears emphasis that, even though exemption of the entire organization may be at stake, the private benefit conferred by an activity or arrangement is balanced only against the public benefit conferred by that activity or arrangement, not the overall good accomplished by the organization.

Id.

In G.C.M. 39862, the IRS balanced the private benefits to the physicians from the

[92] Private letter rulings and general counsel memoranda are made available to the public under section 6110 of the Code. These documents are based on the facts of particular cases, and may not be relied on as precedent. However, they provide useful insights as to how the IRS interprets and applies the law in particular factual situations.

transaction at issue with the public purposes served by that particular activity—and not the public purposes served by the hospital as a whole. Finding the private purposes from the activity at issue to be more than incidental in relation to the public purposes, the IRS determined that the hospital had jeopardized its exemption under section 501(c)(3).

Although most of the cases and IRS rulings (both public and private) follow the general analysis described above in determining whether or not private benefit is insubstantial, a fairly recent Tax Court case, *American Campaign Academy* v. *Commissioner,* 92 T.C. 1053 (1989) adopts a slightly different approach. In that case, the primary activity of American Campaign Academy (''ACA'' or ''the Academy'') was the operation of a school to train people to work in political campaigns. The IRS denied ACA's application for exemption under section 501(c)(3), and ACA appealed the denial to the Tax Court. The Tax Court upheld the IRS's denial of ACA's application for exemption because ACA's activities conferred an impermissible private benefit on Republican candidates and entities.

The school operated by ACA was an ''outgrowth'' of programs the National Republican Congressional Committee (''NRCC'') once sponsored to train candidates and to train campaign professionals for Republican campaigns. The Academy program, however, differed from its NRCC predecessor in that it limited its students to ''campaign professionals.'' *Id.* at 1056. Without discussion, the IRS stated that the Academy did not train candidates, participate in any political campaign or attempt to influence legislation. *Id.* at 1056–57. The Academy did not use training materials developed by the NRCC, generally did not use NRCC faculty, and developed its own courses. *Id.* at 1057. Students were not explicitly required to be affiliated with any particular party, nor were they required to take positions with partisan organizations upon graduation. *Id.* at 1058.

The Academy had a number of direct and indirect connections to Republican organizations. The NRCC contributed furniture and computer hardware to the Academy. *Id.* at 1056. One of the Academy's three directors, Joseph Gaylord, was the Executive Director of the NRCC; another director, John McDonald, was a member of the Republican National Committee. *Id.* Jan Baran, General Counsel of the NRCC at the time of the Academy's application to IRS, incorporated the Academy. *Id.* at 1070. The National Republican Congressional Trust funded the Academy. *Id.* The Academy curriculum included studies of the ''Growth of NRCC, etc.'' and ''Why are people Republicans,'' but did not contain comparable studies pertaining to the Democratic or other political parties. *Id.* at 1070–71. People on the admissions panel were affiliated with the Republican Party. *Id.* at 1071. Furthermore, while the applicants were not required to declare a party affiliation on their application, the political references students were required to submit ''often permit[ted] the admission panel to deduce the applicant's political affiliation.'' *Id.* Finally, the Court found that all but one of the Academy graduates who could be identified as later serving in political positions ended up serving Republican candidates or Republican organizations. *Id.* at 1060, 1071, 1072.

In light of these facts, the Tax Court upheld the IRS's denial of the Academy's application for exemption under section 501(c)(3) because the Academy ''conducted its educational activities with the partisan objective of benefiting Republican candidates and entities.'' *Id.* at 1070. Any one of the facts listed in the previous paragraph did not alone support the IRS's finding or the court's holding that the Academy was organized for a non-exempt purpose. The IRS did not argue, and the court did not hold, for example, that individuals who are all members of the same political party are prohibited from operating a 501(c)(3) organization, or that an organization may not receive an exemption under section 501(c)(3) if a partisan organization funds it. Rather, the Tax Court focused on the purpose behind ACA's activities. In determining this, it drew ''factual inferences'' from the record to discern that purpose. Those inferences led to the court's conclusion that the Academy ''targeted Republican entities and candidates to receive the secondary benefit through employing its alumni * * *.'' *Id.* at 1075.

The Tax Court's analysis distinguished between ''primary'' private benefit and ''secondary'' private benefit, and made clear that the latter can be a bar to section 501(c)(3) qualification. In this case, the students received the primary private benefit of the Academy, and this benefit was permissible and consistent with the Academy's educational purposes. The students' ultimate employers, Republican candidates and entities, received the secondary benefits of the Academy. ''[W]here the training of individuals is focused on furthering a particular targeted private interest [e.g., Republican candidates and entities], the conferred secondary benefit ceases to be incidental to the providing organization's exempt purposes.'' *Id.* at 1074.

For the Academy to have prevailed, according to the Tax Court, it needed to demonstrate: (1) that the candidates and entities who received the benefit of trained campaigned workers possessed the characteristics of a ''charitable class,''[93] and (2) that it did not distribute benefits among that class in a select manner. *Id.* at 1076. The Academy argued that Republican candidates and entities were ''charitable'' because the Republican party consists of millions of people with ''like 'political sympathies' '' and their activities benefited the community at large. *Id.* The Court ruled, however, that size alone does not transform a benefited class into a charitable class and that ACA had failed to demonstrate that political entities and candidates possessed the characteristics of a charitable class. *Id.* At 1077. Moreover, the Tax Court held that even if political candidates and entities could be found to constitute a ''charitable class,'' ACA's benefits were distributed in a select manner to Republican candidates and entities. *Id.*

Finally, the Academy argued that although it hoped that alumni would work in Republican organizations or for Republican candidates, it had no control over whether they would do so. Absent an ability to control the students' employment, the Academy argued, it lacked the ability to confer secondary benefits to Republican candidates and entities. *Id.* at 1078. The Court found that there was no authority for the proposition that the organization must be able to control non-incidental benefits. Furthermore, the Court reiterated that the record supported the IRS's determination that the Academy was formed ''with a substantial purpose to train campaign professionals for service in Republican entities and campaigns, an activity previously conducted by NRCC.'' *Id.* According to the Court, accepting the Academy's argument regarding its inability to control non-incidental benefits would ''cloud the focus of the operational test, which probes to ascertain the purpose towards which an organization's activities are directed and not the nature of the activities themselves.'' *Id.* at 1078–79 (citing *B.S.W. Group* v. *Commissioner,* 70 T.C. 352, 356–57 (1978)). The Court noted that had the record demonstrated that ''the Academy's activities were nonpartisan in nature and that its graduates were not intended to primarily benefit Republicans,'' the Court would have found for the Academy. *Id.* at 1079.

The *American Campaign Academy* case follows existing precedent. In reaching its decision, the court relies on *Better Business Bureau* and *Kentucky Bar Foundation,* among other cases, for the legal standards governing the private benefit prohibition. The court recognizes that the ACA's activities were intended to serve multiple purposes, including the education of students (the permissible primary benefit) and the provision of trained campaign professionals for candidates and entities (the secondary benefit). Finding the secondary benefit to be targeted to a select group—Republican candidates and entities—the court concludes that such benefit is more than incidental and therefore precludes exemption under section 501(c)(3).

c. To Satisfy The Operational Test, An Organization Must Not Be An ''Action'' Organization

An organization is not operated exclusively for one or more exempt purposes if it is an ''action'' organization. Treas. Reg. §1.501(c)(3)–1(c)(3). Such an organization cannot qualify for exemption under section 501(c)(3). Treas. Reg. §1.501(c)(3)–1(c)(3)(v). An organization is an action organization if:

(i) It ''participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office;''

(ii) a ''substantial part'' of its activities consists of ''attempting to influence legislation by propaganda, or otherwise;'' or

(iii) its primary objective may be attained ''only by legislation or a defeat of proposed legislation,'' and ''it advocates, or campaigns for, the attainment'' of such primary objective.

Treas. Reg. §1.501(c)(3)–1(c)(3).

(i) If an Organization Participates in a Political Campaign, It is an Action Organization Not Entitled to Exemption Under Section 501(c)(3)

Section 501(c)(3) provides that an organization is not entitled to exemption if it ''participate[s] in, or intervene[s] in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.'' The reason for this prohibition is clear. Contributions to section 501(c)(3) organizations are deductible for federal income tax purposes, but contributions to candidates and political action committees (''PACs'') are not. The use of section 501(c)(3) organizations to support or oppose candidates or PACs would circumvent federal

[93] This part of the Tax Court's analysis in *American Campaign Academy* has been criticized by a few commentators, who have disagreed with the court's application of the ''charitable class'' doctrine in the context of an educational organization. See, e.g., Bruce R. Hopkins, Republican Campaign School Held Not Tax Exempt, The Nonprofit Counsel, July 1989, at 3; Laura B. Chisolm, Politics and Charity: A Proposal for Peaceful Coexistence, 58 Geo. Wash. L. Rev. 308, 344 n.159 (1990).

Typically an educational organization is expected to serve a broad class representative of the public interest, but not a ''charitable class'' per se. The court's consideration of the question as to whether political candidates and entities could constitute a charitable class might be misplaced, but is not critical to its holding. As the court notes, ''even were we to find political entities and candidates to generally comprise a charitable class, petitioner would bear the burden of proving that its activities benefited the members of the class in a nonselect manner.'' The court's finding that such benefits were conferred in a select manner—to Republican candidates and entities—was the basis for its holding that the organization served private purposes more than incidentally and, therefore, failed to qualify for exemption under section 501(c)(3).

tax law by enabling candidates or PACs to attract tax-deductible contributions to finance their election activities. As the U.S. Court of Appeals for the Tenth Circuit explained, ''[t]he limitations in Section 501(c)(3) stem from the congressional policy that the United States Treasury should be neutral in political affairs and that substantial activities directed to attempts to * * * affect a political campaign should not be subsidized.'' *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849, 854 (1972), *cert. denied*, 419 U.S. 1107 (1975) (emphasis in original).

The prohibition on political campaign intervention was added to the Internal Revenue Code as a floor amendment to the 1954 Revenue Act offered by Senator Lyndon Johnson, who believed that a section 501(c)(3) organization was being used to help finance the campaign of an opponent. In introducing the amendment, Senator Johnson said that it was to ''deny[] tax-exempt status to not only those people who influence legislation but also to those who intervene in any political campaign on behalf of any candidate for any public office.'' 100 Cong. Rec. 9604 (1954) (discussed in Bruce R. Hopkins, ''The Law of Tax-Exempt Organizations,'' 327 (6th ed. 1992)). No congressional hearing was held on the subject and the conference report did not contain any analysis of the provision. Judith E. Kindell and John F. Reilly, ''Election Year Issues,'' 1993 Exempt Organizations Continuing Professional Education Technical Instruction Program 400, 401 (hereinafter ''IRS CPE Manual'').[94]

Although the prohibition on political campaign intervention was not formally added to section 501(c)(3) until 1954, the concept that charities should not participate in political campaigns was not new. As the Second Circuit noted, ''[t]his provision merely expressly stated what had always been understood to be the law. Political campaigns did not fit within any of the specified purposes listed in [Section 501(c)(3)].'' *The Association of the Bar of the City of New York* v. *Commissioner*, 858 F.2d 876, 879 (2d Cir. 1988) (hereinafter ''*New York Bar*'') (quoting 9 Mertens, Law of Federal Income Taxation §34.05 at 22 (1983)).[95] Furthermore, congressional concerns that the government not subsidize political activity have existed since at least the time when Judge Learned Hand wrote ''[p]olitical agitation * * * however innocent the aim * * * must be conducted without public subvention * * *.'' *Slee* v. *Commissioner*, 42 F.2d 184, 185 (2d Cir. 1930), quoted in *New York Bar*, 858 F.2d at 879.

In 1987, Congress amended section 501(c)(3) to clarify that the prohibition on political campaign activity applied to activities in opposition to, as well as on behalf of, any candidate for public office. Omnibus Budget Reconciliation Act, Pub. L. No. 100–203, §10711, 101 Stat. 1330, 1330–464 (1987). The House Report accompanying the bill stated that ''[t]he prohibition on political campaign activities * * * reflect[s] congressional policies that the U.S. Treasury should be neutral in political affairs * * *.'' H.R. Rep. No. 100–391, at 1625 (1987); see also S. Rep. No. 91–552, at 46–49 (Tax Reform Act of 1969) (interpreting section 501(c)(3) to mean that ''no degree of support for an individual's candidacy for public office is permitted'').

The scope of the prohibition on political campaign intervention has been the subject of much discussion. While certain acts are clearly proscribed, others may be permissible or prohibited, depending on the purpose and effect of the activity. The regulations interpreting the prohibition add little to the statutory definition:

Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Treas. Reg. §1.501(c)(3)–1(c)(3)(iii). Under this provision, a section 501(c)(3) organization is prohibited from making a written or oral endorsement of a candidate and from distributing partisan campaign literature. IRS CPE Manual at 410. Following the enactment of section 527 of the Code in 1974 (governing the federal tax treatment of PACs), the prohibition also prevents section 501(c)(3) organizations from establishing or supporting a PAC. IRS CPE Manual at 437. (The application of the prohibition in this context is discussed further below.)

It is clear, however, that section 501(c)(3) organizations also may violate the prohibition by engaging in activity that falls short of a direct endorsement, and even may—on its face—appear neutral, if the purpose or effect of the activity is to support or oppose a candidate. The IRS CPE Manual describes a variety of situations in which section 501(c)(3) organizations may violate the prohibition without engaging in a direct candidate endorsement, including inviting a particular candidate to make an appearance at an organization event, holding candidate forums or distributing voter guides which evidence a bias for or against a candidate, and similar activities that may support or oppose a particular candidate. IRS CPE Manual at 419–424, 430–432. In a recent election year news release, the IRS reminded 501(c)(3) organizations of the breadth of the prohibition, stating not only that they cannot endorse candidates or distribute statements in support of or opposition to candidates, but also that they cannot ''become involved in any other activities that may be beneficial or detrimental to any candidate.'' IRS News Release IR–96–23 (Apr. 24, 1996).

While it is easy for the IRS to determine whether the prohibition on political campaign intervention has been violated when a section 501(c)(3) organization endorses a candidate or distributes partisan campaign literature, it is more difficult to determine whether there is a violation if the activity at issue is not blatant or serves a nonpolitical purpose as well. The IRS relies on a ''facts and circumstances'' test in analyzing ambiguous behavior to determine whether there has been a violation. According to the IRS:

[i]n situations where there is no explicit endorsement or partisan activity, there is no bright-line test for determining if the IRC 501(c)(3) organization participated or intervened in a political campaign. Instead, all the facts and circumstances must be considered.

IRS CPE Manual at 410.

Despite the lack of bright-line standards concerning all aspects of the prohibition, there is a substantial body of authority concerning what section 501(c)(3) organizations can and cannot do, and many section 501(c)(3) organizations have little difficulty applying existing precedents to develop internal guidelines for what activities are permissible and prohibited. For example, the Office of General Counsel of the United States Catholic Conference issued guidelines on political activities to Catholic organizations on February 14, 1996, in anticipation of the 1996 election season.[96] The guidelines outline the parameters of permissible activity, including unbiased voter education, nonpartisan get-out-the-vote drives, and nonpartisan public forums. They also describe what activity is prohibited, including the endorsement of candidates, the distribution of campaign literature in support or opposition to candidates, and the provision of financial and in-kind support to candidates or PACs. With respect to the latter, the guidelines state flatly that:

[A] Catholic organization may not provide financial support to any candidate, PAC, or political party. Likewise, it may not provide or solicit in-kind support, such as free or selective use of volunteers, paid staff, facilities, equipment, mailing lists, etc.

''Political Activity Guidelines for Catholic Organizations'' (United States Catholic Conference, Office of the General Counsel, Washington, D.C.), Feb. 14, 1996, reprinted in Paul Streckfus' EO Tax Journal, November 1996 at 35, 42.

The generally accepted aspects of the campaign intervention prohibition, as well as some areas of uncertainty, are discussed below.

(a) The Prohibition Is ''Absolute''

The prohibition on political campaign intervention or participation is ''absolute.'' IRS CPE Manual at 416. Unlike the prohibition on lobbying, there is no requirement that political campaign participation or intervention be substantial. *New York Bar*, 858 F.2d at 881. It is, therefore, irrelevant that the majority, or even all but a small portion, of an organization's activities would, by themselves, support exemption under section 501(c)(3). *United States* v. *Dykema*, 666 F.2d 1096, 1101 (7th Cir. 1981); see also G.C.M. 39694 (Jan. 22, 1988) (''An organization described in section 501(c)(3) is precluded from engaging in any political campaign activities'') and P.L.R. 9609007 (Dec. 6, 1995). (''For purposes of section 501(c)(3), intervention in a political campaign may be subtle or blatant. It may seem to be justified by the press of events. It may even be inadvertent. The law prohibits all forms of participation or intervention in 'any' political campaign.'')[97]

[94] The 1993 Exempt Organizations Continuing Professional Education (CPE) Technical Instruction Program text was prepared by the IRS Exempt Organizations Division for internal training purposes.

[95] Indeed, under the common law of charitable trusts—the genesis of modern day section 501(c)(3)—it was recognized that ''a trust to promote the success of a particular political party is not charitable,'' for the reason that ''there is no social interest in the underwriting of one or another of the political parties.'' Restatement (Second) of Trusts §374 (1959). The continued importance of the common law doctrine of ''charitability'' to the standards for exemption under section 501(c)(3) is reflected in the Supreme Court decision in *Bob Jones University* v. *United States*, 461 U.S. 574 (1983), in which the Supreme Court denied exemption to a private university that practiced racial discrimination, on the ground that racial discrimination was contrary to public policy and therefore inconsistent with the common law standards for charitability.

[96] Some churches assert that they have a First Amendment right to participate in political campaign activities where doing so furthers their religious beliefs. However, courts have ruled that tax exemption is a privilege and not a right, and that section 501(c)(3) does not prohibit churches from participating in political campaigns but merely provides that they will not be entitled to tax exemption if they do so. See, e.g., *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849 (10th Cir. 1972).

[97] See also G.C.M. 38137 (Oct. 22, 1979): [T]he prohibition on political activity makes no reference to the intent of the organization. An organization can violate the proscription even if it acts for reasons other than intervening in a political campaign. For example, an organization that hires a political candidate to do commercials for its charity drive and runs the commercials frequently during the political campaign may have no interest in supporting the candidate's campaign. Nevertheless, its action would constitute, at least, indirect intervention or support of the political campaign.

However, the same G.C.M. goes on to say:

We do not mean to imply that every activity that has an effect on a political campaign is prohibited political activity. We recognize that organizations

Although the prohibition on political campaign intervention under section 501(c)(3) is absolute, Congress recognized that the sanction of loss of tax exemption could, in some cases, be disproportionate to the violation. In 1987, Congress added section 4955 to the Code, which imposes excise tax penalties on section 501(c)(3) organizations that make ''political expenditures'' in violation of the prohibition, as well as organization managers who knowingly approve such expenditures. The legislative history provides that the enactment of section 4955 was not intended to modify the absolute prohibition of section 501(c)(3), but to provide an alternative remedy that could be used by the IRS in cases where the penalty of revocation seems disproportionate to the violation:

i.e., where the expenditure was unintentional and involved only a small amount and where the organization subsequently has adopted procedures to assure that similar expenditures would not be made in the future.

H.R. Rep. No. 100–391, at 1623–24 (1987).

The legislative history also provides that the excise tax may be imposed in cases involving significant, uncorrected violations of the prohibition, where revocation alone may be ineffective because the organization has ceased operations after diverting its assets to an improper purpose. In these cases, the excise tax penalty on organization managers may be the only effective way to penalize the violation. *Id.* at 1624–25.

The IRS has shown an inclination to impose the excise tax under section 4955 in lieu of revocation of exemption in cases where the violation appears to be minor in relation to the organization's other exempt purpose activities.[98] For example, P.L.R. 9609007 (Dec. 6, 1995) involved a section 501(c)(3) organization that sent out a fundraising letter linking the organization to issues raised in the particular campaigns. The IRS concluded that the letters evidenced a bias for one candidate over the other. The organization sought to defend itself by saying only a few of the letters were sent to the states whose elections were mentioned in the letters. The IRS rejected this defense, stating that:

[I]t is common knowledge that in recent times the primary source of a candidate's support in such elections is often derived from out-of-state sources. Although a particular reader may not have been eligible to actually vote for the described candidate, he or she could have been charged by [the organization], in our view, to participate in the candidate's campaign through direct monetary or in-kind support, volunteerism, molding of public opinion, or the like.

Id. The IRS found that the organization violated the political campaign intervention prohibition and imposed an excise tax on the organization under section 4955; it did not, however, propose revocation of the organization's exemption under section 501(c)(3).

(b) Section 501(c)(3) Organizations May Not Establish or Support a PAC

Although organizations exempt from tax under some categories of section 501(c) are permitted to establish or support PACs,[99] those exempt under section 501(c)(3) are not. When section 527 (governing the tax treatment of PACs) was added to the Code in 1974, the legislative history provided that ''this provision is not intended to affect in any way the prohibition against certain exempt organizations (*e.g.*, sec. 501(c)(3)) engaging in 'electioneering' * * *'' S. Rep. No. 93–1357 (1974), *reprinted* in 1975–1 C.B. 517, 534. The regulations under section 527 reflect this congressional intent:

Section 527(f) and this section do not sanction the intervention in any political campaign by an organization described in section 501(c) if such activity is inconsistent with its exempt status under section 501(c). For example, an organization described in section 501(c)(3) is precluded from engaging in any political campaign activities. The fact that section 527 imposes a tax on the exempt function income (as defined in section 1.527–2(c)) expenditures of section 501(c) organizations and permits such organizations to establish separate segregated funds to engage in campaign activities does not sanction the participation in these activities by section 501(c)(3) organizations.

Treas. Reg. §1.527–6(g).

Since the enactment of section 527 in 1974, it has been clear that a section 501(c)(3) organization will violate the prohibition on political campaign intervention by providing financial or nonfinancial support for a PAC. IRS CPE Manual at 438–40. While the use of a section 501(c)(3)'s facilities, personnel, or other financial resources for the benefit of a PAC is impermissible, the prohibition does not stop there. In its CPE Manual, the IRS also noted that ''[a]n IRC 501(c)(3) organization's resources include intangible assets, such as its goodwill, that may not be used to support the political campaign activities of another organization.'' *Id.* at 440. Some leading practitioners have interpreted this provision to prohibit a charity from allowing its name to be used by a PAC, even if the charity provides no financial support or assistance; by allowing a PAC to use its name, the charity implies to its employees and to the public that it endorses the activity of the PAC. *See* Gregory L. Colvin *et al.*, *Commentary on Internal Revenue Service 1993 Exempt Organizations Continuing Professional Education Technical Instruction Program Article on ''Election Year Issues,''* 11 Exempt Org. Tax Rev. 854, 871 (1995) [hereinafter ''EO Comments'']. *(c) ''Express Advocacy'' is Not Required, and Issue Advocacy is Prohibited if Used to Convey Support for or Opposition to a Candidate*

An organization does not need to violate the ''express advocacy'' standard applied under federal election law for it to violate the political campaign prohibition of section 501(c)(3).[100] T.A.M. 8936002 (May 24, 1989). That is, it is not necessary to advocate the election or defeat of a clearly identified candidate to violate the prohibition. IRS CPE Manual at 412–13.

Moreover, an organization may violate the prohibition even if it does not identify a candidate by name. The IRS has stated that ''issue advocacy'' may serve as ''the opportunity to intervene in a political campaign in a rather surreptitious manner'' if a label or other coded language is used as a substitute for a reference to identifiable candidates. *Id.* at 411.

The concern is that an IRC 501(c)(3) organization may support or oppose a particular candidate in a political campaign without specifically naming the candidate by using code words to substitute for the candidate's name in its messages, such as ''conservative,'' ''liberal,'' ''pro-life,'' ''pro-choice,'' ''anti-choice,'' ''Republican,'' ''Democrat,'' etc., coupled with a discussion of the candidacy or the election. When this occurs, it is quite evident what is happening—an intervention is taking place.

Id. 411–412. Furthermore:

[a] finding of political campaign intervention from the use of coded words is consistent with the concept of ''candidate''—the words are not tantamount to advocating support for or opposition to an entire political party, such as ''Republican,'' or a vague and unidentifiably large group of candidates, such as ''conservative'' because the sender of the message does not intend the recipient to interpret them that way. Code words, in this context, are used with the intent of conjuring favorable or unfavorable images—they have pejorative or commendatory connotations.

Id. at 412 n. 6.

(d) Educational Activities May Constitute Participation or Intervention

As discussed above, the IRS considers activities that satisfy the ''methodology test'' to be ''educational.'' Just as educational activities may result in impermissible private benefit, however, so too may they violate the prohibition on political campaign intervention. The IRS takes the position that ''[a]ctivities that meet the methodology test * * * may nevertheless constitute participation or intervention in a political campaign.'' IRS CPE Manual at 415.

New York Bar, 858 F.2d 876 (2d Cir. 1988), referred to above, is the leading case on point. In that case, a bar association published ratings of judicial candidates. The ratings were distributed to bar members and law libraries. The Association also issued press releases regarding its ratings, but did not conduct publicity campaigns to announce its ratings. *Id.* at 877. The Second Circuit held that although the Association's publications were educational, the distribution of the publications constituted prohibited campaign intervention. By disseminating the educational publications with the hope that they would ''ensure' that candidates whom [the Association] consider[ed] to be 'legally and professionally unqualified'' would not be elected, the court held that the Association ''indirectly'' participated in a political campaign on behalf of or in opposition to a candidate for public office. *Id.* at 881.

An implication of the holding in *New York Bar* is that one must consider not only whether the activity itself, *e.g.*, publishing

may inadvertently support political candidates. In these instances the organizations have not ''intervened'' or ''participated'' in political campaigns. A hospital that provides emergency health care for a candidate acts on behalf of the candidate during the election, but only inadvertently supports his campaign.

[98] Prior to the enactment of section 4955 in 1987, the IRS was reluctant to impose revocation in cases where the violation was not blatant and the organization had a record of otherwise charitable activities. For example, P.L.R. 8936002 (May 24, 1989) involved a section 501(c)(3) organization that engaged in voter education and issue advocacy relating to the 1984 Presidential election. Describing the case as ''a very close call,'' the IRS ''reluctantly'' concluded that the organization's voter education activities did not constitute prohibited political campaign intervention, despite the use of ''code words'' that could be viewed as evidencing support for a particular candidate.

The IRS appeared unwilling to seek revocation with respect to the organization, probably because of its history of legitimate educational activities. Had section 4955 been in effect when the activity took place, the IRS would have had another enforcement alternative: it could have imposed excise tax penalties on the organization's expenditures for the activities it found so troublesome.

[99] For example, section 501(c)(4) and (6) organizations are permitted to establish and/or support PACs. If these exempt organizations provide support for PACs, they are subject to tax, under section 527, on the lesser of their net investment income or their ''exempt function'' income.

[100] The FEC's ''express advocacy'' standard came into being because the Supreme Court held a provision of the Federal Elections Campaign act relating to contributions ''to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate.'' *See* IRS CPE Manual at 412 (quoting *Buckley* v. *Valeo*, 424 U.S. 1, 77 (1976)). Examples of ''express advocacy'' include ''vote for,'' ''elect,'' and ''Smith for Congress'' or ''vote against,'' ''defeat,'' and ''reject.'' *Id.* at 413 (referring to 11 C.F.R. §109.1(b)(2)).

educational materials such as candidate ratings, violates the political campaign prohibition, but also whether the intended consequences of the activity violates the prohibition.[101] The need to consider the consequences of an otherwise educational activity is clear from a review of several IRS rulings finding that an organization violated the prohibition by disseminating material that was deemed educational, but nonetheless affected voter preferences in violation of the prohibition.

For example, in Rev. Rul. 67–71, 1967–1 C.B. 125, the IRS ruled that a 501(c)(3) organization created to improve the public educational system by engaging in campaigns on behalf of candidates for school board was not exempt. Every four years, when the school board was to be elected, the organization considered the qualification of the candidates and selected those it thought most qualified. The organization then ''engage[d] in a campaign on their behalf by publicly announcing its slate of candidates and by publishing and distributing a complete biography of each.'' *Id.* Although the selection process ''may have been completely objective and unbiased and was intended primarily to educate and inform the public about the candidates,'' the IRS nonetheless ruled it to be intervention or participation in a political campaign. *Id.*

In Rev. Rul. 76–456, 1976–2 C.B. 151, the IRS ruled that an organization formed for the purpose of elevating the morals and ethics of political campaigning was nevertheless intervening in a political campaign when it solicited candidates to sign a code of fair campaign practices and released the names of those candidates who signed and those candidates who refused to sign. The IRS stated that this was done to educate citizens about the election process and so that they could ''participate more effectively in their selection of government officials.'' *Id.* at 152. Nonetheless, such activity, although educational, ''may result * * * in influencing voter opinion'' and thus constituted a prohibited participation or intervention in a political campaign. *Id.*

(e) Nonpartisan Activities May Constitute Prohibited Political Campaign Participation

The IRS takes the position that the nonpartisan motivation for an organization's activities is ''irrelevant when determining whether the political campaign prohibition'' has been violated. IRS CPE Manual at 415. As support for this position, the IRS cites Rev. Rul. 76–456 and *New York Bar,* both of which are discussed above. In those cases, the court or the IRS found that the activities in question were nonpartisan, but nevertheless held that they constituted participation in a political campaign. As noted by the IRS in its CPE Manual, the court in *New York Bar* ''made the rather wry observation [that] [a] candidate who receives a 'not qualified' rating will derive little comfort from the fact that the rating may have been made in a nonpartisan manner.'' IRS CPE Manual at 416. Similarly, in G.C.M. 35902 (July 15, 1974), the IRS stated:

The provision in the Code prohibiting participation or intervention in ''any political campaign'' might conceivably be interpreted to refer only to participation or intervention with a partisan motive; but the provision does not say this. It seems more reasonable to construe it as referring to any statements made in direct relation to a political campaign which affect voter acceptance or rejection of a candidate * * *

(f) The IRS Has Found Violations of the Prohibition on Political Campaign Participation When an Activity Could Affect or Was Intended to Affect Voters' Preferences

As discussed above, the courts and the IRS have found prohibited political campaign intervention when the activity in question, although educational, affected or could reasonably be expected to affect voter preferences, even where the organization's motives in undertaking the activity were nonpartisan. G.C.M. 35902 is to similar effect. In that case, the IRS held that a public broadcasting station's nonpartisan educational motivation was irrelevant in determining whether its provision of free air time to candidates for elective office was permissible under section 501(c)(3). The IRS found that the station's procedures for providing air time, including an equal time doctrine for all candidates and an on-air disclaimer of support for any particular candidate, were sufficient to ensure that the activity would not constitute an impermissible political campaign intervention. The fact that the station's motivation was to educate the public and not to influence an election, however, was deemed to be irrelevant.

The cases and rulings cited above make it clear that simply having an educational or nonpartisan motive for engaging in prohibited political activity is not a defense to a finding of violation. The relevance and irrelevance of motive is sometimes misstated, however. While the absence of an improper political motivation is irrelevant, evidence showing the existence of a political motivation is relevant and one of the facts and circumstances that the IRS will consider in determining whether there is a violation. Indeed, the IRS has found the existence of evidence showing an intent to participate in a political campaign to be sufficient to support a finding of violation, despite the lack of evidence that the activity achieved the intended results.

For example, in G.C.M. 39811 (Feb. 9, 1990), a religious organization encouraged its members to seek election to positions as precinct committee-persons in the Republican or Democratic Party structures. Although none of the organization's members actually ran for such positions, the IRS found that urging its members to become involved in the local party organizations was part of the organization's larger plans to ''someday control the political parties.''

The first step in the Foundation's long-term strategy was to encourage members to be elected as precinct committeemen. These individuals could then exert influence within the party apparatus, beginning with the county central committee. Precinct committeemen could sway the precinct caucuses, a step in the selection of delegates to the party's presidential nominating convention. * * * Intervention at this early stage in the elective process in order to influence political parties to nominate such candidates is, we believe, sufficient to constitute intervention in a political campaign.

Id. The IRS went on to say:

In its discussion of the Tax Court opinion [in *New York Bar*], the [Second Circuit] observed that the ratings of candidates were ''published with the hope that they will have an impact on the voter.'' The effort, and not the effect, constituted intervention in a political campaign. Therefore, whether anyone heeded the call to run for precinct committee, whether that individual was elected, and if so, what he or she subsequently did are all immaterial.

Id.

In G.C.M. 39811, the IRS did not contend that the organization's urging of members to run for office alone constituted the violation. Rather, the organization's ''long-term strategy'' of seeking to influence the political parties' nomination of candidates by having its members elected to office, and its urging of members to run for office so as to carry out that strategy, were sufficient to support a finding of impermissible campaign participation, despite the fact that the effort was not successful.

Other cases and rulings have also looked to an organization's intent as an important element of a finding of prohibited participation or intervention. In 1972, a court held that an organization violated the participation or intervention prohibition when it ''used its publications and broadcasts to attack candidates and incumbents who were considered too liberal.'' *Christian Echoes National Ministry, Inc.* v. *United States,* 470 F.2d 849, 856 (10th Cir. 1972). The court did not discuss whether the activities actually influenced voters or were reasonably likely to do so. Rather, it concluded that the organization's ''attempts to elect or defeat certain political leaders reflected [the organization's] objective to change the composition of the federal government.'' *Id.*

The IRS also found an organization's intent relevant in P.L.R. 9117001 (Sept. 5, 1990). As described in that ruling, an organization mailed out material indicating that it was intending to help educate conservatives on the importance of voting in the 1984 general election. According to facts stated in the ruling letter, the material contained language ''intended'' to induce conservative voters to vote for President Reagan, even though his name was not included in the materials. The IRS thus concluded that ''the material was targeted to influence a segment of voters to vote for President Reagan.'' *Id.*

Based on the above, the IRS position is that an organization can violate the political campaign prohibition by either: (a) conducting activities that could have the effect of influencing voter acceptance or rejection of a candidate or group of candidates (the ''effect'' standard), or (b) engaging in activities that are intended to influence voter acceptance or rejection of a candidate or group of candidates, whether they do so or not (the ''effort'' standard). Most of the uncertainty over the scope of the prohibition on political campaign intervention relates to the ''effect'' standard—the possibility that an organization may, without intending to do so, engage in an activity that could have the effect of influencing voter acceptance of a candidate and, as a result, place its tax exemption in jeopardy and/or risk incurring excise tax penalties under section 4955. The legislative history of section 4955 makes it clear that an inadvertent action may indeed violate section 501(c)(3), and suggests that the IRS may appropriately apply the excise tax penalty rather than revocation as a sanction

[101] *See also* T.A.M. 9635003 (Apr. 19, 1996). T.A.M. 9635003 involved a section 501(c)(3) organization that conducted ''citizens' juries,'' a form of voter education in which a cross-section of citizens are selected to determine which issues are most relevant in the context of a particular campaign, to hear presentations by candidates on those issues, and to rate the candidates' positions on the issues. The section 501(c)(3) organization disseminated the citizen jury's report, including the candidate ratings. In its dissemination, the organization made it clear that it did not support or oppose any candidate, and that the views expressed were those of the citizen jurors and not the organization. The IRS found that the dissemination of the report constituted impermissible participation in a political campaign, and that all expenditures in connection with the conduct of the citizens' jury—and not just the expenditures of the dissemination—constituted ''political expenditures'' under section 4955: This culmination shows that all the activity of the organization leading up to the final report is intimately connected with and a part of the process to put on the [citizens' jury], and thus publication of the final report makes the entire process with respect to the [citizens' jury] a proscribed political activity.

in such situations. Nevertheless, some practitioners have expressed the view that, in interpreting whether ambiguous behavior is violative of the campaign intervention prohibition, primary reliance should be placed on whether there was a political purpose to the behavior at issue. *See* EO Comments at 856–57. In other words, ''to violate the 501(c)(3) prohibition, the organization's actions have to include an intentional 'tilt' for or against one or more people running for public office.'' *Id.* at 857. In this regard, it was noted that:

In most cases, the presence of a political purpose will be clear from the charity's paper trail, because organizational activities in the political arena are usually accompanied by assertive behavior, much internal discussion, and explicit written communications. * * *

Id.

To date, the IRS has shown no intention to abandon its position that an organization may violate the prohibition against political campaign intervention based on the unintended or inadvertent effect of its actions, as well as by an engaging in activities with ''an intentional tilt'' in favor of a candidate or in support of a PAC. Indeed, its recent election year warning to section 501(c)(3) organizations not to ''become involved in any other activities that may be beneficial or detrimental to any candidate'' (discussed above) evidences an apparent intention to adhere to a broad interpretation of the prohibition. IRS News Release IR–96–23 (Apr. 24, 1996).

(ii) If a Substantial Part of an Organization's Activities is Attempting to Influence Legislation, or its Primary Goal can only be Accomplished through Legislation, it is an ''Action'' Organization

Section 501(c)(3) provides that an organization cannot be tax-exempt if a ''substantial part'' of its activities is ''carrying on propaganda, or otherwise attempting, to influence legislation.'' Although there is virtually no legislative history on the prohibition, courts have declared that the limitations in section 501(c)(3) ''stem from the policy that the United States Treasury should be neutral in political affairs and that substantial activities directed to attempts to influence legislation should not be subsidized.'' *Haswell* v. *United States*, 500 F.2d 1133, 1140 (Ct. Cl. 1974), *cert. denied*, 419 U.S. 1107 (1975). (The court also noted that ''[t]ax exemptions are matters of legislative grace and taxpayers have the burden of establishing their entitlement to exemptions.'' *Id.*)

The Regulations provide that an organization is an ''action'' organization if ''a substantial part of its activities is attempting to influence legislation by propaganda or otherwise.'' Treas. Reg. § 1.501(c)(3)–1(c)(3)(ii). The Regulations also provide that an organization is an ''action'' organization if it has the following two characteristics:

(a) Its main or primary objective or objectives (as distinguished from its incidental or secondary objective) may be attained only by legislation or a defeat of proposed legislation; and

(b) it advocates, or campaigns for, the attainment of such main or primary objective or objectives as distinguished from engaging in nonpartisan analysis, study, or research and making the results thereof available to the public.

Treas. Reg. § 1.501(c)(3)–1(c)(3)(iv).

To determine whether a substantial part of an organization's activities is attempting to influence legislation, two alternative tests exist. Each test contains its own definition of ''legislation'' and what constitutes an attempt to influence legislation. The two tests also contain different ways of determining substantiality. One test is referred to as the ''substantial-part test.'' The other test, referred to as the ''expenditure test,''[102] was added to tax law in 1976 at sections 501(h) and 4911 as a result of uncertainty over the meaning of the word ''substantial.''

The ''expenditure test'' sets forth specific, dollar levels of permissible lobbying expenditures. Section 501(h) did not amend section 501(c)(3), but rather provided charitable organizations an alternative to the vague ''substantial-part'' limitations of section 501(c)(3). A charitable organization may elect the ''expenditure test'' as a substitute for the substantial-part test. A public charity that does not elect the expenditure test remains subject to the substantial part test. Treas. Reg. § 1.501(h)–1(a)(4). Joint Committee in its General Explanation of the Tax Reform Act of 1976, 1976–3 C.B. (Vol. 2) 419.

The substantial-part test is applied without regard to the provisions of section 501(h). The law, regulations and rulings regarding the expenditure test may not be used to interpret the law, regulations and rulings of the substantial-part test. Section 501(h)(7) (''nothing [in section 501(h)] shall be construed to affect the interpretation of the phrase 'no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation,' under [section 501(c)(3)]'').

Determining whether an organization violated the lobbying limitation requires an understanding of what constitutes: i. ''legislation;'' ii. an attempt to ''influence'' legislation; and iii. a ''substantial'' part of an organization's activities. It is also necessary to understand the circumstances under which an organization's ''objectives can be achieved only through the passage of legislation.''

(a) Definition of ''Legislation''

The Regulations define ''legislation'' to include ''action by the Congress, by any State legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.'' Treas. Reg. § 501(c)(3)–1(c)(3)(ii). ''Action by the Congress'' includes the ''introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.'' G.C.M. 39694 (Jan. 22, 1988). This definition does not include Executive Branch actions, or actions of independent agencies. P.L.R. 6205116290A (May 11, 1962). Requesting executive bodies to support or oppose legislation, however, is prohibited. The IRS does not recognize a distinction between ''good'' legislation and ''bad'' legislation. For example, in Rev. Rul. 67–293, 1967–2 C.B. 185, the IRS ruled that an organization substantially engaged in promoting legislation to protect animals was not exempt even though the legislation would have benefited the community.

(b) Definition of ''attempting to influence legislation''

Under the Regulations, an organization will be regarded as ''attempting to influence legislation'' if it:

(a) contacts members of a legislative body for the purpose of proposing, supporting, or opposing legislation (Treas. Reg. § 1.501(c)(3)–1(c)(3)(ii)(a)) (referred to as ''direct lobbying'');

(b) urges the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation (*id.*) (referred to as ''grassroots lobbying''); or

(c) advocates the adoption or rejection of legislation (Treas. Reg. § 1.501(c)(3)–1(c)(3)(ii)(b)).

Section 4945(e) of the Internal Revenue Code provides additional guidance regarding the meaning of ''attempting to influence legislation.''[103] According to that provision, a taxable expenditure includes any amount paid or incurred for:

(a) any attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof, and

(b) any attempt to influence legislation through communication with any member or employee of a legislative body, or with any other government official or employee who may participate in the formulation of the legislation (except technical advice or assistance provided to a government body or to a committee or other subdivision thereof in response to a written request by such body or subdivision . * * *) other than through making available the results of nonpartisan analysis, study, or research.

Treas. Reg. § 53.4945–2(d)(4), which is applicable to non-electing public charities,[104] discusses ''nonpartisan analysis, study, or research'' as follows:

Examinations and discussions of broad social, economic, and similar problems are [not lobbying communications] even if the problems are of the type with which government would be expected to deal ultimately * * * For example, [an organization may discuss] problems such as environmental pollution or population growth that are being considered by Congress and various State legislatures, but only where the discussions are not directly addressed to specific legislation being considered, and only where the discussions do not directly encourage recipients of the communication to contact a legislator, an employee of a legislative body, or a government official or employee who may participate in the formulation of legislation.[105]

Even if specific legislation is not mentioned, however, an indirect campaign to ''mold public opinion'' may violate the legislative lobbying prohibition. In *Christian Echoes National Ministry, Inc.* v. *United States*, 470 F.2d 849 (10th Cir. 1972), the organization in question produced religious radio and television broadcasts, distributed publications, and engaged ''in evangelistic campaigns and meetings for the promotion of the social and spiritual welfare of the community, state and nation.'' *Id.* at 852. The court found the publications attempted to influence legislation ''by appeals to the public to react to certain issues.'' *Id.* at 855.[106]

[102] As stated in the legislative history with respect to I.R.C. § 501(h): ''The language of the lobbying provision was first enacted in 1934. Since that time neither Treasury regulations nor court decisions gave enough detailed meaning to the statutory language to permit most charitable organizations to know approximately where the limits were between what was permitted by the statute and what was forbidden by it. This vagueness was, in large part, a function of the uncertainty in the meaning of the terms 'substantial part' and 'activities'. * * * Many believed that the standards as to the permissible level of activities under prior law was too vague and thereby tended to encourage subjective and selective enforcement.''

[103] I.R.C. §§ 4945(d) and (e) contain definitions of ''attempting to influence legislation'' with respect to taxable expenditures by private foundations, not public charities. However, ''[a]ctivities which constitute an attempt to influence legislation under Code § 4945 * * * also constitute an attempt to influence legislation under Code § 501(c)(3).'' G.C.M. 36127 (Jan. 2, 1975). Congress viewed section 4945(e) as a clarification of the phrase ''attempting to influence legislation'' in tax-exempt law generally, not just with respect to private foundations. *Id.*

[104] See G.C.M. 36127 (Jan. 2, 1975) and *Haswell* v. *United States*, 500 F.2d 1133 (Ct. Cl. 1974).

[105] See also G.C.M. 36127 (Jan. 2, 1975).

[106] For example, the publications urged its readers to: ''write their Congressmen in order to influence the political decisions in Washington;'' ''work in politics at the precinct level;'' ''maintain the McCarran-Walter Immigration law;'' ''reduce the

Continued

Under the expenditure test, ''grassroots lobbying'' is ''any attempt to influence legislation through an attempt to affect the opinions of the general public or any segment thereof.'' Treas. Reg. § 56.4911–2(b)(2)(i). Such a communication will be considered grassroots lobbying if it: (a) refers to specific legislation, (b) reflects a view on such legislation, (c) [e]ncourages the recipient to take action with respect to such legislation.

Treas Reg. § 56.4911–2(b)(2)(ii).[107]

(c) Definition of ''Substantial''

A bright-line test for determining when a ''substantial'' part of an organization's activities are devoted to influencing legislation does not exist. Neither the regulations nor case law provide useful guidance as to whether the determination must be based on activity or expenditures or both. In *Seasongood* v. *Commissioner,* 227 F.2d 907 (6th Cir. 1955), the court held that attempts to influence legislation that constituted less than five percent of total activities were not substantial. The percentage test of *Seasongood* was, however, explicitly rejected in *Christian Echoes National Ministry, Inc.*

The political [i.e. legislative] activities of an organization must be balanced in the context of the objects and circumstances of the organization to determine whether a substantial part of its activities was to influence legislation. (citations omitted.) A percentage test to determine whether the activities were substantial obscures the complexity of balancing the organization's activities in relation to its objects and circumstances.

Id. at 855. Yet in *Haswell* v. *United States,* 500 F.2d 1133, 1145 (Ct. Cl. 1974), the court determined that while a percentage test is not the only measure of substantiality, it was a strong indication that the organization's purposes were no longer consistent with charity. In that case, the court concluded that approximately 20 percent of the organization's total expenditures were attributable to attempts to influence legislation, and they were found to be substantial. *Id.* at 1146.

The IRS has characterized the ambiguity over the meaning of ''substantial'' as a ''problem [that] does not lend itself to ready numerical boundaries.'' G.C.M. 36148 (January 28, 1975). In attempting to give some guidance on the subject, however, the IRS said:

[t]he percentage of the budget dedicated to a given activity is only one type of evidence of substantiality. Others are the amount of volunteer time devoted to the activity, the amount of publicity the organization assigns to the activity, and the continuous or intermittent nature of the organization's attention to it.

(d) Circumstances under which an organization's ''objectives can be achieved only through the passage of legislation''

The Regulations require that when determining whether an organization's objectives can be achieved only through the passage of legislation that ''all the surrounding facts and circumstances, including the articles and all activities of the organization, are to be considered.'' Treas. Reg. §1.501(c)(3)–1(c)(3)(iv). There is little additional IRS or court guidance on the subject. In one of the few comments on this section of the Regulations, the IRS said in G.C.M. 33617 (Sep. 12, 1967) that an organization that was ''an active advocate of a political doctrine'' was an action organization because its objectives could only be attained by legislation. In its publications, the organization stated that its objectives included:

the mobilization of public opinion; resisting every attempt by law or the administration of law which widens the breach in the wall of [redacted by IRS] working for repeal of any existing state law which sanctions the granting of public aid to [redacted by IRS]; and uniting all 'patriotic' citizens in a concerted effort to prevent the passage of any federal law [redacted by IRS]. * * *''

By advocating its position to others, thereby attempting to secure general acceptance of its beliefs; by engaging in general legislative activities to implement its views; by urging the enactment or defeat of proposed legislation which was inimical to its principles: the organization ceased to function exclusively in the educator's role of informant in that its advocacy was not merely to increase the knowledge of the organization's audience, but was to secure acceptance of, and action on, the organization's views concerning legislative proposals, thereby encroaching upon the proscribed legislative area.

In Rev. Rul. 62–71, 1962–1 C.B. 85, an organization was formed ''for the purpose of supporting an educational program for the stimulation of interest in the study of the science of economics or political economy, particularly with reference to a specified doctrine or theory.'' It conducted research, made surveys on economic conditions available, moderated discussion groups and published books and pamphlets. The research activities were principally concerned with determining the effect various real estate taxation methods would have on land values with reference to the ''single tax theory of taxation.'' ''It [was] the announced policy of the organization to promote its philosophy by educational methods as well as by the encouragement of political action.'' *Id.* The tax theory advocated in the publications, although educational within the meaning of section 501(c)(3), could be put into effect only by legislative action. Without further elaboration of the facts involved or how the theory could only be put into effect through legislative action, the IRS ruled the organization was an action organization, and thus not operated exclusively for an exempt purpose.

In G.C.M. 37247 (Sept. 8, 1977), the IRS discussed whether a organization whose guiding doctrine was to propagate a ''nontheistic, ethical doctrine'' of volunteerism could be considered a 501(c)(3) organization. The ''ultimate goal'' of the guiding doctrine was ''freedom from governmental and societal control.'' According to the IRS:

[t]his objective can obviously only be attained legally through legislation, including constitutional amendments, or illegally through revolution. If [the organization] should advocate illegal activities, then it is not charitable; if it advocates legal attainment of its doctrine's goal through legislation, then it is an action organization.

The IRS did not conclude that organization was an action organization, only that there was such a possibility and further investigation was warranted. Research has not uncovered further information about this case.

d. To Satisfy the Operational Test, an Organization Must Not Violate the ''Private Inurement'' Prohibition

To qualify for tax-exempt status, section 501(c)(3) provides that an organization must be organized and operated so that ''no part of [its] net earnings * * * inures to the benefit of any private shareholder or individual.'' The Regulations add little clarification to this provision other than saying that ''[a]n organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.'' Treas. Reg. §1.501(c)(3)–1(c)(2).

Although the private benefit and private inurement prohibitions share common and often overlapping elements, the two are distinct requirements which must be independently satisfied. *American Campaign Academy,* 92 T.C. at 1068. The private inurement prohibition may be ''subsumed'' within the private benefit analysis, but the reverse is not true. ''[W]hen the Court concludes that no prohibited inurement of earnings exists, it cannot stop there but must inquire further and determine whether a prohibited private benefit is conferred.'' *Id.* at 1069. It should be noted that the private inurement prohibition pertains to net earnings of an organization, while the private benefit prohibition can apply to benefits other than those that have monetary value. Furthermore, unlike with the private benefit prohibition, the prohibition on private inurement is absolute. ''There is no de minimis exception to the inurement prohibition.'' G.C.M. 39862 (Nov. 22, 1991).

The IRS has described ''private shareholders or individuals'' as ''persons who, because of their particular relationship with an organization, have an opportunity to control or influence its activities.'' *Id.* ''[I]t is generally accepted that persons other than employees or directors may be in a position to exercise the control over an organization to make that person an insider for inurement purposes.'' Hill, F. and Kirschten, B., *Federal and State Taxation of Exempt Organizations* 2–85 (1994). ''The inurement prohibition serves to prevent anyone in a position to do so from siphoning off any of a charity's income or assets for personal use.'' G.C.M. 39862 (Nov. 22, 1991). Furthermore, the IRS has stated that:

[I]nurement is likely to arise where the financial benefit represents a transfer of the organization's financial resources to an individual solely by virtue of the individual's relationship with the organization, and without regard to accomplishing exempt purposes.

G.C.M. 38459 (July 31, 1980). *Also* IRS Exempt Organizations Handbook (IRM 7751) §381.1(4) (''The prohibition of inurement in its simplest terms, means that a private shareholder or individual cannot pocket the organization's funds except as reasonable payment for goods or services''); and Hopkins, *supra,* at 267 (Proscribed private inurement ''involves a transaction or series of transactions, such as unreasonable compensation, unreasonable rental charges, unreasonable borrowing arrangements, or deferred or retained interests in the organization's assets'').

Mr. TAYLOR of Mississippi. Mr. Speaker, today I rise to discuss the ethics charges facing NEWT GINGRICH, Speaker of the House of Representatives.

The House Ethics Committee voted 7–1 to reprimand and assess a penalty of $300,000 for Speaker GINGRICH.

In recommending a sanction and a $300,000 fine, the committee stated on page 94 of its report the following: ''* * * the violation does not represent only a single instance

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federal payroll by discharging needless jobholders, stop waste of public funds and balance the budget;'' ''stop federal aid to education, socialized medicine and public housing;'' ''abolish the federal income tax;'' and ''withdraw from the United Nations.'' *Christian Echoes National Ministry,* 470 F.2d at 855. In light of these facts, the court upheld the IRS position that the organization failed to qualify as a 501(c)(3) organization.

[107] The IRS has also concluded that an organization formed to ''facilitate'' the inauguration of a state's governor-elect and the ''orderly transition of power from one political party to another by legislative and personnel studies'' violated the prohibition on attempting to influence legislation. G.C.M. 35473 (Sept. 10, 1973). The IRS ''saw no logical way to avoid concluding that [the organization's] active advocacy of a proposed legislative program requires it to be [classified as an action organization. * * *]'' *See also* Rev. Rul. 74–117, 1974–1 C.B. 128.

of reckless conduct. Rather, over a number of years and in a number of situations, Mr. GINGRICH showed a disregard and lack of respect for the standards of conduct that applied to his activities.''

Based on this, I find it inconceivable that the Ethics Committee would recommend a resolution to this body which would not specifically prohibit the Speaker from paying his fine from campaign funds. Mr. GINGRICH's campaign organization can raise these funds in a matter of minutes. During the Speaker's most recent general election campaign, he spent $5.4 million to defeat his challenger. At the end of November, Federal Election Commission reports indicate that he has over $1 million remaining in his campaign fund.

The Speaker used funds from tax-exempt organizations to promote his political agenda. If a Member violates the rules of the House, the Member, not their campaign, should be held responsible for whatever fine is levied.

Mr. Speaker, I therefore voted against approving the resolution recommended by the committee.

Mr. CANADY of Florida. Mr. Speaker, today I cast my vote in support of the recommendation of the Committee on Standards of Official Conduct that Mr. GINGRICH be reprimanded and subjected to a $300,000 cost assessment. I do so after reviewing the report of the committee and the report of counsel for Mr. GINGRICH.

In making a judgment regarding this matter, I have been guided by the dual goals of maintaining the integrity of the House, and ensuring that Mr. GINGRICH be treated fairly. I have attempted to base my decision on this matter on all the relevant facts. In my view, the committee was well justified in concluding that Mr. GINGRICH engaged in conduct which did not reflect creditably on the House.

The most serious finding against Mr. GINGRICH involves the submission of inaccurate information to the committee. The circumstances surrounding the submission of incorrect statements indicates that Mr. GINGRICH was woefully remiss in meeting his obligation as a respondent in the ethics process. Although the committee did not conclude that Mr. GINGRICH intentionally misled the committee, it is clear that at the least Mr. GINGRICH was reckless in responding to a series of inquiries from the committee.

The sequence of events is particularly disturbing because after the initial submission of inaccurate information in December 1994, Mr. GINGRICH had multiple opportunities to correct the misstatements but failed to do so until his November 13, 1996, appearance before the investigative subcommittee. Most distressing is the fact that when the scope of the investigation was expanded on September 26, 1996, to include the issue of whether Mr. GINGRICH provided accurate, reliable, and complete information to the committee, Mr. GINGRICH failed to make an immediate diligent effort to determine if he had in fact submitted incorrect information to the committee, and to correct any errors that may have been made.

Indeed, in response to the investigative subcommittee's letter of October 1, 1996, requesting that Mr. GINGRICH produce all documents relied on to prepare the letters previously submitted to the committee, Mr. GINGRICH wrote to the subcommittee stating how busy he was at the time the various letters were submitted, but also affirming that he had reviewed the submissions to verify their accuracy. Mr. GINGRICH's failure to set the record straight at this point was under the most charitable view grossly reckless.

The committee was also justified in concluding that Mr. GINGRICH erred in failing to consult a tax attorney regarding certain of his activities involving organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code. Although legal experts may disagree about the propriety of Mr. GINGRICH's conduct, Mr. GINGRICH's own expert witness acknowledged that the combination of politics and 501(c)(3) organizations is an ''explosive mix,'' and stated that he would have advised Mr. GINGRICH not to use 501(c)(3) entities for the purposes for which he used them. There was more than an adequate basis for the committee to conclude that ''there were significant and substantial warning signals to Mr. GINGRICH that he should have heeded prior to embarking on ''the projects involving tax-exempt entities. In 1995 Mr. GINGRICH himself told the New York Times that his activity involving section 501(c)(3) entities ''[g]oes right up to the edge. * * * [I]t's risk taking.'' Such comments betray a disturbing lack of concern by Mr. GINGRICH about the prospect that his conduct might bring discredit on the House.

In light of all these circumstances, I believe that the penalty recommended by the committee represents the minimum appropriate sanction. Even if he did not intend to mislead the committee or abuse the tax laws, Mr. GINGRICH's conduct was culpable because it was reckless. Such conduct undermines public confidence in the integrity of our system of Government. It is conduct that cannot be excused. The reprimand combined with the stiff cost assessment sends a strong signal that the House will deal firmly with such transgressions of the rules of the House.

Mr. BLUMENAUER. Mr. Speaker, for me, the GINGRICH episode represents much of what is wrong about the American political system today. It is unfortunately a failing which occurs on many levels.

At its core is the behavior of the man twice removed from the Presidency. It is very difficult for anyone who has read the Cole report to reach any conclusion other than that Mr. GINGRICH consistently did not tell the truth, in a desperate attempt to avoid responsibility for the misuse of taxpayer funds for partisan gain.

In turn, Mr. GINGRICH's transgressions engendered a series of behaviors from people in both parties and in the press that play to their worst instincts, and that undermine the confidence people have in their Government.

Last but not least, the blame resides as well with the House ethics process, a process so open to perversion that it raises questions about its ability to protect individual rights. It has unfortunately become so susceptible to manipulation that the House leadership and committee chair can, and has, unilaterally distorted its most sensitive proceedings, denying the House and the American public the time to reflect.

Over the weekend, I read the Cole report. I come away from it believing that Mr. GINGRICH knew exactly what he was doing, based on his intimate familiarity with the 1989 case involving the American Campaign Academy. In that case, the IRS and a tax court found that the academy, which was run by Mr. GINGRICH's closest personal advisor and which was represented by Mr. GINGRICH's lawyer, was ineligible for tax-exempt status because it served private, rather than public interests.

But Mr. GINGRICH was not deterred by the lessons of the American Campaign Academy ruling. Far from it. Instead, over a million dollars was diverted knowingly and improperly from charities for political purposes in violation of the law and of House ethical rules. As revealed with great clarity by Mr. Cole, Mr. GINGRICH engaged in a deliberate strategy to use money contributed for charitable purposes to fund his own partisan agenda.

And it is impossible to read the Cole report without also understanding Mr. GINGRICH's use of the enhanced power and prestige of the Speakership for personal enrichment. The evidence goes far beyond the salary and perquisites of the Speakership. A telling example is Mr. GINGRICH's acceptance of a $4.3 million book advance, which flowed directly from his new position and the materials from what we now know was a taxpayer sponsored college course. Although Mr. GINGRICH was eventually forced to give up the advance, he has collected royalties far in excess of any money involved in the case of former Speaker Jim Wright.

Ultimately, this episode is about the failure to be honest. Nothing speaks more eloquently to that point than Mr. GINGRICH's final and belated admission, not to guilt, but only to being naive. Everyone who reads the Cole report, and, I submit, anyone who carefully observes Mr. GINGRICH's personal behavior during these last few days, knows how hollow this rings. Mr. GINGRICH is not naive. He has devoted a quarter of a century in pursuit of political power for himself and his party. It has been at times brilliant, calculating, and shrewd. But it has never been naive. Mr. GINGRICH pushed the envelop, and got caught.

Mr. PACKARD. Mr. Speaker, honesty, fairness, and dealing justly with others has been an overriding principle of my entire life. The Speaker admitted he made mistakes. I believe this body should admonish the Speaker's actions. However, the Ethics Committee's recommendations go much too far. The penalty far exceeds the infraction.

First and foremost, the Ethics Committee serves to ensure fairness. With that in mind, the Committee must level equitable sanctions. This recommendation fails to do so.

In the past, the Committee chose to dispense with similar matters with a letter against the offender. For violations, which I consider morally and ethically far worse, Members were given little more than a perfunctory slap on the hand.

I consider this action against the Speaker excessive and unwarranted. For that reason, I intend to vote against the Ethics Committee's recommendation. A letter of reproval should be sufficient as it was for the Minority Leader, RICHARD GEPHARDT; Minority Whip, DAVID BONIOR and for violations far more serious than the Speaker's.

Mr. CONYERS. Mr. Speaker, this is a sad day for the House of Representatives and for the American people. For the first time in history, our body will be voting to punish the Speaker of the House. How we as a body act to punish Mr. GINGRICH will send a message to the American public. It will say whether we are able to monitor our own institution; it will say whether we prefer party loyalty to truth and integrity; it will say whether Mr. GINGRICH is the Member best suited to represent our institution.

The punishment contained in House Resolution 31 is inadequate. The punishment neither reflects the seriousness of the misdeeds admitted to by Mr. GINGRICH nor Mr. GINGRICH's history of abuse of the rules of the House.

Make no mistake about the gravity of the charges against GINGRICH. Certain Members of the majority have attempted to portray Mr. GINGRICH's misleading statements as oversight, and they have attempted to portray the tax law he violated as arcane. Do not let these statements mislead the entire body.

Speaker GINGRICH has admitted to all of the violations alleged by the subcommittee. He acknowledged that ''in my name and over my signature, inaccurate, incomplete, and unreliable statements were given to the committee'' and that ''he brought down on the people's House a controversy which could weaken the faith people have in their Government.'' The special prosecutor has make it clear that he believes that Mr. GINGRICH intentionally misled the ethics counsel. The special prosecutor and the ethics committee also made it clear that Mr. GINGRICH violated the agreement that forbid him to conduct a media strategy to minimize, or spin, the findings of the Ethics Committee. And after review of the committee's report, it seems very likely that Mr. GINGRICH has violated tax law. And GINGRICH did not violate arcane tax law, but rather the very basic premise that you cannot use tax-exempt funds for political purposes. He used tax-exempt funds to help build a political machine.

And it is clear that this is not the end of Mr. GINGRICH's ethical and legal troubles. The committee will make available to the IRS all relevant documents produced during the subcommittee's inquiry and establish a liaison with the IRS. The Department of Justice may further investigate the actions of Mr. GINGRICH. We have no idea what these, or other investigations, find. But, it does not matter. Because what we already know is enough for us to say, enough is enough, let us show the American public that will have the strength and integrity to punish our Members. And a slap on the wrist of Mr. GINGRICH that allows him to retain the Speaker's gavel, does not show our strength or integrity.

Further, this is not the first time that Mr. GINGRICH has been found to have violated House rules. The Speaker has already been cited six times for his disregard of the House rules. It has become very clear that Mr. GINGRICH has shown a willful disregard for our rules. In fact, Mr. James Cole has found that ''over a number of years and in a number of situations * * * Mr. GINGRICH showed a disregard and lack of respect for the standards of conduct that applied to his activities.''

This willful ''disregard and lack of respect for the standards of conduct'' make it clear that the punishment of reprimand does not reflect the seriousness of Mr. GINGRICH'S multiple offenses. Comparable offenses historically have met with more severe punishment. In 1979, the House voted to censure a representative for diverting staff salaries for personal use and in 1980, the House censured another representative of financial misconduct. Mr. GINGRICH diverted tax exempt funds for political purposes and then attempted over several years to cover his tracks by misleading the committee. Certainly, these actions are deserving of at least a censure.

Unfortunately Mr. Speaker, Mr. GINGRICH's actions have weakened the American public's faith in their Government. I find it unconscionable that my colleagues in the majority, after hearing Mr. GINGRICH's admission, would vote to reinstate him as Speaker of the House. Are they saying that Mr. GINGRICH is the best person among their ranks to lead their party and to lead the House of Representatives? Mr. GINGRICH himself has said that Ethics Committee investigations of a Speaker must ''meet a higher standard of public accountability'' than those involving other Members of the House. By voting for this resolution, will we really be meeting that higher standard?

I urge my colleagues on the other side of the aisle to reconsider keeping Mr. GINGRICH as Speaker. Although the majority's rules may allow him to remain Speaker, the ethical lapses of Mr. GINGRICH demand that he step aside. As the January 21, 1997, Atlanta Journal-Constitution has stated, ''Mr. GINGRICH will dishonor the House every time he picks up the Speaker's gavel.'' The New York Times also urges Mr. GINGRICH to step aside: ''That finding [of James Cole], and the considerable evidence that backs it up, make it clear that Mr. GINGRICH has no business serving as Speaker. His ego got him into this mess, and that same ego is now driving him to compound the damage.'' As William Carlos Williams noted, ''Leadership passes into empire; empire begets insolence; insolence brings ruin.'' It is time for the majority to do the right thing.

Mr. STOKES. Mr. Speaker, I am reminded today of what occurred in the House of Representatives a few years ago when I chaired the Ethics Committee. We had undertaken an extensive investigation, led by Joseph Califano, a noted Washington lawyer whom I had hired as special counsel. Mr. Califano's position to our committee was the same as the position of Mr. James M. Cole, special counsel to this committee. This particular investigation surrounded allegations of sex and drugs involvement between Members of Congress and House pages.

At the end of our investigation, the Ethics Committee brought charges against two Members of the House. These charges resulted in findings that these two Members had been involved in sex with House pages. Our recommendation to the House in both cases was a reprimand for both Members. As chairman of the Ethics Committee, I presented the committee's case on the floor of the House. Following my presentation, the leadership on both sides of the aisle joined together on a resolution to raise the recommendation of reprimand to a greater penalty, that of censure. The vote was taken and both Members were censured. That occurred, of course, in a Congress where the leadership on neither side was involved in breaking the rules of the House.

Today, we are faced with the leader of the House who not only has broken the rules of the House, but has been described by Mr. James M. Cole, special counsel, as being involved in conduct where the violation did not represent only a single instance of reckless conduct, but rather over a number of years and in a number of situations, Mr. Cole states emphatically that the Speaker, Mr. GINGRICH, showed a disregard and lack of respect for the standard of conduct that applied to his activities.

Moreover, the committee found that Speaker GINGRICH has admitted that he submitted information to the committee which was inaccurate, incomplete, and unreliable. In recommending a reprimand, Special Counsel Cole stated that the Ethics Committee, in recommending a reprimand, recognized that this matter fell somewhere in between a reprimand and censure. It would seem to me that this is an important fact, that the subcommittee which investigated this case did not feel comfortable with a finding of reprimand.

Additionally, this investigation undertaken by the House has now been referred to the Internal Revenue Service for further investigation relative to Tax Code violations. And last, the imposition of a $300,000 fine, unprecedented in the history of the institution, should convince every Member that this is not an offense which is made into a simple reprimand by levying such a harsh fine. Rather, the fine is indicative that this matter is more severe than a reprimand and should be taken up to censure.

A censure would then solve the problem of removing a Speaker who lacks the decency to remove himself from office. The total lack of respect he shows for the House and thereby the American people warrants this House to reject the committee's recommendation and impose a sanction of censure.

The imposition of a mere reprimand today will leave a stigma over this Speaker that will haunt every Member of the House for the rest of this Congress.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

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

RECORDED VOTE

Mr. CARDIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 395, noes 28, answered ''present'' 5, not voting 6, as follows:

[Roll No. 8]

AYES—395

Ackerman	Boucher	Crane
Aderholt	Boyd	Crapo
Allen	Brady	Cubin
Andrews	Brown (CA)	Cummings
Archer	Brown (FL)	Cunningham
Armey	Brown (OH)	Danner
Bachus	Bryant	Davis (FL)
Baesler	Bunning	Davis (IL)
Baker	Burr	Davis (VA)
Baldacci	Calvert	Deal
Ballenger	Camp	DeFazio
Barcia	Campbell	DeGette
Barrett (NE)	Canady	Delahunt
Barrett (WI)	Cannon	DeLauro
Bass	Capps	Dellums
Bateman	Cardin	Deutsch
Becerra	Castle	Diaz-Balart
Bentsen	Chabot	Dickey
Bereuter	Chambliss	Dicks
Berman	Chenoweth	Dingell
Berry	Christensen	Dixon
Bilbray	Clay	Doggett
Bilirakis	Clayton	Dooley
Bishop	Clement	Doyle
Blagojevich	Clyburn	Dreier
Bliley	Coble	Duncan
Blumenauer	Collins	Dunn
Blunt	Combest	Edwards
Boehlert	Condit	Ehlers
Boehner	Cook	Ehrlich
Bonilla	Cooksey	Emerson
Bonior	Costello	Engel
Bono	Cox	English
Borski	Coyne	Ensign
Boswell	Cramer	Eshoo

Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Richardson
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Talent
Tanner
Tauscher
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOES—28

Barr
Bartlett
Barton
Burton
Buyer
Callahan
Coburn
DeLay
Doolittle
Herger
Hilliard
Hunter
Johnson, Sam
King (NY)
Lewis (CA)
Livingston
McKeon
Mica
Myrick
Packard
Sessions
Smith (TX)
Solomon
Stump
Taylor (MS)
Taylor (NC)
Wicker
Young (AK)

ANSWERED ''PRESENT''—5

Abercrombie
Conyers
Hastings (FL)
McDermott
Waters

NOT VOTING—6

Carson
Granger
Kolbe
Tauzin
Tejeda
Watts (OK)

□ 1407

Mr. RAMSTAD changed his vote from ''no'' to ''aye.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TAUZIN. Mr. Speaker, I was unavoidably detained for the last vote. If I were here, I would have voted ''yes.''

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Speaker, on rollcall No. 8, I was unavoidably detained with a constituent. Had I been present, I would have voted ''yes.''

GENERAL LEAVE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore Mr. LAHOOD. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Veterans' Affairs:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 21, 1997.

Re Request to take leave from Veterans Committee.

Hon. NEWT GINGRICH,
The Capitol,
Washington, DC.

DEAR NEWT: In light of my new assignment to the House Committee on Government Reform and Oversight, I hereby request that I be granted a leave of absence from my assigned slot on the Committee on Veterans' Affairs.

Thank you for your consideration.

With warmest regards, I am,

Very truly yours,

BOB BARR.
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MAJORITY MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. BOEHNER. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 32) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 32

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees:

Committee on Banking: Mr. La Tourette to rank following Mr. Sessions.

Committee on Education and the Workforce: Mr. Paul; Mr. Bob Schaffer of Colorado; Mr. Peterson of Pennsylvania; Mr. Upton; Mr. Deal of Georgia; Mr. Hilleary; and Mr. Scarborough; all to rank in the named order following Mr. Norwood of Georgia.

Committee on Government Reform and Oversight: Mr. Barr of Georgia to rank following Mr. Snowbarger.

Committee on International Relations: Mr. Brady to rank following Mr. Moran of Kansas.

Committee on Resources: Mr. Crapo to rank following Mr. Gibbons.

Committee on Science: Mr. Boehlert; Mr. Fawell; Mrs. Morella; Mr. Weldon of Pennsylvania; Mr. Rohrabacher; Mr. Schiff; Mr. Barton of Texas; Mr. Calvert; Mr. Bartlett of Maryland; Mr. Ehlers; Mr. Weldon of Florida; Mr. Salmon; Mr. Davis; Mr. Gutknecht; Mr. Foley; Mr. Ewing; Mr. Pickering; Mr. Cannon; Mr. Brady; and Mr. Cook.

Committee on Small Business: Mr. Combest; Mr. Hefley; Mr. Manzullo; Mr. Bartlett of Maryland; Mrs. Smith of Washington; Mr. LoBiondo; Mrs. Kelly; Mr. Jones; Mr. Souder; Mr. Chabot; Mr. Ryun; Mr. Snowbarger; Mr. Pappas; Mr. English; Mr. McIntosh; and Mrs. Emerson.

Committee on Veterans' Affairs: Mr. Smith of New Jersey; Mr. Bilirakis; Mr. Spence; Mr. Everett; Mr. Buyer; Mr. Quinn; Mr. Bachus; Mr. Stearns; Mr. Dan Schaefer of Colorado; Mr. Moran of Kansas; Mr. Cooksey; Mr. Hutchinson; Mr. Hunter; Mr. Hayworth; and Mrs. Chenoweth.

Mr. BOEHNER (during the reading). Mr. Speaker, I ask unanimous consent that the privileged resolution be considered as read and printed in the RECORD.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBER TO COMMITTEE ON COMMERCE

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 33) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 33

Resolved, That the following named Member, be elected to the Committee on Commerce, be designated to rank on that committee as follows:

Tom Sawyer of Ohio, to rank directly below Eliot Engel of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING FOR MORNING HOUR DEBATE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that on Mondays and Tuesdays of each week through the second session of the 105th Congress, the House shall convene 90 minutes earlier than the time otherwise established by order of the House solely for the purpose of conducting morning hour debate and that the time for such debate shall be limited to 30 minutes allocated to each party; except that on Tuesdays of each week after the first Tuesday in May of a session the House shall convene for morning hour debate 1 hour earlier than the time otherwise established by order of the House, that the time for such debate shall be limited to 25 minutes allocated to each party, and that in no event shall morning hour debate continue beyond 10 minutes before the hour appointed for the resumption of the House session; and that all morning hour debate shall be conducted under the following conditions:

First, the prayer by the Chaplain, the approval of the Journal, and the Pledge of Allegiance to the flag shall be postponed until resumption of the House session following morning hour debate; second, initial and subsequent recognition for debate shall alternate between parties; third, recognition shall be conferred by the Speaker only pursuant to lists submitted by the majority leader or the minority leader; fourth, no Member may address the House for more than 5 minutes except for the majority leader, the minority leader, or the minority whip; and, fifth, pursuant to clause 12 of rule I the Speaker shall declare a recess following morning hour debate until the hour appointed for the resumption of the House session.

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

There was no objection.

□ 1415

JOINT SESSION OF CONGRESS—STATE OF THE UNION ADDRESS

Mr. BOEHNER. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 9) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. CON. RES. 9

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Tuesday, February 4, 1997, at 9 p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO MIDDLE EAST VIOLENCE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–28)

The SPEAKER pro tempore laid before the House a message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the emergency declared with respect to grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process, is to continue in effect beyond January 23, 1997. The first notice continuing this emergency was published in the Federal Register last year on January 22, 1996.

The crisis with respect to the grave acts of violence committed by foreign terrorists that threaten to disrupt the Middle East peace process that led to the declaration of a national emergency, on January 23, 1995, has not been resolved. Terrorist groups continue to engage in activities with the purpose or effect of threatening the Middle East peace process, and which are hostile to U.S. interests in the region. Such actions threaten vital interests of the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to deny any financial support from the United States for foreign terrorists that threaten to disrupt the Middle East peace process.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

REPORT OF FEDERAL AGENCIES REGARDING WEAPONS OF MASS DESTRUCTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105–)

The SPEAKER pro tempore laid before the House a message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security and ordered to be printed.

To the Congress of the United States:

As required by section 1416 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), I transmit herewith a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction (WMD) within the United States.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1997.*

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. MENENDEZ] is recognized for 5 minutes.

[Mr. MENENDEZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES REFLECTING ACTION COMPLETED AS OF OCTOBER 4, 1996, FOR FISCAL YEARS 1997–2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. KASICH] is recognized for 5 minutes.

Mr. KASICH. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to sections 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

This report is to be used in applying the fiscal year 1997 budget resolution (H. Con. Res. 178), for legislation having spending or revenue effects in fiscal years 1997 through 2001.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, January 20, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1997 and for the 5-year period fiscal year 1997 through fiscal year 2001.

The term ''current level'' refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of October 4, 1996.

The first table in the report compares the current level of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 178, the concurrent resolution on the budget for fiscal year 1997. This

comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1997 because appropriations for those years have not yet been considered.

The second table compares the current levels of total budget authority, outlays, and new entitlement authority of each direct spending committee with the ''section 602(a)'' allocations for discretionary action made under H. Con. Res. 178 for fiscal year 1997 and for fiscal years 1997 through 2001. ''Discretionary action'' refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a).

The third table compares the current levels of discretionary appropriations for fiscal year 1997 with the revised ''section 602(b)'' sub-allocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, because the point of order under that section also applies to measures that would breach the applicable section 602(b) sub-allocation. The revised section 602(b) sub-allocations were filed by the Appropriations Committee on September 27, 1996.

Sincerely,

JOHN R. KASICH,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1997 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 178

[Reflecting action completed as of October 4, 1996]

[On-budget amounts, in millions of dollars]

	Fiscal year 1997	Fiscal year 1997–2001
Appropriate Level (as set by H. Con. Res. 178):		
Budget authority	1,314,785	6,956,507
Outlays	1,311,171	6,898,627
Revenues	1,083,728	5,913,303
Current Level:		
Budget authority	1,331,836	(1)
Outlays	1,323,900	(1)
Revenues	1,101,533	5,973,242
Current Level over(+)/under(−) Appropriate Level:		
Budget authority	17,051	(1)
Outlays	12,729	(1)
Revenues	17,805	59,939

[1] Not applicable because annual appropriations Acts for Fiscal Years 1997 through 2001 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

FY 1997 budget authority exceeds the appropriate level set by H. Con. Res. 178. Enactment of measures providing any new budget authority for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

OUTLAYS

FY 1997 outlays exceed the appropriate level set by H. Con. Res. 178. Enactment of measures providing any new outlays for FY 1997 would be subject to point of order under section 311(a) of the Congressional Budget Act of 1974.

REVENUES

Enactment of any measure that would result in any revenue loss in excess of $17,805,000,000 for FY 1997 (if not already included in the current level estimate) or in excess of $59,939,000,000 for FY 1997 through 2001 (if not already included in the current level) would increase the amount by which revenues are less than the recommended levels of revenue set by H. Con. Res. 178.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a) REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 1996

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
House Committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,996
Current level	5	5	5	55	55	55
Difference	5	5	5	55	55	−4,941
National Security:						
Allocation	−1,579	−1,579	0	−664	−664	0
Current level	−102	−102	−21	−289	−289	−34
Difference	1,477	1,477	−21	375	375	−34
Banking, Finance and Urban Affairs:						
Allocation	−128	−3,700	0	−711	−4,004	0
Current level	0	−6	0	0	0	0
Difference	128	3,694	0	711	4,004	0
Economic and Educational Opportunities:						
Allocation	−912	−800	−152	−3,465	−3,153	7,669
Current level	1,967	1,635	1,816	11,135	10,296	8,852
Difference	2,879	2,435	1,968	14,600	13,449	1,183
Commerce:						
Allocation	0	0	370	−14,540	−14,540	−41,710
Current level	3	3	492	242	195	1,430
Difference	3	3	122	14,782	14,735	43,140
International Relations:						
Allocation	0	0	0	0	0	0
Current level	−1	−1	0	−1	−1	0
Difference	−1	−1	0	−1	−1	0
Government Reform and Oversight:						
Allocation	−1,078	−1,078	−289	−4,605	−4,605	−1,668
Current level	0	0	0	0	0	0
Difference	1,078	1,078	289	4,605	4,605	1,668
House Oversight:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Resources:						
Allocation	−91	−90	−12	−1,401	−1,460	−59
Current level	−19	−20	0	−144	−167	0
Difference	72	70	12	1,257	1,293	59
Judiciary:						
Allocation	0	0	0	−357	−357	0
Current level	3	3	0	45	45	0
Difference	3	3	0	402	402	0
Transportation and Infrastructure:						
Allocation	2,280	0	0	125,989	521	2
Current level	2,345	65	12	4,748	121	56
Difference	65	65	12	−121,241	−400	54
Science:						
Allocation	0	0	0	−13	−13	0
Current level	0	0	0	0	0	0
Difference	0	0	0	13	13	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Veterans' Affairs:						
Allocation	−90	−90	224	−919	−919	3,475
Current level	0	0	3	0	0	−52
Difference	90	90	−221	919	919	−3,527
Ways and Means:						
Allocation	−8,973	−9,132	−2,057	−134,211	−134,618	−10,743
Current level	8,338	8,302	−2,840	73,457	73,476	−38,717
Difference	17,311	17,434	−783	207,668	208,094	−27,974

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a) REFLECTING ACTION COMPLETED AS OF NOVEMBER 15, 1996—Continued

[Fiscal years, in millions of dollars]

	1997			1997–2001		
	BA	Outlays	NEA	BA	Outlays	NEA
Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	2	2	0
Difference	0	0	0	2	2	0
Total authorized:						
Allocation	−10,571	−16,469	−1,916	−34,897	−163,812	−38,038
Current level	12,539	9,884	−533	89,250	83,733	−28,410
Difference	23,110	26,353	1,383	124,147	247,545	9,628

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1997—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (September 27, 1996)				Current level reflecting action completed as of October 4, 1996				Defense			
	General purpose		Violent crime		General purpose		Violent crime		General purpose		Violent crime	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Agriculture, Rural Development	12,960	13,380	0	0	13,009	13,373	0	0	49	−7	0	0
Commerce, Justice, State	24,493	24,939	4,525	2,951	24,838	25,065	4,526	2,954	345	126	1	3
Defense	245,065	243,372	0	0	243,851	242,875	0	0	−1,214	−497	0	0
District of Columbia	719	719	0	0	719	719	0	0	0	0	0	0
Energy & Water Development	19,421	19,652	0	0	19,973	19,923	0	0	552	271	0	0
Foreign Operations	11,950	13,311	0	0	12,267	13,310	0	0	317	−1	0	0
Interior	12,118	12,920	0	0	12,503	13,178	0	0	385	258	0	0
Labor, HHS & Education	65,775	69,842	61	38	71,026	71,517	61	39	5,251	1,675	0	1
Legislative Branch	2,180	2,148	0	0	2,170	2,132	0	0	−10	−16	0	0
Military Construction	9,983	10,360	0	0	9,982	10,344	0	0	−1	−16	0	0
Transportation	12,190	35,453	0	0	12,080	35,482	0	0	−110	29	0	0
Treasury-Postal Service	11,016	10,971	97	84	11,620	11,292	97	83	604	321	0	−1
VA–HUD-Independent Agencies	64,354	78,803	0	0	64,522	79,196	0	0	168	393	0	0
Reserve/Offsets	618	69	0	0	−2,750	−5,850	0	0	−3,368	−5,919	0	0
Grand total	492,842	535,939	4,683	3,073	495,810	532,556	4,684	3,076	2,968	−3,383	1	3

Note.—Amounts in Current Level column for Reserve/Offsets are for Spectrum sales and BIF/SAIF. Those items are credited to the Appropriations Committee for FY 1997 only.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 9, 1997.

Hon. JOHN KASICH,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1997. These estimates are compared to the appropriate levels for those items contained in the 1977 Concurrent Resolution on the Budget (H. Con. Res. 178) and are current through January 8, 1997. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
Budget Authority	1,331,836	1,314,785	+17,051
Outlays	1,323,900	1,311,171	+12,729
Revenues:			
1997	1,101,533	1,083,728	+17,805

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 178)	Current level +/− resolution
1997–2001	5,973,242	5,913,303	+59,939

This is my first report for the first session of the 105th Congress.

Sincerely,

JUNE E. O'NEILL,
Director.

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS OCTOBER 4, 1996

[In millions of dollars]

	Budget authority	Outlays	Revenues
PREVIOUSLY ENACTED			
Revenues			1,100,355
Permanents and other spending legislation	843,140	804,154	
Appropriation legislation		238,523	
Offsetting receipts	−199,772	−199,772	
Total previously enacted	643,368	842,905	1,100,355
ENACTED IN 104TH CONGRESS, 2D SESSION			
Appropriation Bills:			
Agriculture (P.L. 104–180)	52,345	44,922	
District of Columbia (P.L. 104–194)	719	719	
Energy and Water Development (P.L. 104–206)	19,973	13,090	
Legislative Branch (P.L. 104–197)	2,166	1,917	
Military Construction (P.L. 104–196)	9,982	3,140	
Transportation (P.L. 104–205)	12,599	12,270	
Veterans, HUD, Independent Agencies (P.L. 104–204)	84,303	49,666	
Omnibus Consolidated Appropriations Act (P.L. 104–208)[1]	499,841	352,017	
Authorization Bills:			
Taxpayer Bill of Rights 2 (P.L. 104–168)			−15
Federal Oil & Gas Royalty Simplification & Fairness Act, 1996 (P.L. 104–185)	−2	−2	
Small Business Job Protection Act of 1996 (P.L. 104–188)	−76	−76	550
Authorize Voluntary Separation Incentives at the A.I.D. (P.L. 104–190)	−1	−1	
Health Insurance Portability & Accountability Act of 1996 (P.L. 104–191)	305	315	590
Personal Responsibility and Work Opportunity Reconciliation Act (P.L. 104–193)	10,080	9,702	60
National Defense Authorization Act (P.L. 104–201)	−102	−102	
Railroad Unemployment Insurance Amendments Act of 1996 (P.L. 104–251)	12	12	
Federal Aviation Administration Authorization Act of 1996 (P.L. 104–264)	2,330	50	
Central Utah Project Completion Act (P.L. 104–296)	−72	−72	
Technical Corrections and Amendments to Trade Laws (P.L. 104–295)	1	1	−8
Sustainable Fisheries Act (P.L. 104–297)		−1	1
Navajo-Hopi Land Dispute Settlement Act of 1996 (P.L. 104–301)	48	48	
Accountable Pipeline Safety & Partnership Act of 1996 (P.L. 104–304)	3	3	
Fairness in Compensating Owners of Patents Used by the U.S. (P.L. 104–308)	3	3	
Emergency Drought Relief Act of 1996 (P.L. 104–318)	7	7	
Coast Guard Authorization Act of 1995 (P.L. 104–324)	3	3	
United States Commemorative Coin Act of 1996 (P.L. 104–329)		−6	

PARLIAMENTARIAN STATUS REPORT—105TH CONGRESS, 1ST SESSION, HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1997, AS OF CLOSE OF BUSINESS OCTOBER 4, 1996—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted this session	694,467	487,625	1,178
APPROPRIATED ENTITLEMENT AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−5,999	−6,630	
Total Current Level	1,331,836	1,323,900	1,101,533
Total Budget Resolution	1,314,785	1,311,171	1,083,728
Amount remaining:			
Under Budget Resolution			
Over Budget Resolution	17,051	12,729	17,805
ADDENDUM			
Emergencies:			
Funding that has been designated as an emergency requirement by the President and the Congress	1,550	1,205	
Funding that has been designated as an emergency requirement only by the Congress and is not available for obligation until requested by the President	364	323	
Total emergencies	1,914	1,528	
Total current level including emergencies	1,333,750	1,325,428	1,101,533

[1] This act includes 1997 funding for six appropriation bills (Commerce/Justice, Defense, Foreign Operations, Interior, Labor/HHS/Education, and Treasury) and additional appropriations for hurricane and flood recovery, firefighting and antiterrorism. There are also several provisions that affect the following direct spending programs: FCC auction receipts, Bank Insurance Funds, the Food Stamp program, and the Small Business Administration loan program account.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

[Mr. GEKAS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO THE HONORABLE BURTON BARR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I rise this afternoon to honor the memory of one from my home State who qualifies as a legislative legend. His name was Burton Barr, and for more than 20 years he served with distinction in the Arizona House of Representatives.

Indeed, Mr. Speaker, as we embark in this 105th Congress to do the people's business, we are confronted by a curious paradox. It is one that surrounds every legislative body, and it principally centers on this challenge: How do we, in the spirit of bipartisanship, at the same time recognize legitimate differences of opinion and work for the common good?

Mr. Speaker, I submit that for a sterling example of how to move forward in a bipartisan way, we need look only so far as to the legislative career of the late Burton Barr.

Burton Barr in his role as Speaker of the Arizona statehouse worked effectively with members of that body from all different walks of life and from both major political parties. Indeed, Mr. Speaker, no less a person than the current Secretary of the Interior and former Arizona Governor Bruce Babbitt attests to the legislative ability of Burton Barr.

There were those who were cynics and critics who referred to Mr. Barr as the great salesman, but he was more than that. For in recognizing legitimate differences, and yet trying to achieve a consensus, Burton Barr went about the people's business. He was a public servant in the truest sense of the word.

To his family and to the people of Arizona, this House should offer our condolences and sympathy. And, again, for a sterling example, we should turn to this legislative leader who showed by example that the people's business can be done, that we can work together constructively, at times championing our differences, at times legitimately discussing those challenges at hand.

Burton Barr was more than simply a legislative leader. He was a husband and devoted father, and he was a hero of World War II. He earned two Silver Stars for gallantry. But for the people of Arizona, his star in the firmament will be his dedication to the people of the Grand Canyon State and his record of accomplishment in leading a legislative body to success in a bipartisan manner.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CARSON (at the request of Mr. GEPHARDT), for today, on account of illness.

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 Member (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. MENENDEZ, for 5 minutes, today.

(The following Members (at the request of Mr. HULSHOF) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. CARDIN.

Mr. COSTELLO.

Mr. CAPPS.

Mr. SERRANO.

Mr. VISCLOSKY.

Mrs. MEEK of Florida.

Mr. BENTSEN.

Mr. BERMAN.

Mr. KLECZKA.

Mr. MARTINEZ.

Mr. WAXMAN.

(The following Members (at the request of Mr. HULSHOF) and to include extraneous material:)

Mr. YOUNG of Florida.

Mr. GALLEGLY.

Ms. ROS-LEHTINEN in two instances.

Mr. KING.

Mr. BASS.

Mr. SOLOMON in three instances.

Mr. EHRLICH.

Mr. HASTERT.

Mr. CAMP.

Mr. SAXTON.

Mr. RADANOVICH.

Mr. BILIRAKIS.

Mr. SMITH of Michigan.

Mr. PACKARD.

Mr. CUNNINGHAM.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 3, 105th Congress, the House stands adjourned until 12:30 p.m. on Tuesday, February 4, 1997, for morning hour debate.

Thereupon (at 2 o'clock and 24 minutes p.m.), pursuant to Senate Concurrent Resolution 3, the House adjourned until Tuesday, February 4, 1997, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1209. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Regulations Issued Under the Export Apple and Pear Act; Relaxation of Grade Requirements for Apples and

Pears Shipped to Pacific Ports of Russia [Docket No. FV96–33–1FIR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1210. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1996–97 Marketing Year [Docket No. FV96–982–2IFR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1211. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Onions Grown in South Texas; Assessment Rate [Docket No. FV96–959–1IFR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1212. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Change in Reporting Requirements [Docket No. FV96–929–2FR] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1213. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Milk in the Iowa Marketing Area; Temporary Revision of Pool Supply Plant Shipping Percentage [DA–96–16] received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1214. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Olives Grown in California and Imported Olives; Establishment of Minimum Quality Requirements for California and Imported Olives, and Revision of Outgoing Inspection Requirements and Procedures for California Olives [Docket No. FV96–932–2FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1215. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1996–97 Marketing Year [Docket No. FV96–985–3FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1216. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Peanuts Marketed in the United States; Changes in Handling and Disposition Requirements [Docket Nos. FV96–997–1FR; FV96–998–4FR; FV96–999–3FR] received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1217. A letter from the Administrator, Agricultural Marketing Service, transmitting the Service's final rule—Cotton Research and Promotion Program: Determination of Sign-up Eligibility, and Procedure for the Conduct of a Sign-up Period for Determination of Whether to Conduct a Referendum Regarding the 1990 Amendments to the Cotton Research and Promotion Act [CN–96–008] received January 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1218. A communication from the President of the United States transmitting his request to make available appropriations totaling $5 million in budget authority for the Department of Health and Human Services' Low Income Home Energy Assistance Program, and designate the amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 105–26); to the Committee on Appropriations and ordered to be printed.

1219. A letter from the Under Secretary of Defense (Comptroller), Department of Defense, transmitting a report on a violation of the Anti-Deficiency Act—Army violation, case number 97–02, which totaled $27,122, occurred in the fiscal year 1995 operation and maintenance, Army [O&M, A] appropriation at the Yakima Training Center, Yakima, WA, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1220. A letter from the Chair, Defense Environmental Response Task Force, transmitting the report on the actions of the Defense Environmental Response Task Force for fiscal year 1996, pursuant to Public Law 101–510, section 2923(c)(1) (104 Stat. 1821); to the Committee on National Security.

1221. A letter from the Assistant Secretary (Installations and Environment), Department of the Navy, transmitting notification of the Department's decision to study certain functions performed by military and civilian personnel in the Department of the Navy [DON] for possible performance by private contractors, pursuant to 10 U.S.C. 2304 note; to the Committee on National Security.

1222. A letter from the Secretary of Defense, transmitting notification that the Secretary has approved the retirement of Adm. William J. Flanagan, Jr., U.S. Navy, and certification that Admiral Flanagan has served satisfactorily on active duty in his current grade; to the Committee on National Security.

1223. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Czech Republic, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1224. A letter from the Assistant Secretary of Labor for OSHA, Occupational Safety and Health Administration, transmitting the Administration's ''Major'' final rule—Occupational Exposure to Methylene Chloride (RIN: 1218–AA98) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1225. A letter from the Secretary of Energy, transmitting a copy of the annual report on the Coke Oven Emission Control Program for fiscal year 1995, pursuant to Public Law 101–549, section 301 (104 Stat. 2559); to the Committee on Commerce.

1226. A letter from the Chief Financial Officer, National Aeronautics and Space Administration, transmitting the Administration's 1996 annual report to Congress on the Federal Facilities Compliance Act mixed waste activities, pursuant to 42 U.S.C. 6965; to the Committee on Commerce.

1227. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's report on nuclear nonproliferation in South Asia for the period April 1, 1996, through September 30, 1996, pursuant to 22 U.S.C. 237; to the Committee on International Relations.

1228. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–14: Drawdown from DOD Articles and Services for Assistance for Victims of Conflict and Other Persons at Risk from Northern Iraq, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on International Relations.

1229. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–12: Drawdown of Commodities and Services from the Inventory and Resources of the Department of Defense to Support a Peace Monitoring Force in Northern Iraq, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1230. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 97–9: Drawdown of Articles, Services, and Military Education and Training from DOD to Provide Anti-Narcotics Assistance to Mexico, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1231. A communication from the President of the United States, transmitting a report on developments since his last report on July 22, 1996, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986, pursuant to 50 U.S.C. 1703(c). (H. Doc. No. 105–25); to the Committee on International Relations and ordered to be printed.

1232. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 23, 1996, the danger pay rate for Peru was designated at the 15 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1233. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 26, 1996, the danger pay rate for Chechnya was designated at the 20 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1234. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that effective December 26, 1996, the danger pay rate for the Central African Republic was designated at the 20 percent level, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

1235. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–337, ''Highway Trust Fund Establishment Act and the Water and Sewer Authority Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1236. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–338, ''Business Corporation Two-Year Report Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1237. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–339, ''Fire Code Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1238. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–342, ''International Registration Plan Agreement Temporary Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1239. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–347, ''Health Services Planning Program Re-establishment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233 (c)(1); to the Committee on Government Reform and Oversight.

1240. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–349, ''Oak

Hill Youth Center Educational Contracting Temporary Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1241. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–358, ''Extension of the Moratorium on Retail Service Station Conversions and the Gas Station Advisory Board Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1242. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–354, ''Board of Real Property Assessments and Appeals Membership Qualification Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1243. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–355, ''Holy Comforter-Saint Cyprian Roman Catholic Church Equitable Real Property Tax Relief Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1244. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–359, ''Housing Finance Agency Loan Forgiveness Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1245. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–360, ''Fiscal Year 1997 Budget Support Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1246. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–363, ''Modification Reduction-in-Force Temporary Amendment Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1247. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–361, ''Adjustment Process for Nonviolent Juvenile Offenders and Parent Participation in Court-Ordered Proceedings Act of 1996'' received January 13, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1248. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–415, ''Real Property Tax Rates for Tax year 1997 Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1249. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–413, ''Oyster Elementary School Modernization and Development Project Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1250. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–434, ''District of Columbia Moratorium on the 1997 Real Property Assessments for Real Property Tax Year 1998 Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1251. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–433, ''BNA Washington Inc., Real Property Tax Deferral Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1252. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–432, ''New Hires Police Officers, Fire Fighters, and Teachers Pension Modification Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1253. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–431, ''Zero Tolerance for Guns Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1254. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–392, ''Reorganization Plan No. 5 for the Department of Human Services and Department of Corrections Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1255. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–391, ''Drug Paraphernalia Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1256. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–389, ''Health and Hospitals Public Benefit Corporation Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1257. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–387, ''Closing of a Public Alley in Square 375, S.O. 95–54, Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1258. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–386, ''Cable Television Franchise Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1259. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–364, ''Boating While Intoxicated Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1260. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–370, ''Closing of Public Alleys and Abandonment and Establishment of Easements in Square 878, S.O. 95–38, Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1261. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–384, ''Preservation of Residential Neighborhoods Against Nuisances Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1262. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–380, ''Real Property Tax Reassessment Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1263. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–378, ''Paternity Acknowledgment and Gas Station Advisory Board Re-establishment Temporary Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1264. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–374, ''Public Assistance Fair Hearing Procedures Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1265. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–372, ''Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substances Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1266. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–371, ''Lottery Games Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1267. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–367, ''Medicare Supplement Insurance Minimum Standards Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1268. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–343, ''Council Contract Approval Modification Temporary Amendment Act of 1995 Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1269. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–341, ''District of Columbia Employee Viatical Settlement Temporary Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1270. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting a copy of D.C. Act 11–340, ''Alcoholic Beverage Underage Penalties Amendment Act of 1996'' received January 16, 1997, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1271. A letter from the Chairman Pro Tempore, Council of the District of Columbia, transmitting the Council of the District of Columbia's statement on District of Columbia Financial Responsibility and Management Assistance Authority ''Resolution, Recommendations and Order Concerning the Lottery Board,'' dated September 21, 1996, received December 20, 1996, pursuant to section 207(b) of Public Law 104–8; to the Committee on Government Reform and Oversight.

1272. A letter from the Chairman and CEO, Farm Credit Administration, transmitting

the annual report of the Farm Credit Administration for calendar year 1996, pursuant to 12 U.S.C. 2252(a)(3); to the Committee on Government Reform and Oversight.

1273. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report for fiscal year 1995 listing the number of appeals submitted, the number processed to completion, and the number not completed by the originally announced date, pursuant to 5 U.S.C. 7701(i)(2); to the Committee on Government Reform and Oversight.

1274. A letter from the Chairman, National Mediation Board, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1275. A letter from the Independent Counsel, Office of Independent Counsel, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1996, through September 30, 1996, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1276. A letter from the Director, Office of Personnel Management, transmitting the agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1995, pursuant to 5 U.S.C. 7363; to the Committee on Government Reform and Oversight.

1277. A letter from the Secretary of the Treasury, transmitting the semiannual report on activities of the inspector general for the period April 1, 1996, through September 30, 1996, and the Secretary's semiannual 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.

1278. A letter from the Secretary of Commerce, transmitting the fiscal year 1996 annual report under the Federal Managers' Financial Integrity Act [FMFIA] of 1982, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1279. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1280. A letter from the Chairman of the Board of Governors, U.S. Postal Service, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1996, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform and Oversight.

1281. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing electronic filing of reports by political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

1282. A letter from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting notification that due to the discontinued funding for the emergency striped bass research study, the annual report on that study will no longer be transmitted to Congress, pursuant to 16 U.S.C. 757g(b); to the Committee on Resources.

1283. A letter from the Secretary of Commerce, transmitting the Secretary's certification that Italy has terminated large-scale driftnet fishing by its nationals and vessels, pursuant to Public Law 100–220, section 4004(b) (101 Stat. 1478); to the Committee on Resources.

1284. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on an increase in the projected cost for the safety of dams modifications at Bumping Lake Dam, Yakima project, Washington, pursuant to 43 U.S.C. 509; to the Committee on Resources.

1285. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Visitor Service Authorizations on Alaska National Wildlife Refuges (RIN: 1018–AC02) received January 10, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1286. A letter from the Director, Fish and Wildlife Service, transmitting the Service's final rule—Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Laguna Mountain Skipper and Quino Checkerspot Butterfly (RIN: 1018–AC84) received January 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1287. A letter from the Director, Administrative Office of the U.S. Courts, transmitting the Judicial Conference of the United States biennial report to the Congress on the continuing need for all authorized bankruptcy judgeships, pursuant to 28 U.S.C. 152(b)(2); to the Committee on the Judiciary.

1288. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft of proposed legislation to provide for the conversion of existing temporary U.S. district judgeships to permanent status, and for other purposes; to the Committee on the Judiciary.

1289. A letter from the Acting Administrator, Federal Aviation Administration, transmitting a report on the aircraft cabin air quality research program, pursuant to Public Law 103–305, section 304(e)(2) (108 Stat. 1592); to the Committee on Transportation and Infrastructure.

1290. A letter from the Director, National Legislative Commission, the American Legion, transmitting the proceedings of the 78th National Convention of the American Legion, held in Salt Lake City, UT on September 3, 4, and 5, 1996, as well as a report on the organization's activities from the year preceding the convention, pursuant to 36 U.S.C. 49 (H. Doc. No. 105–27); to the Committee on Veterans' Affairs and ordered to be printed.

1291. A communication from the President of the United States, transmitting an updated report concerning the emigration laws and policies of Mongolia, pursuant to 19 U.S.C. 2432(b) (H. Doc. No. 105–24); to the Committee on Ways and Means and ordered to be printed.

1292. A letter from the Secretary of Defense, transmitting the Advisory Committee on Judicial Review of Military Administrative Personnel Actions findings and recommendations, pursuant to section 551 of the National Defense Authorization Act for fiscal year 1996; jointly, to the Committees on National Security and the Judiciary.

1293. A letter from the Secretary of Health and Human Services, transmitting notification that the Department of Health and Human Services is allotting emergency funds made available under section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 to North Dakota and South Dakota and the tribes located in those States, pursuant to 42 U.S.C. 8623(g); jointly, to the Committees on Commerce and Education and the Workforce.

1294. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Eldorado International Airport, Bogota, Colombia, pursuant to 49 U.S.C. 44907(d)(3); jointly, to the Committees on International Relations and Transportation and Infrastructure.

1295. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's certification to the Congress regarding the incidental capture of Sea Turtles in commercial shrimping operations (China), pursuant to Public Law 101–162, section 609(b)(2) (103 Stat. 1038); jointly, to the Committees on Resources and Appropriations.

1296. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's request for supplemental funding for fiscal year 1997, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Transportation and Infrastructure and Appropriations.

1297. A letter from the Secretaries of Veterans Affairs and Defense, transmitting a report on the implementation of the health resources sharing portion of the Department of Veterans Affairs and Department of Defense Health Resources Sharing and Emergency Operations Act for fiscal year 1996, pursuant to 38 U.S.C. 8111(f); jointly, to the Committees on Veterans' Affairs and National Security.

1298. A letter from the Assistant Attorney General of the United States, transmitting a draft of proposed legislation entitled ''Environmental Crimes and Enforcement Act of 1997''; jointly, to the Committees on the Judiciary, Agriculture, Commerce, Resources, and Transportation and Infrastructure.

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. TORRES (for himself and Mr. PASTOR):

H.R. 452. A bill to amend the Indian Gaming Regulatory Act to provide adequate and certain remedies for sovereign tribal governments, and for other purposes; to the Committee on Resources, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ACKERMAN (for himself, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. DELLUMS, Mr. FARR of California, Mr. FRANKS of New Jersey, Mr. KLECZKA, Mr. LANTOS, Mr. MORAN of Virginia, Ms. NORTON, Mr. OWENS, Mr. SCHUMER, Mr. SHAYS, and Mr. WAXMAN):

H.R. 453. A bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory cattle, sheep, swine, horses, mules, or goats, and for other purposes; to the Committee on Agriculture.

By Mr. ACKERMAN:

H.R. 454. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Mr. FORBES, Mr. KING, Mr. LAZIO of New York, Mr. MANTON, Mrs. MCCARTHY of New York, Mr. SCHUMER, Mr. SHAYS, Mr. TOWNS, and Ms. NORTON):

H.R. 455. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to the States of New York and Connecticut for the purpose of demonstrating methods of improving water quality in Long Island Sound; to the Committee on Transportation and Infrastructure.

By Mr. ACKERMAN (for himself, Mr. DELLUMS, Mr. EVANS, and Ms. NORTON):

H.R. 456. A bill to amend chapter 211 of title 49, United States Code, with respect to hours of service of railroad employees, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. CASTLE:

H.R. 457. A bill to amend the Congressional Budget Act of 1974 to provide for budgeting for emergencies through the establishment of a budget reserve account, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, 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. CLEMENT:

H.R. 458. A bill to amend the Federal Election Campaign Act of 1971 to ban soft money in elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. COBURN (for himself, Mr. CANADY of Florida, Mr. CARDIN, Mr. DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFAZIO, Mr. EHLERS, Mr. FOLEY, Mr. HOSTETTLER, Mr. LARGENT, Mr. LEWIS of Georgia, Mr. LOBIONDO, Mrs. LOWEY, Mr. MCHUGH, Mr. NORWOOD, Mr. PALLONE, Ms. PELOSI, Mr. REGULA, Mr. SANDERS, Mr. STARK, Mr. STUMP, and Mr. WELDON of Florida):

H.R. 459. A bill to amend title XVIII of the Social Security Act to require health maintenance organizations participating in the Medicare Program to assure access to out-of-network services to Medicare beneficiaries enrolled with such organizations; to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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. CONDIT:

H.R. 460. A bill to amend the Housing Act of 1949 to provide for private servicing of rural housing loans made under section 502 of such act; to the Committee on Banking and Financial Services.

H.R. 461. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase and installation of agricultural water conservation systems; to the Committee on Ways and Means.

By Mr. COSTELLO:

H.R. 462. A bill to amend the Federal Election Campaign Act of 1971 to control House of Representatives campaign spending, and for other purposes; to the Committee on House Oversight.

By Ms. DELAURO:

H.R. 463. A bill to prohibit, in connection with the termination of Army activities at the Stratford Army Engine Plant, Stratford, CT, the expenditure of Federal funds to cover the costs of relocating a Government contractor currently located at that installation; to the Committee on National Security.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. UPTON, Mr. HORN, and Mr. LAZIO of New York):

H.R. 464. A bill to amend title II of the Social Security Act to establish, for purposes of disability determinations under such title, a uniform minimum level of earnings, for demonstrating ability to engage in substantial gainful activity, at the level currently applicable solely to blind individuals; to the Committee on Ways and Means.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. SAXTON, Mr. RAHALL, Mr. GRAHAM, Mr. FROST, Mr. SERRANO, Mr. HINOJOSA, and Ms. WOOLSEY):

H.R. 465. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. EVANS (for himself, Ms. BROWN of Florida, Mr. DEFAZIO, Mrs. MEEK of Florida, Mr. HOLDEN, Mr. GUTIERREZ, Mr. DELLUMS, Mr. MCDERMOTT, Mr. FILNER, Mr. UNDERWOOD, Mr. MARTINEZ, Mr. TALENT, Mr. FROST, Mr. FALEOMAVAEGA, Mr. BARCIA, and Mr. BRYANT):

H.R. 466. A bill to amend title 38, United States Code, to extend the period of time for the manifestation of chronic disabilities due to undiagnosed symptoms in veterans who served in the Persian Gulf war in order for those disabilities to be compensable by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. EWING:

H.R. 467. A bill to amend the Commodity Exchange Act to provide a conditional exemption for certain transactions involving professional markets, to clarify the effect of the designation of a board of trade as a contract market, to simplify the process for implementing contract market rules, to regulate audit trail requirements, to establish cost-benefits analysis requirements, to combat fraud in transactions in or involving foreign currency, and for other purposes; to the Committee on Agriculture.

By Mr. FILNER:

H.R. 468. A bill to amend section 8 of the United States Housing Act of 1937 to provide for rental assistance payments to assist certain owners of manufactured homes who rent the lots on which their homes are located; to the Committee on Banking and Financial Services.

H.R. 469. A bill to amend the Veterans' Benefits Improvement Act of 1996 to eliminate the requirements that members of the Commission on Service members and Veterans Transition Assistance to allocated to separate programs; to the Committee on Veterans' Affairs.

H.R. 470. A bill to curtail illegal immigration through increased enforcement of the employer sanctions provisions in the Immigration and Nationality Act and related laws; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, 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. GALLEGLY:

H.R. 471. A bill to amend the Immigration and Nationality Act to not count work experience as an unauthorized alien for purposes of admission as an employment-based immigrant or an H–1B nonimmigrant; to the Committee on the Judiciary.

By Mr. GILCHREST:

H.R. 472. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office; to the Committee on House Oversight.

H.R. 473. A bill to amend the Federal Election Campaign Act of 1971 to prohibit nonparty multicandidate political committee contributions in elections for Federal office, and for other purposes; to the Committee on House Oversight.

By Mr. GOODLATTE (for himself, Mr. MCCOLLUM, Mr. BARTLETT of Maryland, Mr. SAXTON, Mr. WELDON of Pennsylvania, Mr. CANADY of Florida, Mr. SMITH of Texas, Mr. COBLE, Mr. SCHIFF, Mr. BOUCHER, Mrs. CUBIN, Mr. COMBEST, Mr. GEKAS, Mr. BURR of North Carolina, Mr. EHLERS, Mr. SMITH of Oregon, Mr. CALVERT, Mr. MCKEON, Mr. WICKER, Mr. BARR of Georgia, Mr. JONES, Mr. MCHUGH, Mr. FOX of Pennsylvania, Mr. WELLER, Mr. BONO, Mr. DAVIS of Virginia, Mrs. MORELLA, Mr. GALLEGLY, Mr. CHABOT, Mr. MCINTOSH, Mr. PAXON, Mr. WAMP, Mr. LINDER, Mr. QUINN, Mr. RIGGS, Mr. STEARNS, and Mr. BUYER):

H.R. 474. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself and Mr. STENHOLM):

H.R. 475. A bill to amend title XVIII of the Social Security Act to provide for offering the option of Medicare coverage through qualified provider-sponsored organizations [PSO's], and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, 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. GUTIERREZ (for himself, Mr. BERMAN, Mr. MCDERMOTT, Mr. FILNER, Mr. WYNN, Mr. MILLER of California, Mr. STARK, Mr. SABO, Mr. NADLER, Mr. YATES, Ms. WOOLSEY, Mr. FLAKE, Mr. ABERCROMBIE, Mr. DELLUMS, Ms. MCKINNEY, Mr. SERRANO, Ms. NORTON, Ms. PELOSI, and Mr. ENGEL):

H.R. 476. A bill to prohibit the possession or transfer of nonsporting handguns; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 477. A bill to amend titles 23 and 49, United States Code, relating to metropolitan planning; to the Committee on Transportation and Infrastructure.

By Mr. HERGER (for himself and Mr. POMBO):

H.R. 478. A bill to amend the Endangered Species Act of 1973 to improve the ability of individuals and local, State, and Federal agencies to comply with that act in building, operating, maintaining, or repairing flood control projects, facilities, or structures; to the Committee on Resources.

By Mr. HERGER:

H.R. 479. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of funeral trusts; to the Committee on Ways and Means.

H.R. 480. A bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 481. A bill to provide for the establishment of a professional trade service corps, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on the Judiciary, 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. LAZIO of New York:

H.R. 482. A bill to amend the Public Health Service Act to provide a one-stop information service for individuals with serious life-threatening diseases; to the Committee on Commerce.

By Mr. LEACH:

H.R. 483. A bill to authorize appropriations for the payment of U.S. arrearages to the United Nations; to the Committee on International Relations.

By Mrs. MYRICK (for herself and Mr. PORTER):

H.R. 484. A bill to amend the Fair Labor Standards Act of 1938 to permit State and

local government workers to perform volunteer services for their employer or community organization or purpose without requiring the employer to pay them compensation; to the Committee on Education and the Workforce.

By Mr. RICHARDSON:

H.R. 485. A bill to appropriate funds for the purpose of implementing the compromise between the Forest Service and timber contractors operating in the Vallecitos sustained-yield unit, New Mexico, in order to preserve large diameter old growth pine trees located in the unit; to the Committee on Appropriations.

H.R. 486. A bill to amend the Communications Act of 1934 to promote greater telecommunications and information services to Native Americans, and for other purposes; to the Committee on Commerce.

H.R. 487. A bill to amend the Public Health Service Act with respect to the health of individuals who are members of minority groups, and for other purposes; to the Committee on Commerce.

H.R. 488. A bill to authorize the Secretary of the Interior to enter into an agreement with the Arch Hurley Conservancy District in New Mexico, authorizing the district to prepay any amounts outstanding under water reclamation repayment contracts; to the Committee on Resources.

H.R. 489. A bill to amend the Land and Water Conservation Fund Act of 1965 as regards the National Park Service, and for other purposes; to the Committee on Resources.

By Mr. ROMERO-BARCELÓ:

H.R. 490. A bill to relieve the Puerto Rico Housing Bank and Finance Agency and its assignees of liability for certain loans subject to the Truth-in-Lending Act; to the Committee on Banking and Financial Services.

By Mr. SAXTON (for himself and Mr. QUINN):

H.R. 491. A bill to prohibit the Department of State from imposing a charge or fee for providing passport information to the general public; to the Committee on International Relations.

By Mr. SCHUMER (for himself, Mr. STARK, Mrs. LOWEY, and Mr. BROWN of California):

H.R. 492. A bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns; to the Committee on the Judiciary.

By Mr. SHAYS (for himself, Mr. MEEHAN, Mrs. ROUKEMA, Mr. BARRETT of Wisconsin, Mrs. LINDA SMITH of Washington, Mr. KIND, and Mr. DUNCAN):

H.R. 493. A bill to amend the Federal Election Campaign Act of 1971 to reform the financing of Federal elections, and for other purposes; to the Committee on House Oversight, and in addition to the Committees on Commerce and Government Reform and Oversight, 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. THOMAS:

H.R. 494. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of crops destroyed by casualty; to the Committee on Ways and Means.

H.R. 495. A bill to amend the Internal Revenue Code of 1986 to double the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Ms. WOOLSEY (for herself and Ms. PRYCE of Ohio):

H.R. 496. A bill to amend title 5, United States Code, to include medical foods as a specific item for which coverage may be provided under the Federal Employees Health Benefits Program; to the Committee on Government Reform and Oversight.

By Mr. ABERCROMBIE (for himself and Mr. FALEOMAVAEGA):

H.J. Res. 32. Joint resolution to consent to certain amendments enacted by the Legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; to the Committee on Resources.

By Mrs. FOWLER:

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Representatives and Senators in Congress; to the Committee on the Judiciary.

By Ms. FURSE:

H.J. Res. 34. Joint resolution proposing an amendment to the Constitution of the United States to limit terms of Representatives and Senators; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.J. Res. 35. Joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

By Mr. BOEHNER:

H. Con. Res. 9. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union; considered and agreed to.

By Mr. SOLOMON:

H. Con. Res. 10. Concurrent resolution recommending the integration of Estonia, Latvia, and Lithuania into the North Atlantic Treaty Organization; to the Committee on International Relations.

By Mr. YATES:

H. Con. Res. 11. Concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust; to the Committee on House Oversight.

By Mrs. JOHNSON of Connecticut:

H. Res. 31. Resolution in the matter of Representative NEWT GINGRICH; considered and agreed to.

By Mr. BOEHNER:

H. Res. 32. Resolution designating majority membership on certain standing committees of the House; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 33. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Ms. WATERS:

H. Res. 34. Resolution to establish a select committee to investigate CIA involvement in crack cocaine sales to fund Contras; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

10. By the SPEAKER: Memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 284: To memorialize the Congress of the United States to investigate the financial plight of the self-employed Reservists who were activated for missions such as Operation Desert Storm and Operation Joint Endeavor and to pass legislation to provide relief; to the Committee on Banking and Financial Services.

11. Also, memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 126: Calling on the President and the Congress of the United States to undertake all appropriate actions to encourage the Swiss Government to take certain actions concerning unclaimed bank accounts of Holocaust victims; to the Committee on International Relations.

12. Also, memorial of the Senate of the State of Michigan, relative to Senate Concurrent Resolution No. 278: To memorialize the Congress of the United States to pass and submit to the States for ratification an amendment to the Constitution of the United States to protect taxpayer rights from judicial taxation by prohibiting courts from ordering any State or political subdivision to levy or increase any tax and to urge other States to direct a similar memorial to Congress; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. SAM JOHNSON.

H.R. 26: Mr. TRAFICANT and Mr. SCHIFF.

H.R. 27: Mr. CRAPO, Mr. STEARNS, Mr. DAN SCHAEFER of Colorado, Mr. NORWOOD, Mr. NEY, Mr. WELDON of Florida, and Mrs. MYRICK.

H.R. 41: Mr. SENSENBRENNER, Mrs. KELLY, Mr. CHRISTENSEN, Mr. HERGER, Mr. HORN, Mr. HYDE, Mr. BLILEY, and Mr. HILL.

H.R. 58: Mr. BILIRAKIS, Mr. MCDERMOTT, Mr. GONZALEZ, Mr. FRELINGHUYSEN, Mr. MENENDEZ, Ms. NORTON, Mr. KENNEDY of Massachusetts, Mr. LAZIO of New York, Mr. HASTINGS of Florida, Mr. QUINN, Mr. EHRLICH, Mr. FOLEY, Mr. MCCOLLUM, Ms. WOOLSEY, Mr. SKAGGS, and Mr. FATTAH.

H.R. 59: Mr. MCCRERY, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. COBLE, Mr. HILLEARY, Mr. STEARNS, Mr. NORWOOD, Mr. FOLEY, Mr. MCCOLLUM, and Mr. JONES.

H.R. 66: Mr. DICKEY, Mr. FOLEY, Mr. COOKSEY, Mr. KILDEE, Ms. FURSE, Mr. WELDON of Florida, Mr. STARK, Mr. FROST, and Mr. RAHALL.

H.R. 75: Mr. DELLUMS, Ms. BROWN of Florida, and Ms. NORTON.

H.R. 78: Mr. WAMP and Mr. WALSH.

H.R. 80: Mr. MCHUGH, Mr. CONDIT, Mr. CAMP, Mr. DOYLE, Mr. COBLE, Mr. KNOLLENBERG, Mr. FRANK of Massachusetts, Mr. GOODE, Mr. BACHUS, Mr. HYDE, Mr. MEEHAN, Mr. MINGE, Mr. SHAYS, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. LEVIN, Mr. PORTMAN, Mr. NORWOOD, Mrs. CARSON, Mr. GREENWOOD, Mr. SENSENBRENNER, Mr. KLINK, and Mr. GOSS.

H.R. 81: Mr. HAMILTON.

H.R. 86: Ms. RIVERS, Mr. HASTINGS of Washington, Mr. BOB SCHAFFER, Mr. LEWIS of Kentucky, Mr. LUCAS of Oklahoma, and Mr. BACHUS.

H.R. 87: Mr. HASTINGS of Washington.

H.R. 100: Mr. FROST, Mr. HASTINGS of Florida, Mr. JEFFERSON, Mr. RAHALL, Mr. RANGEL, and Mr. TEJEDA.

H.R. 103: Mr. CANADY of Florida.

H.R. 123: Mr. PETRI, Mrs. CUBIN, Mr. OXLEY, Mr. UPTON, Mr. KOLBE, Mr. HILLEARY, Mr. NUSSLE, Mr. BARTLETT of Maryland, and Mr. CALLAHAN.

H.R. 127: Mrs. MEEK of Florida, Mr. CAMP, Mr. FILNER, Mr. MOAKLEY, Mr. MCDERMOTT, Mr. BEREUTER, Mr. MCGOVERN, Mr. BURR of North Carolina, Mr. OXLEY, Mr. CAMPBELL, Mr. UPTON, Mr. BILBRAY, Mr. DINGELL, Mr. FALEOMAVAEGA, Mr. WELDON of Florida, Mr. SENSENBRENNER, Mr. NORWOOD, Mr. DELLUMS, Mr. WATTS of Oklahoma, Mr. BROWN of California, Mr. BALLENGER, Mr. HYDE, Mr. CONDIT, Ms. WOOLSEY, Mrs. LOWEY, Mr. GEJDENSON, Mr. SHAYS, Mr. NADLER, Mr. WALSH,

Ms. FURSE, Ms. BROWN of Florida, Mr. BACHUS, Mrs. MALONEY of New York, Ms. ESHOO, Mr. EVANS, and Mr. SOLOMON.

H.R. 131: Mr. PAPPAS, Mr. FOLEY, Mr. SENSENBRENNER, and Mrs. MYRICK.

H.R. 132: Mrs. MYRICK and Mr. HASTERT.

H.R. 135: Mr. ALLEN, Mrs. CARSON, Mr. DELAHUNT, Mr. FAZIO of California, Mr. FILNER, Ms. FURSE, Mr. HINOJOSA, Ms. JACKSON-LEE, Ms. KAPTUR, Ms. LOFGREN, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCNULTY, Mr. MALONEY of Connecticut, Mr. MANTON, Mr. MARKEY, Mr. MEEHAN, Ms. MILLENDER-MCDONALD, Mr. MILLER of California, Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. PASCRELL, Mr. PICKETT, Mr. RANGEL, Mr. STOKES, Mrs. TAUSCHER, Mrs. THURMAN, Ms. WOOLSEY, and Mr. YATES.

H.R. 156: Mr. SOLOMON.

H.R. 157: Mr. MCDADE.

H.R. 158: Mr. SMITH of New Jersey, Mr. CHRISTENSEN, Mr. KOLBE, Mr. SAXTON, Mr. HOLDEN, Mr. SENSENBRENNER, Mr. TEJEDA, Mr. ROHRABACHER, and Mr. MCINNIS.

H.R. 159: Mr. WALSH.

H.R. 161: Mr. SMITH of New Jersey, Mr. MCCRERY, Mr. MEEHAN, Mr. MILLER of Florida, Mr. HORN, Mr. LIVINGSTON, and Ms. MOLINARI.

H.R. 162: Mr. KNOLLENBERG and Mr. GRAHAM.

H.R. 163: Mr. BARCIA of Michigan and Mr. WATTS of Oklahoma.

H.R. 180: Mr. CANADY of Florida, Mr. DEUTSCH, Mr. FOLEY, Mrs. FOWLER, Mr. HASTINGS of Florida, Mr. MCCOLLUM, Mrs. MEEK of Florida, Mr. MILLER of Florida, Ms. ROS-LEHTINEN, Mr. SCARBOROUGH, Mr. SHAW, Mr. STEARNS, and Mr. WELDON of Florida.

H.R. 182: Mr. TORRES, Mr. BROWN of California, Mr. DELLUMS, Mr. NADLER, Mr. FRANK of Massachusetts, Ms. NORTON, Mr. SANDERS, Mr. JACKSON, Mr. MCDERMOTT, Mr. FATTAH, Mr. OWENS, Mr. RUSH, and Ms. VELAZQUEZ.

H.R. 207: Mr. SHAYS.

H.R. 211: Mr. OBEY and Mr. BONIOR.

H.R. 216: Mr. ACKERMAN, Mr. WALSH, Mr. FRANK of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. BROWN of Ohio, Ms. PRYCE of Ohio, Mr. CONDIT, and Ms. JACKSON-LEE.

H.R. 218: Mr. BLILEY.

H.R. 231: Mr. MCGOVERN.

H.R. 290: Mr. FROST, Mr. STARK, and Ms. NORTON.

H.R. 291: Mr. UNDERWOOD, Mrs. CLAYTON, and Ms. NORTON.

H.R. 292: Mr. HAYWORTH, Mr. BOB SCHAFFER, Mr. SKEEN, Mr. BARTLETT of Maryland, Mr. CAMPBELL, Mr. HOSTETTLER, Mr. BUNNING of Kentucky, Mr. HERGER, Mr. ROYCE, Mr. DOOLITTLE, Mr. RADANOVICH, Mr. CHABOT, Mr. RIGGS, Mr. FOLEY, Mr. NEY, Mr. MCINNIS, Mr. ENSIGN, Mr. METCALF, Mr. BACHUS, Mr. JONES, Mr. ENGLISH of Pennsylvania, Mr. BLILEY, Mr. STUMP, Mr. SESSIONS, Mrs. EMERSON, Mr. EHRLICH, Mr. WELDON of Florida, and Mrs. CUBIN.

H.R. 298: Mr. PARKER.

H.R. 305: Mr. MCGOVERN, Mr. BALDACCI, Mrs. CLAYTON, Mr. ROMERO-BARCELO, Mr. TALENT, and Ms. WOOLSEY.

H.R. 306: Ms. NORTON, Mr. MCGOVERN, Mr. MARKEY, Mr. OBERSTAR, Mrs. TAUSCHER, Mr. YATES, Ms. MCKINNEY, Mr. COYNE, and Mr. MORAN of Virginia.

H.R. 312: Mr. HASTINGS of Washington, Mr. HALL of Texas, Mr. STUMP, and Mr. WELDON of Florida.

H.R. 328: Mr. SMITH of New Jersey, Mr. ENGLISH of Pennsylvania, and Mrs. KELLY.

H.R. 331: Mr. HASTINGS of Washington.

H.R. 334: Mr. BACHUS.

H.R. 335: Mr. RAMSTAD.

H.R. 336: Mr. GALLEGLY, Mr. YOUNG of Alaska, Mr. STEARNS, Mr. BARTLETT of Maryland, Mr. ANDREWS, Mr. BILBRAY, Mr. WELDON of Pennsylvania, Mr. ENGLISH of Pennsylvania, and Mr. BACHUS.

H.R. 345: Mr. NORWOOD, Mr. CALVERT, Mr. SOLOMON, Mr. ROYCE, Mr. HAYWORTH, Mr. CALLAHAN, Mr. DOOLITTLE, Mr. CHRISTENSEN, Mr. CAMPBELL, Mr. BARTLETT of Maryland, Mr. SKEEN, Mr. LAHOOD, Mr. SCARBOROUGH, Mr. KIM, Mr. ROHRABACHER, Mr. PACKARD, Mr. HYDE, Mr. CRANE, Mr. BACHUS, Mr. BLILEY, Mr. SENSENBRENNER, and Mr. WELDON of Florida.

H.R. 346: Mr. NORWOOD.

H.R. 347: Mr. NORWOOD, Mr. BUNNING of Kentucky, Mr. DEAL of Georgia, Mr. BACHUS, and Mr. YOUNG of Alaska.

H.R. 366: Mr. ENGLISH of Pennsylvania.

H.R. 382: Mr. TRAFICANT, Mr. MARTINEZ, Mr. UNDERWOOD, Ms. CHRISTIAN-GREEN, Ms. BROWN of Florida, Mr. FROST, and Ms. NORTON.

H.R. 383: Mr. SOLOMON, Mr. GUTIERREZ, Mr. MCGOVERN, Mr. TOWNS, Mr. MCNULTY, Mrs. TAUSCHER, Mrs. KELLY, Mrs. LOWEY, Mr. FROST, Mr. GEJDENSON, and Mr. SANDERS.

H.R. 399: Mr. GREENWOOD, Mr. BOEHLERT, Ms. MOLINARI, Mr. SHAYS, Mr. QUINN, Mr. FATTAH, Mr. MORAN of Virginia, Mr. ENGLISH of Pennsylvania, Mr. SOLOMON, Mrs. KELLY, Mr. SENSENBRENNER, Mr. GOODLATTE, and Mr. SMITH of Michigan.

H.R. 406: Mr. QUINN and Mr. ANDREWS.

H.R. 408: Mr. BOEHLERT, Mr. SKAGGS, Mr. RIGGS, and Mr. ENGLISH of Pennsylvania.

H.R. 411: Mr. SHAYS, Mrs. LOWEY, Mr. CARDIN, Mr. KENNEDY of Rhode Island, Ms. NORTON, Mr. MCGOVERN, Mrs. TAUSCHER, Ms. MCKINNEY, Mr. TORRES, Mr. MEEHAN, Mr. MARTINEZ, Ms. ESHOO, and Mr. STARK.

H.R. 416: Mr. TRAFICANT and Mr. FRANK of Massachusetts.

H.R. 417: Mr. MATSUI, Mr. PAYNE, Mrs. MEEK of Florida, Mr. NEAL of Massachusetts, Mr. ROMERO-BARCELÕ, Mr. FORD, Mr. DELLUMS, Mrs. CARSON, Mr. FATTAH, Mr. WALSH, Mr. UNDERWOOD, Mr. FROST, Mr. KILDEE, Ms. CHRISTIAN-GREEN, Ms. BROWN of Florida, Mr. WOLF, Mr. LAFALCE, Mr. MILLER of California, Ms. NORTON, and Mr. MCHUGH.

H.R. 424: Mr. TALENT and Mr. FOLEY.

H.R. 446: Mr. UNDERWOOD, Mr. ROYCE, Mr. HASTERT, Mr. BARCIA of Michigan, Mr. JONES, Mr. ROGAN, Mr. WELDON of Florida, Mr. SMITH of Michigan, and Mr. HYDE.

H.J. Res. 2: Mr. MCCRERY, Mr. FRANKS of New Jersey, Mr. CAMPBELL, Mr. KIM, Mr. NUSSLE, and Mr. JONES.

H. Con. Res. 4: Mr. ROMERO-BARCELÕ, Mr. FATTAH, Mr. SCOTT, Mrs. CLAYTON, and Mr. KENNEDY of Rhode Island.

H. Con. Res. 6: Mr. DOYLE, Mr. ACKERMAN, Mr. HALL of Ohio, Ms. HARMAN, Mr. CUNNINGHAM, Mr. PALLONE, Mr. COYNE, Mr. DELLUMS, Mr. LOBIONDO, Mr. DAVIS of Virginia, Mr. MCNULTY, and Mr. MATSUI.

H. Res. 28: Mr. NORWOOD and Mr. GANSKE.

H. Res. 30: Mr. CHABOT, Mr. SHADEGG, and Mr. LARGENT.

PETITIONS, ETC.

Under clause 1 of rule XXII,

5. The SPEAKER presented a petition of the House of Representatives of the Republic of Cyprus, relative to the continuing plight of the few hundred Greek Cypriots still remaining in the area of Cyprus occupied by Turkish troops since 1974; which was referred to the Committee on International Relations.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, TUESDAY, JANUARY 21, 1997 No. 4

Senate

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God of new beginnings, who makes all things new, give us a viable hope and vibrant expectancy as we begin the work of the 105th Congress. On this day following the inauguration of President Clinton and Vice President GORE, as fellow Americans and patriots we ask for Your blessing on them. In the same breath, we renew our commitment to work together with them as we seek Your will for what is best for our Nation.

Endow our own Senate leaders, TRENT LOTT, TOM DASCHLE, DON NICKLES, and WENDELL FORD with a special measure of wisdom as they work cooperatively together to foster a spirit of oneness in the Senate. Help the Senators to delight in the diversity that sheds varied shades of light on the truth and debate that exposes maximum solutions. May this Senate be distinguished for its civility, creativity, and courage. Your spirit flourishes where men and women pray for each other, speak truth as they see it without rancor, and listen attentively to one another. When we all seek You and Your guidance, we find each other. The bond of our mutual love for You and for America will sustain us in the rough and tumble of political process. God, bless America and begin here in this Senate, through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. LOTT. Under the order today, the time between now and 12:30 will be equally divided between myself and the Democratic leader. At 12:30 today, following our remarks, the Senate will recess until 2:15 for the weekly policy conferences to meet. When the Senate reconvenes at 2:15, there will be a period of morning business to enable all Senators to make statements and introduce legislation.

I anticipate that many of our colleagues will be making statements during the morning business period. Therefore, there will be no rollcall votes during today's session. It is my hope that during tomorrow's session the Senate will be able to consider the Executive nomination of Madeleine Albright to be the Secretary of State, and I anticipate a rollcall vote on Wednesday on the confirmation of that nomination.

I also announce to my colleagues that all Members will be notified as soon as the schedule is finalized with regard to a memorial service on Thursday in Lowell, MA, for our former colleague, Senator Paul Tsongas.

Again, I note as we come out of our policy luncheons, Senator DASCHLE and I will be introducing bills. I will introduce the first 10 bills on behalf of the Senate Republican majority, and Senator DASCHLE will introduce the next 10 bills. We will be hearing during the remainder of the day from the leading sponsors of those bills and others who will be introducing bills and want to make statements. We will go, I am sure, a while into the afternoon. It is hoped we will not begin this session by going late into the night on a Tuesday. We would like to quit at a reasonable hour, for all concerned.

INAUGURATION CEREMONIES

Mr. LOTT. I ask unanimous consent that yesterday's proceedings of the inauguration of the President be printed in today's CONGRESSIONAL RECORD.

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

INAUGURATION OF THE PRESIDENT OF THE UNITED STATES AND THE VICE PRESIDENT, January 20, 1997

Members of the House of Representatives, Members of the Senate, Justices of the Supreme Court, members of the Cabinet, members of the diplomatic corps, the Governors of the States, and the Mayor of the District of Columbia, the Joint Chiefs of Staff, and other distinguished guests assembled on the west front.

MRS. GORE

Mr. Martin Paone, Senate Secretary for the Minority, escorted Mrs. Gore, accompanied by Mrs. Lott and Mrs. Gephardt, to the President's platform.

MRS. CLINTON

Ms. Elizabeth B. Greene, Senate Secretary for the Majority, and Ms. Amelia Fields, Joint Congressional Committee on Inaugural Ceremonies, escorted Mrs. Clinton, accompanied by Mrs. Ford and Mrs. Gingrich, to the President's platform.

THE VICE PRESIDENT

Mr. John Chambers, Joint Congressional Committee on Inaugural Ceremonies Deputy Director, Ms. Loretta Symms, Senate Deputy Sergeant at Arms, and Mr. Jim Varey, House Deputy Sergeant at Arms, escorted the Vice President, accompanied by Senator Lott, Representative Gephardt and Representative Armey, to the President's platform.

THE PRESIDENT

Ms. Susan Magill, JCCIC Executive Director, Mr. Greg Casey, Senate Sergeant at Arms, and Mr. Wilson Livingood, House Sergeant at Arms, escorted the President, accompanied by Senator Warner, Senator Ford, Representative Gingrich, Senator Lott, Representative Gephardt and Representative Armey, to the President's platform.

THE INAUGURAL CEREMONY

Mr. WARNER. Mr. President, Mr. Vice President, Mr. Speaker, Mr. Majority Leader, Mr. Chief Justice, Members of the U.S. Congress, their families and guests—all one-quarter million who have joined here today on the grounds of their Capitol.

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

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[Applause.]

Welcome to the 53rd Inauguration of the President and the Vice President of the United States of America.

[Applause.]

Across our Nation, and around the world, Americans join William Jefferson Clinton as he reconfirms the oath of office as the 42nd President of the United States, and Albert Gore, Jr., as he reconfirms the oath of office as the 45th Vice President of the United States.

Our first President, George Washington, was inaugurated in 1789.

Thereafter, every 4 years, our citizens have witnessed this transition of authority as required by the Constitution of the United States.

It is the conferring of this trust and authority—which has occurred without any interruption for 208 years—that is the cornerstone of our representative democracy.

It is a tribute to the providential vision of our Founding Fathers.

It is a tribute to the strength of character of the American people and the endurance of their institutions.

It is a tribute to successive generations of Americans who have guarded our most valuable heritage—our freedom.

And, Mr. President, may I say, on behalf of the millions and millions of Americans, we express to you our gratitude for this past week, having invited to the White House a true man who fought for freedom, and you presented him with the Presidential Medal of Freedom, Senator Dole. Thank you, Mr. President.

[Applause.]

For two centuries, the American Presidential Inauguration ceremony has represented both national renewal and continuity of leadership.

So it is altogether fitting that as the world's oldest continuous constitutional democratic republic, we gather today to honor this historical triumph, and to recommit ourselves to keep our Nation strong for future generations.

Mr. President, prayer has been an essential part of all inaugural ceremonies.

As I was privileged to drive up with you from the White House, you held the Bible and read the passage that you will read today.

Therefore, we are honored today to have the Reverend Billy Graham to lead our Nation in prayer, as he has at seven previous inaugurals.

Please stand for the invocation and remain standing for the Pledge of Allegiance. Reverend Graham.

INVOCATION

Reverend GRAHAM. President Clinton, Mrs. Clinton, Vice President Gore, Mrs. Gore, I am going to ask that we all bow our heads in prayer.

Our Father and our God, we thank You today for the privilege of coming into Your presence on this historic and solemn occasion.

We thank You for Your gracious hand which has preserved us as a Nation. We praise You for the peaceful continuity of Government that this inauguration represents.

We recall that the Bible says, ''Except the Lord build a house, they labor in vain that build it.'' You also said that to whom much has been given, much will be required.

We look gratefully to the past, and thank You that from the very foundations of America You granted our forefathers courage and wisdom, as they trusted in You. So we ask today that You would inspire us by their example. Where there has been failure, forgive us; where there has been progress, confirm; where there has been success, give us humility, and teach us to follow Your instructions more closely as we enter the next century.

Give to all those to whom You have entrusted leadership today a desire to seek Your will and to do it.

So today, we ask Your blessing on President Clinton and his wife, Hillary, and their daughter, Chelsea, and upon Vice President Gore and his wife, Tipper, and their children.

Give to all our leaders the vision of what You desire America to become and the wisdom to accomplish it and the strength to cross the bridges into the 21st century.

We pray also for the Members of the House and the Senate, for the Supreme Court, and for all who bear responsibility of leadership in this Nation which is blessed with such ethnic diversity.

We have not solved all the social problems of our times, such as drugs and racism. Technology and social engineering have not solved the basic problems of human greed, pride, intolerance, and selfishness. We need your insight, we need your compassion, we need your strength. As both President Clinton and Senator Dole urged us in the recent Presidential campaign, may this be a time of coming together to help us deal with the problems we face.

O Lord, help us to be reconciled first to You and secondly to each other. May Dr. Martin Luther King's dream finally come true for all of us. Help us to learn true courtesy to our fellow countrymen that comes from the One who taught us that ''whatever you want me to do to you, do also to them.''

Remind us today that You have shown us what is good and what You require of us—to do justly, to love mercy, and to walk humbly with our God.

We ask that as a people we may humble ourselves before You and seek Your will for our lives and for this great Nation. Help us in our Nation to work as never before to strengthen our families and to give our children hope and a moral foundation for the future.

So may our desire be to serve You and, in so doing, serve one another.

This we pray in the name of the Father, the Son, and the Holy Spirit. Amen.

Mr. WARNER. Thank you, Reverend Graham.

THE PLEDGE OF ALLEGIANCE

Mr. WARNER. The Pledge of Allegiance will be led by Eagle Scout David Morales, Boy Scout Troop 152, Vienna, VA.

(The Pledge of Allegiance was led by Eagle Scout David Morales.)

Mr. WARNER. Ladies and gentlemen, it is now my privilege to present the Children of the Gospel Mass Choir, under the auspices of the Washington Performing Arts Society.

More than 100 voices from the Washington metropolitan area make up this unique choir.

Accompanied by the United States Marine Band, the choir will perform an original composition by its director, Mr. Rickey Payton, entitled, ''Let's Build a Bridge Across America.''

(The Children of the Gospel Mass Choir sang ''Let's Build a Bridge Across America.'')

Mr. WARNER. Ladies and gentlemen, it is now my distinct privilege and honor to present the Associate Justice of the Supreme Court of the United States, the Honorable Ruth Bader Ginsburg, who will administer the oath of office to the Vice President of the United States, Albert Gore, Jr.

ADMINISTRATION OF OATH OF OFFICE TO THE VICE PRESIDENT

Associate Justice GINSBURG. If you are ready to take the oath, Mr. Vice President, please repeat after me.

Associate Justice of the United States Ruth Bader Ginsburg administered to the Vice President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

''I, Albert Gore, Jr., do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of which I am about to enter. So help me God.''

Associate Justice GINSBURG. Every good wish, Mr. Vice President.

Vice President GORE. Thank you.

[Applause.]

Mr. WARNER. Ladies and gentlemen, participating in today's program is a person with talent described by music critics as a catalog of all that is virtuous in singing.

Accompanied by the U.S. Army Chorus and Chorale, please welcome the world renowned Jessye Norman, who will perform a medley of American music entitled ''O Freedom.''

Miss Norman.

[Applause.]

(Jessye Norman sang a medley of American music entitled ''O Freedom.'')

Mr. WARNER. Thank you very much. Ladies and gentlemen, as chairman of the Joint Inaugural Committee, it is now my privilege to introduce my cochairman, Senator Wendell Ford of Kentucky, who will introduce the Chief Justice of the United States.

Senator Ford.

Mr. FORD. Thank you, my friend, John Warner. President Clinton, Mrs. Clinton, Vice President Gore, Mrs. Gore, my fellow Americans, and my colleagues.

Hillary Rodham Clinton, wife of the President-elect, will hold the Clinton family Bible. They are joined by their daughter Chelsea.

It is now my great privilege and high honor to present the Chief Justice of the United States Supreme Court, the Honorable William Hobbs Rehnquist, who will administer the oath of office to the President and President-elect of the United States, William Jefferson Clinton.

[Applause.]

ADMINISTRATION OF OATH OF OFFICE TO THE PRESIDENT

Mr. Chief Justice REHNQUIST. Are you ready to take the oath, Mr. President?

President CLINTON. Yes, I am.

Mr. Chief Justice REHNQUIST. Please raise your right hand and repeat after me.

The Chief Justice of the United States, William Hobbs Rehnquist, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

''I, William Jefferson Clinton, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United States. So help me God.''

[Applause.]

(Herald Trumpets play ''Ruffles and Flourishes'' and ''Hail to the Chief'', and 21-gun salute.)

Mr. FORD. Ladies and gentlemen, the President of the United States of America, William Jefferson Clinton.

INAUGURAL ADDRESS

President CLINTON. My fellow citizens:

At this last Presidential inauguration of the 20th century, let us lift our eyes toward the challenges that await us in the next century. It is our great good fortune that time and chance have put us not only at the edge of a new century in a new millennium, but

on the edge of a bright new prospect in human affairs. A moment that will define our course and our character for decades to come. We must keep our old democracy forever young. Guided by the ancient vision of a promised land, let us set our sights upon a land of new promise.

The promise of America was born in the 18th century out of the bold conviction that we are all created equal. It was extended and preserved in the 19th century, when our Nation spread across the continent, saved the Union, and abolished the awful scourge of slavery.

Then, in turmoil and triumph, that promise exploded onto the world stage to make this the American century.

And what a century it has been. America became the world's mightiest industrial power, saved the world from tyranny in two world wars and a long cold war, and time and again reached out across the globe to millions who, like us, longed for the blessings of liberty.

Along the way, Americans produced the great middle class and security in old age; built unrivaled centers of learning and opened public schools to all; split the atom and explored the heavens; invented the computer and the microchip; and deepened the wellspring of justice by making a revolution in civil rights for African Americans and all minorities, and extending the circle of citizenship, opportunity, and dignity to women.

Now, for the third time, a new century is upon us, and another time to choose. We began the 19th century with a choice to spread our Nation from coast to coast. We began the 20th century, with a choice to harness the Industrial Revolution to our values of free enterprise, conservation, and human decency. Those choices made all the difference. At the dawn of the 21st century, a free people must now choose to shape the forces of the Information Age and the global society, to unleash the limitless potential of all our people, and, yes, to form a more perfect union.

When last we gathered, our march to this new future seemed less certain than it does today. We vowed then to set a clear course, to renew our Nation.

In these 4 years, we have been touched by tragedy, exhilarated by challenge, strengthened by achievement. America stands alone as the world's indispensable nation. Once again, our economy is the strongest on Earth. Once again, we are building stronger families, thriving communities, better educational opportunities, a cleaner environment. Problems that once seemed destined to deepen, now bend to our efforts: our streets are safer and record numbers or our fellow citizens have moved from welfare to work.

And once again, we have resolved for our time a great debate over the role of Government. Today we can declare: Government is not the problem; and Government is not the solution. We, the American people, we are the solution.

[Applause.]

Our Founders understood that well, and gave us a democracy strong enough to endure for centuries, flexible enough to face our common challenges and advance our common dreams in each new day.

As times change, so Government must change. We need a new Government for a new century, a government humble enough not to try to solve all our problems for us, but strong enough to give us the tools to solve our problems for ourselves. A Government that is smaller, lives within its means, and does more with less. Yet where it can stand up for our values and interests around the world, and where it can give Americans the power to make a real difference in their everyday lives, Government should do more, not less. The preeminent mission of our new Government is to give all Americans an opportunity—not a guarantee—but a real opportunity to build better lives.

[Applause.]

Beyond that, my fellow citizens, the future is up to us. Our Founders taught us that the preservation of our liberty and our Union depends upon responsible citizenship.

And we need a new sense of responsibility for a new century. There is work to do, work that Government alone cannot do. Teaching children to read. Hiring people off welfare rolls. Coming out from behind locked doors and shuttered windows to help reclaim our streets from drugs and gangs and crime. Taking time out of our own lives to serve others.

Each and every one of us, in our own way, must assume personal responsibility—not only for ourselves and our families, but for our neighbors and our Nation.

[Applause.]

Our greatest responsibility is to embrace a new spirit of community for a new century. For any one of us to succeed, we must succeed as one America.

The challenge of our past remains the challenge of our future: Will we be one nation, one people, with one common destiny—or not? Will we all come together, or come apart?

The divide of race has been America's constant curse. And each new wave of immigrants gives new targets to old prejudices. Prejudice and contempt, cloaked in the pretense of religious or political convictions, are no different.

[Applause.]

These forces have nearly destroyed our Nation in the past. They plague us still. They fuel the fanaticism of terror, and they torment the lives of millions in fractured nations all around the world.

These obsessions cripple both those who hate and, of course, those who are hated, robbing both of what they might become. We cannot—we will not—succumb to the dark impulses that lurk in the far regions of the soul, everywhere. We shall overcome them.

[Applause.]

We shall replace them with the generous spirit of a people who feel at home with one another.

Our rich texture of racial, religious and political diversity will be a godsend in the 21st century. Great rewards will come to those who can live together, learn together, work together, forge new ties that bind together.

As this new era approaches, we can already see its broad outlines. Ten years ago, the Internet was the mystical province of physicists; today, it is a commonplace encyclopedia for millions of schoolchildren. Scientists now are decoding the blueprint of human life. Cures for our most feared illnesses seem close at hand.

The world is no longer divided into two hostile camps; instead, now we are building bonds with nations that once were our adversaries. Growing connections of commerce and culture give us a chance to lift the fortunes and spirits of people the world over. And for the very first time in all of history, more people on this planet live under democracy than dictatorship.

[Applause.]

My fellow Americans, as we look back at this remarkable century, we may ask, can we hope not just to follow, but even to surpass the achievements of the 20th century in America, and to avoid the awful bloodshed that stained its legacy? To that question, every American here and every American in our land today must answer a resounding ''Yes.''

[Applause.]

This is the heart of our task: With a new vision of Government, a new sense of responsibility, a new spirit of community, we will sustain America's journey. The promise we sought in a new land, we will find again in a land of new promise.

[Applause.]

In this new land, education will be every citizen's most prized possession. Our schools will have the highest standards in the world, igniting the spark of possibility in the eyes of every girl and every boy, and the doors of higher education will be open to all. The knowledge and power of the information age will be within reach, not just of the few but of every classroom, every library, every child. Parents and children will have time not only to work, but to read and to play together, and the plans they make at their kitchen table will be those of a better home, a better job, a certain chance to go to college.

Our streets will echo again with the laughter of our children, because no one will try to shoot them or sell them drugs anymore. Everyone who can work will work, with today's permanent underclass part of tomorrow's growing middle class. New miracles of medicine at last will reach not only those who can claim care now, but the children and hard-working families too long denied.

We will stand mighty for peace and for freedom and maintain a strong defense against terror and destruction. Our children will sleep free from the threat of nuclear, chemical, or biological weapons. Ports and airports, farms and factories will thrive with trade and innovation and ideas. And the world's greatest democracy will lead a whole world of democracies.

Our land of new promise will be a Nation that meets its obligations: A Nation that balances its budget, but never loses the balance of its values.

[Applause.]

A nation where our grandparents have secure retirement and health care, and their grandchildren know we have made the reforms necessary to sustain those benefits for their time.

[Applause.]

A Nation that fortifies the world's most productive economy, even as it protects the great natural bounty of our water, air, and majestic land.

And in this land of new promise, we will have reformed our politics so that the voice of the people will always speak louder than the din of narrow interests, regaining the participation and deserving the trust of all Americans.

[Applause.]

Fellow citizens, let us build that America, a nation ever moving forward toward realizing the full potential of all its citizens. Prosperity and power, yes, they are important, and we must maintain them, but let us never forget: The greatest progress we have made, and the greatest progress we have yet to make, is in the human heart. In the end, all the world's wealth and a thousand armies are no match for the strength and decency of the human spirit.

[Applause.]

Thirty-four years ago, the man whose life we celebrate today spoke to us down there, at the other end of this Mall, in words that moved the conscience of a Nation. Like a prophet of old, he told of his dream that one day America would rise up and treat all its citizens as equals before the law and in the heart. Martin Luther King's dream was the American dream. His quest is our quest: the ceaseless striving to live out our true creed. Our history has been built on such dreams and labors, and by our dreams and labors, we will redeem the promise of America in the 21st century.

To that effort, I pledge all my strength and every power of my office. I ask the Members of Congress here to join in that pledge. The American people returned to office a President of one party and a Congress of another. Surely, they did not do this to advance the politics of petty bickering and extreme partisanship they plainly deplore.

[Applause.]

No, they call on us all instead to be repairers of the breach and to move on with America's mission.

America demands and deserves big things from us—and nothing big ever came from being small.

[Applause.]

Let us remember the timeless wisdom of Cardinal Bernardin when facing the end of his own life. He said, ''It is wrong to waste the precious gift of time . . . on acrimony and division.''

Fellow citizens, we must not waste the precious gift of this time, for all of us are on that same journey of our lives, and our journey, too, will come to an end. But the journey of our America must go on.

And so, my fellow Americans, we must be strong, for there is much to dare. The demands of our time are great, and they are different. Let us meet them with faith and courage, with patience and a grateful, happy heart. Let us shape the hope of this day into the noblest chapter in our history. Yes, let us build our bridge—

[Applause.]

a bridge wide enough and strong enough for every American to cross over to a blessed land of new promise. May those generations whose faces we cannot yet see, whose names we may never know, say of us here that we led our beloved land into a new century with the American dream alive for all her children, with the American promise of a more perfect Union a reality for all her people, with America's bright flame of freedom spreading throughout all the world.

From the height of this place and the summit of this century, let us go forth. May God ''strengthen our hands for the good work ahead''—and always, always bless our America.

[Applause.]

Mr. WARNER. Mr. President, we thank you for that strong and inspiring message at this very important time in our history.

Now, ladies and gentlemen, it is my pleasure to introduce the Immanuel Baptist Church Sanctuary Choir and Orchestra of Little Rock.

The choir and orchestra, under the direction of Reverend Lynn Madden, will present ''The Battle Hymn of the Republic.''

(The Immanuel Baptist Church Sanctuary Choir and Orchestra sing ''The Battle Hymn of the Republic.'')

Mr. WARNER. Thank you for the singing of that most inspiring of American music.

As he did for his first inauguration in 1993, President Clinton has asked a distinguished American scholar to compose a poem for this historic day.

Please welcome writer, editor, poet, Mr. Miller Williams.

[Applause.]

OF HISTORY AND HOPE

We have memorized America,
how it was born and who we have been and where.
In ceremonies and silence we say the words,
telling the stories, singing the old songs.
We like the places they take us. Mostly we do.
The great and all the anonymous dead are there.
We know the sound of all the sounds we brought.
The rich taste of it is on our tongues.
But where are we going to be, and why, and who?
The disenfranchised dead want to know.
We mean to be the people we meant to be,
to keep on going where we meant to go.
But how do we fashion the future? Who can say how
except in the minds of those who will call it Now?
The children. The children. And how does our garden grow?
With waving hands—oh, rarely in a row—
and flowering faces. And brambles, that we can no longer allow.
Who were many people coming together.
cannot become one people falling apart.
Who dreamed for every child an even chance.
cannot let luck alone turn doorknobs or not.
Whose law was never so much of the hand as the head
cannot let chaos make its way to the heart.
Who have seen learning struggle from teacher to child
cannot let ignorance spread itself like rot.
We know what we have done and what we have said,
and how we have grown, degree by slow degree,
believing ourselves toward all we have tried to become—
just and compassionate, equal, able, and free.
All this in the hands of children, eyes already set.
on a land we never can visit—it isn't there yet—
but looking through their eyes, we can see.
what our long gift to them may come to be.
If we can truly remember, they will not forget.

[Applause.]

Mr. WARNER. Santita Jackson will lead the singing of our National Anthem. She will be accompanied by the Resurrection Choir, a group composed of singers from the choirs of American churches tragically destroyed by fire in recent months.

This choir's performance is a befitting commemoration of this day on which we honor also Rev. Martin Luther King, Jr.

Before we sing our National Anthem, the Reverend Gardner C. Taylor will deliver the benediction.

Ladies and gentlemen, please stand for the benediction and remain standing to sing our National Anthem.

Reverend Taylor.

BENEDICTION

Reverend TAYLOR. Let us lift up our spirits before our Creator, eternal God, brooding over the days of our years. In sovereign judgment, and yet with tender mercy, now close to the end of this solemn but joyous occasion, we lift our hearts and our hopes before Thee.

We pray for our President, William Jefferson Clinton, that Thou will give to him ever increasing vision and vigor and voice, that he might speak tellingly to the American promise in history.

We pray for the gracious and gallant lady at his side, Hillary Rodham Clinton, and for their daughter.

We ask Thy blessings upon the Vice President of the United States and upon his wife, Mrs. Tipper Gore. Grant, we pray, that he may ever be more a partisan of what is best in our American tradition.

And now, our God, we hold before Thee this Nation so richly endowed, so grandly blessed, and yet imperiled, apparently often, by the very richness of its diversity. Deliver us from pettiness of heart, from harshness of speech and from violence of action. Make us worthy of our history, of patriots' sacrifices and martyrs' blood, in the vanguard of which stand Lincoln and King, Thy servants Abraham and Martin. Give us ever a greater dedication and commitment to the grand defining words of our democracy—liberty, justice, equality, opportunity.

And now let the words of our mouths, all of our mouths, in the meditations of our hearts, all of our hearts, be acceptable in Thy sight, O Lord, our Strength and our Redeemer, and now unto the old, wise God, our Deliverer, be glory and majesty, dominion and power both now and evermore. Amen.

Mr. WARNER. Now, Miss Santita Jackson.

(The National Anthem was sung by Santita Jackson and the Resurrection Choir, audience standing.)

[Applause.]

The inaugural ceremonies were concluded at 12:48 p.m.

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

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

RECESS

Mr. LOTT. Mr. President, I know of no Senator having indicated that he or she desires to make a statement at this time. No request being given to the Cloakroom, I ask unanimous consent that the Senate now stand in recess under the previous order until 2:15.

There being no objection, the Senate, at 12:20 p.m. recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER (Mr. COATS). The majority leader is recognized.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the period for morning business be divided as follows: The first 30 minutes under the control of the majority leader, the second 30 minutes under the control of the Democratic leader, with the next hour under the control of the majority leader or his designee, to be followed by 1 hour under control of the Democratic leader or his nominee.

I do not believe there is a problem with this. We have cleared it with the other side of the aisle.

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

SENATE REPUBLICAN AGENDA

Mr. LOTT. Mr. President, I think we have the opportunity here today to get off to a good start, a fast start. It is one about which we have communicated with our colleagues on the other side of the aisle. We have increased the number of bills that we officially introduce at the start of the

session from what has in the past been only 5 to 10, and therefore the Republicans will today introduce our first numbered 10 bills as well as Senate Joint Resolution 1, which will be the constitutional amendment for a balanced budget. And then the Democratic leader, on behalf of the Democrats, will introduce their first 10 bills, and then others can come in and offer bills as they see fit. The principal sponsors will come to the floor this afternoon in the hour we have designated to offer the bills and to make comments. Frankly, I see some overlap between our list of 10 bills and the Democrats' list of 10 bills. I think that is positive.

So we want to go ahead and get started with this. We are going to move forward aggressively wherever we can to handle the President's nominations to his Cabinet. We hope to confirm within the next 2 days his first two nominees, to be Secretary of State and Secretary of Defense. We hope in the 2 weeks after that to move right along with other nominees. So we are trying hard to work with the administration and set up an atmosphere that will allow us this year to pass some good legislation for the best interests of the American people, but the President, we think, deserves his Cabinet in place so that he can have people there to work with us.

One of the glories of the Senate is that it runs as much by tradition and custom as it does by written rules, and so one of those customs we are carrying out today is introducing these first few bills that will lay out our agenda for the rest of the year.

So it is my honor to present to the Senate and to the Nation 11 major pieces of legislation, 10 bills and 1 resolution, that we will offer today. Each of them can stand on its own as an important initiative dealing with matters that touch the lives of most Americans. Together, however, they form a blueprint for the visionary changes our country needs. I might even call them the user's manual for a better, safer and more prosperous America. These bills represent the consensus of the 55 Republican Members of the Senate.

We did have a unique opportunity to sit together for 12 hours the week before last to talk through what we want to do in this session of Congress and what specific bills we wanted to take up. It does not mean that every Republican Senator subscribes to every part of this package. To the contrary, it is likely that every Republican Senator, this one included, will disagree with some provision or another in one bill or another. But as befits the party of the open door, we have had quite a lot of give-and-take in putting this package together, and, as always, our individual Members make their own decisions about what they will endorse. But each of these bills commands overwhelming support on the Republican side of the aisle, and I want to commend not just the lead sponsors of these bills but all the Senators and staff who worked together over the past few weeks to reach the agreement and get these bills actually drafted and ready for presentation. I am going to leave it to the primary sponsors and others who have worked on the various pieces of legislation to give the details. So I am going to summarize in this time that I have today what is in this platform.

Pride of place goes to Senate Joint Resolution 1, as I already pointed out, a balanced budget amendment to the Constitution which will be introduced today by Senator HATCH, chairman of the Senate Judiciary Committee, and by Senator CRAIG of Idaho.

This one, obviously, needs no explaining. There may be still, somewhere in the hinterlands of America, a citizen who does not understand why a balanced budget amendment is desperately needed, but I doubt it. The American people keenly realize the problems caused by excessive Federal spending, and everywhere I have gone, every poll that I have seen indicates the American people support this initiative overwhelmingly.

I have tried to understand the arguments against a constitutional amendment for a balanced budget, but to no avail, quite frankly. We have not had a balanced budget in the Federal Government in 28 years, and it will probably be at least 4 more years before we get one, if then. I have watched good men and women, including Presidents, make commitments and actually have plans to get to a balanced budget, but it has not worked.

This year, I think we have an opportunity to work with the President to come to a balanced budget agreement. We will see his budget plan February 6. I hope he will show leadership and courage and will address some of the issues that need to be addressed that, frankly, he was not willing to deal with last year. But it was an election year, and, hopefully, he will approach it differently this time.

But even if we come together on a plan to get a balanced budget by 2002, I still have my doubts about whether it will actually happen if we do not have the leverage guarantee of a constitutional amendment. Remember, when we pass this constitutional amendment, it then does not go to the President for his signature, it goes to the State legislatures, to the people for their ratification.

Recent news accounts seem to indicate the administration will fight this amendment and will do it aggressively. I understand they may have some questions or objections. I expect them to make those, and we will listen to them. But this fight is not about politics, it is about the future of our children and grandchildren. It is about the burden of debt we are leaving them with, which is a cruel legacy. It is about right and wrong, and this time around, I am betting that right is going to prevail.

Because of the importance we attach to education, one of the first bills we will introduce today will deal with this area. Just like the constitutional amendment for a balanced budget is important to us because of what we think it means to our children's future in holding down inflation and holding down interest rates and stopping the continuous increase in the interest we pay on the national debt that will lead to making it more difficult for our children and grandchildren to have home mortgages and student loans and car loans, we think that education, also, is a very high priority and also an investment in the future of our country.

If we have a strong educational system, if we deal with the illiteracy problems, if we deal with the needs of children with special needs, it will contribute to a better America, better educated children, will lead to more production, better jobs, more jobs, more trade, more development in technology.

So Republicans are placing a high priority this year on education with S. 1. The first numbered bill will be the Safe and Affordable Schools Act. It will be introduced by Senator PAUL COVERDELL of Georgia, and it is a comprehensive agenda for dramatic change. It will help not only parents—and that is where it begins, in the home with the parents—but also the States and the local communities to give their children a better education.

It focuses, especially, on children attending unsafe schools, to give their families consumer rights and choice in education. In this regard, it builds on the good work that was done in the 104th Congress by the distinguished Senator from Indiana, Senator COATS, who is now presiding in the Chamber. He has done a lot of great work in behalf of youngsters, and that work is confirmed in this piece of legislation.

In higher education, S. 1 establishes what we call the Bob Dole Investment Accounts to help parents set aside the resources on their own needed for their children's tuition.

Toward the same goal, it makes the interest on student loans tax deductible, and it gives favorable tax treatment to State prepaid tuition plans, to education aid provided by an employer to encourage more employers to provide that assistance to their workers which would benefit their children, and to student work-study awards.

S. 1 will fully fund the Individuals with Disabilities Act, IDEA, as it is quite often referred to, by authorizing an additional $10 billion over the next 7 years. This is not something easily done, but it is something we promised children with these special needs and we promised the States we would do, and we have not done it.

In this legislation, we are making that commitment to fulfill that obligation. That will come as good news not only to the families with special-needs children, it will also mean a lot to the Governors and State legislatures which have been shouldering this Federal mandate without the funds to back it up.

I want to mention especially the good work that has been done by Senator GREGG of New Hampshire and Senator FRIST of Tennessee on this difficult but very important matter.

Finally, S. 1 sets up a block grant for States to promote adult education and combat illiteracy. This has been long a priority with Senator JEFFORDS, our chairman of the Labor and Human Resources Committee, and I am especially pleased it will be included in this package.

As I said earlier today at a press conference, we have been talking about trying to deal with adult education and illiteracy problems for 10 years, but we have done very little about it. This is the place where the Federal Government can be helpful in helping to fill a void that maybe the States cannot do on their own.

The next bill we will introduce today is S. 2, which will be introduced by Senator ROTH. It is the Family Tax Relief Act. It contains key provisions from the tax relief legislation of the last Congress that was vetoed by President Clinton. Senator ROTH has long worked in this area. He is the chairman of the Finance Committee. He knows his subject backward and forward, and he knows we need a fairer Tax Code. He also knows we need to give some incentives for growth in the economy, to create more jobs, to have a stronger economy.

I still maintain that when the economy is only growing at 2 percent or 2.3 percent, that is a very weak growth, and we should have it more in the range of 3 to 3.5. We think this bill will help do that.

It will offset the President's 1993 tax increases by reducing taxes over the next 5 years. Fully 80 percent of that relief, some $130 billion of it, or more, will go to working families, and those are the ones to whom we think the help really should go, and most of it will go to middle-income people.

In keeping with our Republican commitment to strengthen families, the bill does create a $500-per-child tax credit for children under the age of 18. The President would like to lower that age, I understand, maybe even to 13, but if you are really trying to help families with children where they have the greatest needs, I really think it is in that bracket—14, 15. So that is how we would start it off. It would apply to some 44 million youngsters.

The bill would raise the contribution limit for the spousal IRA from its current $250 to $2,000, and it would allow for tax and penalty-free withdrawal from an IRA for the cost of higher education, for small business startups and for long-term unemployment.

What better way to encourage people to look after themselves and address the needs of education and startups of businesses and unemployment than to encourage them to have an IRA with the tax benefits that go with it?

S. 2 would also lower the antifamily inheritance tax—I call it the death tax—which is now at confiscatory levels. When you have an estate tax that is 44 percent, or even as high as 55 percent, obviously, that is unfair.

Once again, it is hurting small businesses and farmers, as well as individuals, who work all their lives to build up a little nest egg for their children, and now many of them are selling those businesses, because they know if they don't, when they do pass on, they will have over half of what they worked for all their lives taken from their children.

Finally, this bill aims to boost savings, investments and job creation by allowing a 50-percent deduction for investment earnings on assets held more than 3 years and would let people who sell their homes at a loss deduct that as a capital loss.

The next bill is S. 3, the Omnibus Crime Control Act, again being introduced by Senator HATCH. He has done work on this for a long time, including this last year. It is a comprehensive package of tough-minded steps to fight illegal drugs, terrorism and child pornography.

It continues the Republican effort to reform our prison system, to end abuses therein, both by felons and by Federal judges. In so many instances now, felons in prisons are tying up the courts with petty, very trivial allegations that take up time and cost a lot of money. We want to try to reform that area and to save some of that lost time and effort.

We aim to restore public confidence in our courts by a series of reforms that will, at last, tilt the scales of justice in favor of innocent victims of crime. This bill reauthorizes major components of the Violence Against Women Act.

The next bill is S. 4, the Family Friendly Workplace Act, to be introduced by Senator ASHCROFT would extend to all workers the same options for flextime and comp time that employees of the Federal Government have enjoyed for decades. These opportunities would be 100 percent voluntary and a matter of choice for the men and women of today's work force.

Most of those workers have to juggle the demands of their jobs and the pressures of family life. Virtually all of them, especially those with small children, want more time with their families. S. 4 will help them arrange it while keeping a full paycheck.

A landmark of bipartisanship in the last Congress was built to reform the Nation's antiquated laws concerning liability. Unfortunately, despite the best efforts of Senator GORTON and Senator ROCKEFELLER and others in forging a compromise, that product liability reform legislation again fell victim to the President's veto pen.

We owe it to the American people to try again. We need legal reform. The American people want it. They expect it. They want broad legal reform. But at a very minimum, we should do it in this product liability area where so much good work has already been done.

This bill, S. 5, will also be introduced by Senator ASHCROFT, who is now chairman of the subcommittee with jurisdiction. It gives us another chance to overhaul an unfair and inefficient liability system for the benefit of American consumers and workers.

We will, in the bill S. 6, again reintroduce the Partial-Birth Abortion Ban Act. This, too, was vetoed by President Clinton last year. But the times have changed, and as the old song says, ''If times are changing, then maybe the results can be different.'' After the election of 1996, the Senate has changed, too.

We are hopeful this time around we will do away with this practice that I think has shamed the conscience of the Nation. I commend Senator SANTORUM, the bill's lead sponsor, and Senator SMITH for their dedication to this cause.

We will schedule this bill on the floor of the Senate for an early vote. I am sure the House will follow suit. We will send it again to the President. Hopefully, this time he will sign it.

S. 7 is the National Missile Defense Act. I am pleased to be introducing this legislation. Building on the work that has been done by Senator Dole, Senator KYL, Senator THURMOND, and others in the last Congress, it represents our commitment to the American people to secure for them, for their homes, their neighborhoods and, in fact, the country, the maximum possible protection against missile attack.

In the aftermath of the high-tech gulf war of 1990, many, perhaps most, Americans think that the Nation is already sheltered by sophisticated weapons systems like the one that protected Israel against the Iraqi scud missiles.

Don't we wish. But sadly, and potentially tragically, the truth is that in an era of international terrorism, the United States remains vulnerable to missile blackmail. So S. 7 will put our Nation back on the path toward security and toward lasting peace through unquestioned strength.

We have concerns about the environment. One of the bills that we will bring up again this year that we worked on—and we got it through the Senate after a filibuster, but it wound up getting 63 votes—was a bill that would bring to a conclusion the decision about where to have a nuclear waste site in America. We will move on that quickly.

But S. 8 is the Superfund Cleanup Acceleration Act. It offers a more efficient, commonsense approach to solving some of the Nation's worst environmental problems involving toxic waste. We have sites all over the country, hundreds of them. And yet almost—well, I will not say almost none, but very few have actually been cleaned up, I think maybe as few as 37. Yet, we have spent millions, probably a billion or more dollars. We are not getting our money's worth. This legislation is directed at doing that.

Senator SMITH and Senator CHAFEE will introduce this legislation. It would

end the costly litigation that has paralyzed the cleanup effort. That is what has happened. There has been nothing but a lot of litigation and no real cleaning up where we needed it. And that has diverted basically all the resources of the program.

S. 8 returns to the original vision of the Superfund program—the protection of human health and the environment through realistic cleanup standards; economic redevelopment of affected sites; and fair treatment of individuals, small business and municipalities.

S. 9 is the Paycheck Protection Act, introduced by the assistant majority leader, Senator NICKLES, who is here. He will introduce this legislation later on. It forbids corporations and labor unions to take money from their stockholders and employees or members for political purposes without that person's expressed consent. You will note it is applicable to the corporations, to management and to the workers, so that there is protection against this type of intimidation and, in fact, the practice of taking money from dues-paying members and using it for purely political purposes.

I think it is a matter of simple justice. No one should be compelled by any organization to pay for someone else's campaigning or lobbying. Right here this is where true campaign reform starts.

Finally, S. 10, the Violent Juvenile Offenders Act is a companion bill to Senator HATCH's S. 3 and is the result of not only his efforts but those of Senator DOMENICI, Senator ASHCROFT, and Senator THOMPSON. It rests on the principle that violent juveniles must be held personally accountable for their actions.

There has been a rising increase in juvenile crime in America. We all know the stories of very young people with automatic weapons going down the street, shooting innocent people sitting on their porches. We know that many of them wind up not being tried as criminals because of their age. It is a delicate balance. But we cannot ignore the problem, and we must be, I think, stronger in how we deal with these juvenile offenders.

This bill would assure that violence and repeat juvenile offenders are treated as adults. It targets violent youth gangs, toughens penalties for violent and drug crimes, and fosters the kind of crime prevention and juvenile rehabilitation that have proven records of success.

I heard on the radio this very morning, when I was getting ready to come to the Senate, that local officials of the District of Columbia are calling out for help in dealing with gangs in this city, because just last week a young man, young boy, on his way home from school, maybe 16 years old, was accosted by a couple gang members. They wound up dragging him into the woods where they shot him, killed him. He was not involved in the dispute, but he wound up losing his life. This person on the radio was saying, do whatever is necessary. Bring in the National Guard if you have to, but we have to break up these gangs in our Nation's Capital.

Mr. President, these 10 bills, along with the balanced budget constitutional amendment, form a very ambitious agenda. It will take time to accomplish. I do not think we should put a time limit on them and say we must do them by the end of February or the end of March in each instance. We should do them as soon as we can, but we should make sure everybody has a chance to review them, make their case for or against them. Let us have full debate, but let us get it done and let us do it right. There will be adjustments and accommodations along the way, but we are trying to get started in a very positive way and offer bills we think are important for the quality of life and the future of our country.

The goal of the Senate Republicans is very clear, I think, and unchanging in this effort. It is to free the energy and genius of the American people so that they can achieve a better quality of life. The legislation we are introducing today we believe will allow them to do that—for themselves, their families and their communities—in a society that will be more secure, more prosperous and more caring.

Mr. President, I yield the floor to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains of the majority leader's time?

The PRESIDING OFFICER. Seven minutes 35 seconds is remaining under the majority leader's time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I would be glad to yield the remainder of that time to Senator NICKLES if he would like to go ahead and begin his comments.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to congratulate and compliment the majority leader of the Senate for his statement today, but also for his work with all of the 55 Republican Senators to put together this list.

This is a list which we have spent some time on. When I say ''we,'' I am talking about all 55 Republican Senators, who had some input on this list. That is a little unusual. We have not done that before. We came up with 10 bills. In the past, our tradition has been to introduce five. We came up with 10.

I might mention later today, or in the next few days or weeks, we had several other bills people wanted to have in this list. But this list represents a consensus of an overwhelming number of Republicans, that these are positive things we can do, should do, and that we should pass this year.

Mr. President, let me just comment and take a second to compliment President Clinton on his inaugural address yesterday. President Clinton made two or three comments that I would like to refer to.

He said Government is not the problem, it is not the solution; the American people are the solution. I think you will find that we Republicans really do believe the American people are the solution. We have a lot of ideas for saving Medicare, saving Social Security, a lot of different things where we really want to involve the American people. I compliment the President on that. He said that Government should live within its means.

The first item that Majority Leader LOTT mentioned was a constitutional amendment to balance the budget. We have overwhelming support among our colleagues for passage of a constitutional amendment to balance the budget. We are equally serious about passing legislation to implement a balanced budget. We want that to happen. Unfortunately, President Clinton vetoed that in the last Congress. We want to work with the President. He said in the inaugural address that we should live within our means. We are going to try and make that happen. We look forward to working with this administration to make that happen.

The President also said we should put petty politics and extreme partisanship aside. He is right. This Congress, this political year, maybe in the last year or two, has become too partisan and maybe too extreme in working with the administration. It has been too partisan. It has been too extreme. We need to put that aside.

So I welcome the President's comments. I look forward to working with President Clinton in this administration to implement many of the things he talked about. A lot of things we have in this agenda are targeted toward doing exactly that.

The constitutional amendment to balance the budget has overwhelming support among the membership, and rightfully so. We should live within our means. Almost all the States have provisions in their constitution saying they will not spend more than they take in. We should follow that guidance.

President Clinton, during the campaign, said he was in favor of tax relief. S. 2, the second bill we have in our list, does provide for family tax relief. Even during the campaign, President Clinton talked of a $500-per-child tax credit. That is the foundation of our tax bill. Senator LOTT mentioned 80 percent of the tax bill we have introduced as the leadership package. We passed that last year, but again President Clinton vetoed it. He said in the campaign that he was in favor of it. We want to pass it this year and we want it to become law. We are not interested in passing legislation for legislation's sake or for political points' sake. President Clinton is not running again. We want

these bills to become law because they will have a positive, real impact on American lives.

We define the child tax credit as children up to age 18. President Clinton's proposal limited it to kids under 12. We think it should include at least kids up to 18. I told some people that my kids range up to age 26. We might have an amendment to make it age 26. The bill we introduced takes it to age 18.

We provide estate tax relief. There is a small business advisory council that advises the President and those of us in Congress and they always have an estate tax relief on their list. Why? Because if you have a taxable estate right now above $600,000, Uncle Sam starts taking big bites. If your estate goes up to a million above that, Uncle Sam wants 35 percent of it. If you have an estate of 3 million, say your business is as a farmer or a rancher or a businessman, if it is 3 million above the $600,000 deduction, Uncle Sam says, ''We want 55 percent of anything above that amount.'' Instead of protecting property, it is confiscating property. We want to reduce that, especially for small business and especially for family-owned operations. That is in our package, as well.

We have capital gains relief because we think we tax transactions too much. We actually tax transactions more than almost any of our other industrial competitors. We need to reduce the taxes on transactions. If we do so, we will have more transactions and the Government will make more money, not less money. That is in our package. We can do better with the economy.

I think we put together a good package, one that is family friendly. We have a provision that Senator LOTT alluded to called the Family Friendly Workplace Act—Senator ASHCROFT has worked hard on it—giving families the option that if they work a few extra hours one week, we think they can take off for their kids the next week. Why have good Government come in saying, ''We mandate you have time off for PTA.'' Why not let the families and employees make that decision? So we do that. We provide much greater flexibility for families, employers and employees in this bill. It is all on a voluntary basis, where they can work a few more hours one week and take time off for whatever they desire the following week. You do not need Government's blessing to do it. They allow for compensatory time. Instead of taking time-and-a-half if they have to work an hour or two above 40 hours, if they want they can bank some time and take time-and-a-half off. If they worked 44 hours, under present law they would be entitled to 6 hours of overtime pay. If they want to keep it that way, they have the right to do so. If they would like to have 6 hours off and maybe have a day off or maybe work some other kind of combination or schedule that meets their family's needs and desires, maybe for a vacation day, maybe for more time off, maybe for time to visit their kids' athletic events, they have the right to do so without having the Federal Government enumerate that this is what you have to offer by law, and not be paid for that time. We give them, through flextime and through the comp time, the ability to have the flexibility in their schedules to meet their family's needs, all of which are different. All of our families are different. All of our families have more time demands that are at variance. This gives them that flexibility, and probably would be the most family friendly thing we can do.

We provide for a balanced budget package which will say the Government will live within its means. We are not going to spend more than we take in. Interest rates will come down. Homes will be more affordable. When we talk of family tax credits, if you have three kids under the age of 18, that is $1,500 more you get to spend as you desire. Maybe it is for education, maybe it is for food on the table, maybe it is for a home. You make that decision, because we decided it is your money, not Government's money.

Then the flextime proposal, where we are basically saying that families can make the decisions. You have the flexibility in your schedules to work out what is mutually beneficial with you and your employer.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. I see the minority leader is not here, and I ask unanimous consent for an additional 2 minutes.

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

Mr. NICKLES. We also have an additional provision called the Paycheck Protection Act. It is fundamentally prodemocracy. It says no person should be compelled to contribute to a political organization without their consent. That person may be a stockholder. No one should be compelled, as a condition of employment, to contribute to a political group or organization, whether that be a PAC, whether it be a union organization or what. No one should be compelled. That is what this bill says. No one will be compelled to contribute to a political organization or entity or candidate against their will. They would have to sign a written authorization form before they would have contributions taken out.

Mr. President, I compliment Senator LOTT and all my colleagues for their work in putting this list together. I look forward to working with the minority leader and others on the other side of the aisle. I know they have their agenda list. I look forward to hearing what that is, and I look forward to working with them to see if we can have several items beneficial not for Congress but for the American people.

The PRESIDING OFFICER. Under the previous order, the time is reserved for the minority leader for up to 30 minutes.

Mr. DASCHLE. Let me begin by thanking the Senator from Oklahoma for the tone of his comments. I did not have the opportunity to hear them all, but in keeping with the expressions of the majority leader and others who have indicated a desire to find ways with which to create greater harmony and greater opportunity for the country through increased bipartisanship, I appreciate very much his comments today.

PRESIDENT CLINTON'S INAUGURATION

Mr. DASCHLE. Mr. President, before I begin talking about the bills, let me make an initial comment about yesterday. We all witnessed a stirring ceremony as President Clinton and Vice President GORE were sworn in to a second term in office. President Clinton is the first Democratic President to earn a second term since Franklin Roosevelt. This is truly a historic event.

Anyone who witnessed the inaugural ceremony knows that, despite the cold weather, this quadrennial rite of American democracy was warmed by great pageantry, bipartisan good will, and a strong sense of national purpose and unity.

Yesterday's inaugural ceremony lasted a few minutes, but many weeks of hard work preceded the event. Everything from construction of the inaugural platform to ticket dispersal, security, and the traditional lunch in Statuary Hall, plus thousands of other tasks, required a great deal of preparation and attention to detail.

On behalf of Senate Democrats, I join with Senator LOTT and express my gratitude to the Joint Congressional Committee on Inaugural Ceremonies; in particular, the distinguished Senator from Virginia, Mr. WARNER, and the distinguished Senator from Kentucky, Mr. FORD, for all of their efforts toward making this such a successful inaugural event. Senators FORD and WARNER and the other members of the committee put in long hours under very tight deadlines. Time that they might have preferred to spend with family or in their home States attending to constituent matters was sacrificed for the benefit of all Americans who enjoyed this inauguration.

Senator WARNER was chairman of the Joint Inaugural Committee this year. He brought to this duty the same diligence, resolve, and reverence for the congressional rules and traditions that he brings to his job as chairman of the Senate Rules Committee. This was his first inaugural ceremony as chairman, and he should be commended for a job well done.

This is the fifth time Senator FORD has served as chairman or vice chairman of the Inaugural Committee. Like everything he does as Senate Democratic whip, ranking member of the Rules Committee, and senior Senator from Kentucky, Senator FORD once again approached the responsibility

with great humor and tenacity and a deep respect for our best American tradition. Senator FORD is as dependable and dedicated a public servant as anyone who has ever served in this great institution, and all Americans owe a debt of gratitude to the citizens of Kentucky, who have asked him to serve in the U.S. Senate.

I also express my thanks to the other members of the committee for their hard work. A special thanks goes to the leader, as well as to others in the House who made this whole event the success that it was yesterday. Many officers and employees of the House and Senate, along with representatives from the executive branch, assisted these congressional leaders in this enormous but ultimately successful task.

All who contributed to this historic event should be proud of their efforts and know that their country on this day after the inaugural is very grateful.

SENATE DEMOCRATS' AGENDA

Mr. DASCHLE. Mr. President, as we begin the first session of the 105th Congress, American families are asking some difficult questions, most of which seek answers affecting their lives directly. How am I going to put my kids through college? How do we pay the doctor bills if the kids get sick? Will I have enough money when I choose to retire?

Our challenges this year ought to be to provide the answers to those questions. As we do, we all recognize the limits of Government, and we should all recognize the unlimited potential of achievement through bipartisanship. Everything important which we accomplished in the last Congress—health care reform, the minimum wage increase, mental health equity—was accomplished only when we realized that only by reaching across the aisle in an effective way, passing legislation with overwhelming bipartisan support, could we ultimately send the right message to the American people—that we hear them and we want to respond to the problems affecting their daily lives. If we remember that lesson and pick up in this Congress where we left off in the last one, then we can make this not only a productive Congress, but a historic one.

We can, in this Congress, pass a budget for the remainder of this century, a plan that eliminates the deficit and invests in our people and their potential, so that the 21st century will be another American century. If we work together, we can answer those questions that worry Americans most, but we must find a way to do what the President said yesterday and what I heard the leader talk about just now—work together.

Cooperation is in the best interest of the American people, and, frankly, it is in our own self-interest. Good Government is still good politics. Since the election, there has been a good deal of rhetoric from both sides of the aisle, from both Houses of Congress, from the White House, expressing an interest in dealing with the 105th Congress in ways that are dissimilar to those dealt with in the 104th. We have heard the rhetoric. Now we have to demonstrate with our deeds whether or not that rhetoric will be true, whether or not the sincerity of our rhetoric will actually match the sincerity of our work.

We can use the issues that we will lay out and describe today as wedge issues, issues that divide us; or we can use those same issues as issues that unite us. That will be our choice. Again, today, there will be rhetoric. Again, today, we will hear from both sides about the importance of trying to find common ground. The question is, will we find it? And if we do, how will we?

Today, I offer the Senate Democrats' priority legislation for the 105th Congress. This is our agenda. The Families First agenda is neither radical nor revolutionary. Instead, it is moderate. In our view, it is achievable. Our agenda starts with the fundamental premise that our political system can't work if people believe the system is rigged against them. Yet, more and more Americans believe that. More and more Americans have chosen not to go to the polls. At the very time we need more involvement, their response to what they see is to stay away—and not without reason. So we are proposing as our first bill comprehensive campaign finance reform.

The problem with the current system isn't limited to soft money or hard money, corporate money or PAC money, your money or my money; the problem is that there is too much money, period. And it is getting worse with every election. The truth is, there are no limits anymore, given the Supreme Court decisions.

I have enormous respect for Senators FEINGOLD and MCCAIN. There is much in their proposal that I admire and I think we should adopt. In my opinion, their bill should provide a way with which we come together to find common ground. But it does not go as far as I would like it to. We need to limit spending, special interest influence, and level the playing field for all candidates.

S. 11 establishes voluntary spending limits, and it gives candidates incentives to live within those limits. It reduces television and postal rates. It also restrains soft money and PAC contributions. It toughens restrictions on foreign contributions and extends election laws to cover so-called independent expenditures.

I know that any talk of spending limits raises constitutional questions. So, in addition, Senator HOLLINGS and I will offer a constitutional amendment that will allow Congress to set reasonable limits on how much people can give and spend in Federal elections. I hope, Mr. President, that we will even consider proposing the issue to the Supreme Court again.

There was an article recently in the op-ed pages of the Washington Post, stating that a case could be made that what we need to do is revisit this in this Supreme Court, to test the constitutional limits they have proposed in Buckley versus Valeo. Whether we accept the decisions made in Buckley versus Valeo, and other subsequent decisions, however we decide to do this, the question is this: Can we get campaign spending under control? I believe the answer is yes. I believe we must do that in this, the 105th Congress.

In the last 10 years of debate on campaign finance reform, Congress has produced 6,742 pages of hearings; 3,361 floor speeches, not including this one; 2,748 pages of CRS reports; 1,063 pages of committee reports; 113 Senate votes dealing with campaign finance reform, and 1 bipartisan Federal commission. We have had 522 witnesses; 49 days of testimony; 29 sets of hearings by 8 different congressional committees; 17 filibusters; 8 cloture votes on 1 bill; 1 Senator carried to the floor by the Sergeant at Arms and forced to vote on campaign finance reform, and 15 reports by 6 different congressional committees. That is just in the last decade.

There is only one thing left to do: Enact campaign finance reform now. Now. We should do it in the first 100 days of this Congress so that the new rules are in place by the next election.

Mr. President, that is S. 11, our very first bill, and it is first because I speak with virtual unanimity within our caucus about the need to address this issue. I know there are concerns expressed and felt deeply by Members of the other side. This ought not be the wedge issue I described a moment ago. This ought to be a bridge issue.

Let us build that bridge to allow us success in dealing with it soon.

Our second bill is aimed at increasing the income of American families and the competitiveness of American business by investing in education. According to the Bureau of Labor Statistics, 60 percent of all jobs created between now and the year 2005 will require education beyond high school. Yet, every year fewer families can afford the tuition. In the last 10 years, the cost of public college education has increased 23 percent. It is even worse in private colleges: 36 percent.

For the average family, the cost of sending one child to college is now 14 percent of total family income. The average debt load for a South Dakota college student is up by one-third just since 1991. Eighty-five percent of South Dakota's college students today are on financial aid. That is right; 85 percent rely on college aid in order to go to school in my home State of South Dakota.

Our bill, the Education for the 21st Century Act, includes the President's proposal to create a $1,500 Hope scholarship for the first 2 years of college. The Hope scholarship is a refundable

tax credit. It will pay for more than the full college cost of tuition at most community colleges, or it can be used as a substantial downpayment at a more expensive 4-year school.

Our bill also includes the President's proposed $10,000 per year higher education tax deduction for families with incomes up to $100,000. In addition, we propose a new partnership to help communities repair and replace schools that are overcrowded, obsolete, and even dangerous. According to the General Accounting Office, one-third of all schools today in this country need extensive repair or replacement. Over 30 percent of the schools in this country are unsafe today for children to inhabit and obtain the education they deserve. Sixty percent of schools have at least one major problem, like a leaky roof or crumbling walls.

Schools have always been and should remain a local and State responsibility—and I emphasize that. But the enormity of the problem, an estimated $112 billion nationwide, demands a partnership that includes a role by the people of the United States at the Federal level. Our bill reduces the interest rates for new school construction and repair by up to 50 percent. The interest rate reduction is equal to subsidizing $1 out of every $4 in construction and renovation spending.

We support the President's proposal to make sure that every child can read—and read well—once those schools are built and repaired, by the time he or she finishes third grade. One of the best predictors of whether a child will eventually graduate from high school is whether he or she can read by the end of the third grade. Yet 40 percent of fourth graders—40 percent—fail to attain even the basic level of reading on the National Assessment of Educational Progress test. Isn't that amazing? Four out of every 10 children today when they reach fourth grade cannot read at the level that will largely determine their ability to learn for the rest of the years they are in elementary school.

Let us resolve in this Congress to increase those numbers dramatically. Let us accept the President's America Reads challenge. Let us also make sure that our young people master the new literacy by connecting every school in America to the information superhighway by the year 2002.

This is our education bill. We applaud our Republican colleagues for joining us in the last weeks of the last Congress to support education, and we look forward to working with them to pass these proposals as well.

Our third bill builds on an important, bipartisan victory from the last Congress, the Kennedy-Kassebaum health bill. Kennedy-Kassebaum was a huge step in the right direction. Yet, a record number of Americans, over 40 million, are still without health insurance, and that includes 10 million American children. In my State of South Dakota alone, more than 17,000 children have no public or private health insurance. In fact, children are one of the fastest growing groups of uninsured. Each year more and more children lose private health coverage. And this trend is almost certain to continue as employers continue to reduce their health insurance costs by dropping dependent coverage for their workers.

These are not children of America's poorest families. Fortunately, they have Medicaid. A majority of uninsured children are from two-parent families where one or both parents work full time. It is unconscionable that a parent could work 40 hours a week 52 weeks a year and still not be able to buy basic health coverage for his or her children.

So today we are introducing a bill to make private coverage for children available to working families. The Children's Health Coverage Act of 1997 will provide tax credits to help working families purchase private coverage for their uninsured children. Our bill includes coverage for pregnant women because we know that the quality of prenatal care can have lifelong effects. The tax credit would cover most of a private health insurance premium for the lowest-income families and decrease on a sliding scale for families with higher incomes.

To stimulate competition for children's health insurance, we require that insurance companies that do business with the Federal Government—through Medicare or Medicaid or the Federal Employees Health Benefits Plan—to develop children's-only policies. We seek to build upon, not replace, the current employer-based health insurance system. Our bill, therefore, includes provisions to deter employers from dropping coverage for children of workers who qualify for this new credit.

Insuring children is good social policy, but it is also good economic policy. It costs about $20 for a doctor's visit to treat a child with strep throat but thousands of dollars to hospitalize a child whose untreated strep throat eventually develops into rheumatic fever. Studies show that having a regular source of care cuts child health care costs significantly. So the modest cost of this program will pay for itself many times over and reduce health care costs down the line.

Some of my colleagues favor a slightly different approach. Senators KENNEDY and KERRY favor providing families with vouchers rather than tax credits to pay for their children's health care. These are differences in strategy only, Mr. President. I could support that approach, as I could the approach I just described. Democrats are united in their determination to take this next modest step in health care reform.

The United States is the only major industrialized country in the world that does not guarantee health coverage for children. Let us work together in this Congress to erase that ignoble distinction.

Our fourth bill seeks to increase Americans' retirement security. More than 51 million Americans today—half the private work force—do not have a pension. Only one-fifth of South Dakota's small business employees currently have pension plans. Last year, in the bill that contained the minimum wage increase, we passed laws that help expand pension coverage to an additional 10 million workers.

But so much more remains to be done. Because of a loophole, more than 32,000 large pension plans covering 23 million Americans—and containing more than $1 trillion in assets—are still not effectively audited. The Retirement Security Act we are introducing today strengthens the accounting requirements for those funds.

Our bill also requires employers to diversify the savings of employee investments in 401(k) plans just as they must for more traditional kinds of plans so the bankruptcy of one company cannot devastate a pension plan. For multiemployer plans, which typically cover union members, our bill increases the Federal guarantee available should a plan become insolvent. The benefit level has remained flat since the creation of the program in 1980. Five million workers with pensions change jobs every year. Our bill provides those workers with new protections so they don't lose the money they have invested in a pension when they change jobs or leave behind an investment whose value will erode over time. It will do that by reducing by 2 years the time it takes for a worker to become vested.

In addition, we will build on some of the pension reforms we passed last year. Last year, by eliminating a lot of the red tape, we made it easier for small businesses to offer pension plans. This year, let's make it easier still by providing them with start-up costs.

Last year, Congress removed the restriction that kept spouses who don't work outside the home from taking full advantage of IRA savings opportunities if the other spouse was covered by an employer's pension plan. This year, we want to remove that restriction for spouses who do work outside the home.

Last year, we made it easier for women to collect pension benefits they are legally owed through a spouse or former spouse. Yet, 60 percent of women working in the private sector still lack pension plans. And, women's pensions benefits, on average, are only about half of men's benefits. Let's get rid of those inequities.

We are committed to keeping Social Security and Medicare solvent—and we will. But Social Security and Medicare were never intended to serve as retirement plans, only supplements to such plans. Let's agree in this Congress to give Americans the tools they need to retire with dignity. We can do it, if we work together.

Our fifth bill is aimed at two of the deadliest epidemics affecting young people. Those are the twin epidemics of drug abuse and violence.

Crime and drug use among adults are down. But juvenile crime and drug abuse is accelerating. Over the last decade, drug-related juvenile crime in this country more than doubled. And youth violence—particularly homicide committed with guns—skyrocketed.

We must reverse these deadly trends. Income security and retirement security don't really matter if we don't have personal security—if we're constantly afraid for ourselves and our families.

Our Youth Violence, Crime and Drug Abuse Prevention bill includes three main parts. First, we will build on the successes of the 1994 Crime Act by continuing the COPS program for two additional years and putting 25,000 more cops on the beat.

Second, our bill invests in crime and drug abuse prevention. It extends the Safe and Drug Free Schools Program. It expands existing drug courts, and creates new juvenile drug courts for first-time, non-violent drug offenders. Anyone convicted in drug court has a choice: mandatory treatment, or mandatory jail.

Our bill also offers incentives for private industry to invest in research and development in medicines to treat heroin and cocaine addiction. And, it reauthorizes the Office of National Drug Control Policy; if we're going to fight a war, we need a ''war room.''

Prevention and treatment are essential. But for youthful offenders who are repeat, hardened criminals—for those who commit the most heinous acts—it's time to make the punishment fit the crime. That's the third part of our bill.

Our bill changes federal law so that violent juvenile offenders no longer are automatically released when they turn 21.

We require all juvenile offenders to pay restitution to the victims of their crimes, and ensure victims' rights to speak at sentencing.

We give States the resources to hire more prosecutors for juvenile courts. And create special juvenile gun courts where juvenile gun offenders can be tried and sentenced on an expedited basis.

Our bill toughens penalties for possession of a firearm in connection with a violent or drug-trafficking crime. It extends to 10 years the statute of limitations for all crimes of violence and drug trafficking. And it eliminates the statute of limitations for all murders.

Finally, we propose tougher penalties for gang-related crimes.

The sixth bill we are introducing today is the Cattle Industry Improvement Act.

Cattle prices are lower than they've been in years. If prices don't rebound in the immediate future, farm foreclosures, job layoffs by agriculture-related businesses and bank failures could occur across rural America.

A special committee appointed last year by the Department of Agriculture to look into the causes of the low cattle prices confirmed what many ranchers had long suspected: Low cattle prices appear to be tied in some cases to unfair competition posed by the largest beef processors.

Our bill enables USDA to make changes in the cattle market to give all producers—large and small—a chance to make an honest living and compete fairly in the marketplace.

It requires the Secretary to define and prohibit noncompetitive practices. It mandates price reporting for all sales transactions to ensure a fair and honest price discovery system.

Our bill also calls for a review of Federal lending practices to determine if the Government is contributing to meatpacker concentration.

In addition, it directs the President and the Secretaries of Agriculture and Health and Human Services to formulate a plan for consolidating and streamlining the entire food inspection system.

And it requires the USDA to develop a system for labeling United States meat and meat products. Companies will be encouraged to voluntarily label their products as originating from United States livestock producers.

The ultimate result of stifled competition in any market is always higher prices for consumers. Let's act together to make sure competition in the cattle industry remains fair and open.

These are the top six priorities for Senate Democrats as we begin this new session of Congress: Campaign finance reform, education, children's health care, pension security, juvenile crime and drug abuse, and a strong rural America. We are also introducing a number of other bills today.

Our Working Americans Opportunity Act streamlines and improves Federal worker training programs to keep pace with our changing economy. We consolidate more than 150 Federal job training programs over 14 agencies. And we put training dollars directly into workers' hands through a voucher system to give people more choices, and more control over their own futures.

We're also proposing a Targeted Investment Incentive and Economic Growth Act. This country does not need and cannot afford another across-the-board tax cut that provides a windfall for the wealthy. Instead, we propose targeted tax changes to both raise the rate of economic growth and spread its benefits to increasing numbers of Americans.

We will encourage investment in small businesses and innovation by allowing gains on the sale of small business stock to be deferred if they are fully reinvested in other qualifying small business equities. And by expanding the 50 percent exclusion on gains from the sale of small business stock held for at least five years that we enacted in 1993.

In addition, our bill will stimulate investment in other activities that propel job creation and family incomes, such as worker training by companies, employee ownership, and infrastructure. It will also free up capital for investment and promote retirement security by giving people more flexibility in the way they manage the gains on their homes and family farms and businesses.

Our Brownfields and Environmental Clean-Up Act will help clean up and develop thousands of abandoned and contaminated industrial sites, or ''brownfields,'' across America.

Our bill helps States and communities evaluate these sites. It limits potential liability for buyers who buy these brownfields in good faith, so they don't end up paying for someone else's mistakes. And it provides grants to State and local governments to create low-interest loans for current owners and prospective developers. It is not a substitute for Superfund reform, but a companion to it.

There are an estimated 100,000 brownfields in the U.S. Most already have well-developed infrastructure of utilities and transportation. By restoring these lands, we can conserve precious farmland and open space, and create new jobs and opportunities where they're needed most.

Our Working Families Child Care Act increases the availability of good, affordable child care. For too many families today, child care is simply not available in their community. Or, the child care that is available is not what they need—be that infant care or before and after school care. For other families, child care may be available but completely unaffordable. The cost of child care is often the most expensive—or second most expensive—monthly bill a family incurs, following rent or mortgage payments. And for those families who are lucky enough to find affordable child care, the type of care that is available may be of extremely poor quality.

I hope we can work together in a bipartisan manner to address the child care needs of today's working families.

Also in our package is a bill to make America's agricultural safety net whole again by correcting some of the problems with the Farm Act we passed last year. Our bill expands crop revenue insurance. It removes caps on commodity marketing loans, and establishes loan rates as a percentage of the average market price. And it encourages farmer-owned, value-added processing facilities.

Finally, we are offering the Paycheck Fairness Act to address the continuing wage disparities between men and women. With more and more families relying partly or entirely on women's earnings, America simply can no longer afford this often glaring inequity.

If there was a mandate in the last elections, it was a mandate for bipartisan cooperation. The American people want us to work together, as we did in the closing days of the last Congress, to find answers to their questions.

We can break the grip of special-interest money on the political process.

Family incomes have been stagnant too long. We can get them moving in the right direction again.

We make 2 years of college the new standard for education in this country.

We can guarantee that every child in America is able to see a doctor—and save on health care costs in the long run.

We can significantly increase the number of Americans who are able to retire with dignity and security.

We can make our communities safer and preserve rural America. We can help small businesses to create the jobs of the 21st century and help workers acquire the skills that will be demanded by those jobs.

We can do all of this, and more, if we work together. Democrats are ready to start today. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Under the previous order, the next 60 minutes will be under the control of the majority leader or his designee.

Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UNANIMOUS-CONSENT AGREEMENT—BILLS PLACED ON CALENDAR PURSUANT TO RULE XIV

Mr. HELMS. Mr. President, pursuant to rule XIV, I shall shortly send to the desk eight bills to be considered en bloc and considered to have been read for the first time and be objected to following their second reading en bloc. I ask unanimous consent that be in order.

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

Mr. HELMS. Mr. President, I send the bills to the desk. I ask unanimous consent that the statements with each be printed in the RECORD.

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

Mr. HELMS. Mr. President, today I will introduce a series of eight bills to: First, restore the right of our children to pray; second, restore the rights of the unborn; third, strengthen the penalties for drug dealers and violent acts of crime; fourth, restore the supremacy of the individual over Government-imposed quotas; and fifth, protect the constitutional right to hold and express moral beliefs.

Mr. President, our traditions, our children, and our institutions which made this country great, are all under assault. They are not threatened in the military sense—instead they are threatened by moral decay. This Nation simply must regain its moral footing.

We are less than 4 years away from a new century full of promise for this great country. New technologies abound and unprecedented discoveries in medicine are within our grasp. Yet, if America is to continue to prosper in the next century, Americans must retain the values and traditions established by our Founding Fathers.

Since the beginning, America has been protected by the moral foundations on which she was established. Values like personal responsibility, liberty, respect for human life, and an abiding faith.

These values have made America a shinning beacon on a hill and the envy of the world.

Sadly though, we have seen a steady erosion of these values and beliefs. This raises a significant question: Where are we headed? Quo vadis America?

Mr. President, I believe we are in a battle—in the sense that we are engaged in a struggle for the soul of America. The moral decay has also chewed away at the institution of the family and led to soaring rates of illegitimacy and drug abuse.

The liberal establishment has turned a blind eye to what has been going on in America. Their supporters from the Hollywood crowd to Planned Parenthood set forth an agenda that eroded the values of this country.

We live in an era when it is fashionable to pretend that our Founding Fathers did not build this country upon biblical principles.

Mr. President, on September 7, 1864, Abraham Lincoln thanked a group of citizens for a Bible he was given saying, ''In regard to this Great Book, I have but to say, it is the best gift God has given to man. All the good the Savior gave to this world was communicated through this book. But for it we could not know right from wrong.''

It is imperative, that as we look to the next century, we not forget what brought us to this point in history—the faith and ideals of our forefathers. Alexis de Tocqueville, after traveling throughout this country, found the source of America's strength. He stated that America's greatness lies in its churches and synagogues.

Mr. President, the legislation that I will introduce today will go a long way to ensuring that America's foundations remain secure.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Under the previous order, the bills will now be placed on the calendar pursuant to rule XIV.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROTH. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I thank the Chair.

(The remarks of Mr. CHAFEE and Mr. SMITH pertaining to the introduction of legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

(The remarks of Mr. COVERDELL pertaining to the introduction of S. 1 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Utah is recognized.

(The remarks of Mr. HATCH and Mr. CRAIG pertaining to the introduction of Senate Joint Resolution 1 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. HATCH pertaining to the introduction of S. 3 are located in today's RECORD under ''Statements and Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. HATCH pertaining to the introduction of S. 10 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HATCH. Mr. President, I also want to note that I have filed three other bills today; in particular, the Curt Flood Act of 1997, which is the baseball antitrust bill that I believe now is coming to fruition, which is something that we have tried to do for a long time. We have named it after Curt Flood, who died a day or so ago, and who really deserves the recognition because of the fights that he led on this act in organized baseball. That is S. 53.

We have also filed S. 54, which is the Federal Gang Violence Act of 1997, a bill by Senator FEINSTEIN and myself. She has worked very hard with me and others on the Judiciary Committee, and we certainly want to mention her sterling work on that bill.

Finally, the Civil Justice Fairness Act of 1997, which is already introduced.

(The remarks of Mr. HATCH pertaining to the introduction of S. 53 and S. 54 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HATCH. I thank the Chair. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 4 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. ASHCROFT pertaining to the introduction of S. 5 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

(The remarks of Mr. MACK pertaining to the submission of Senate Resolution 15 are located in today's RECORD under

''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER. Under the previous order, the minority has 1 hour under their control. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

COMMITMENT TO YOUNG PEOPLE

Mr. KENNEDY. Mr. President, first of all, I rise to express appreciation to our leader, Senator DASCHLE, who has over the period of these recent weeks and months been working with many in our caucus and I know will be working closely, as well, with those on the other side of the aisle who are really interested in this Nation's commitment to the young people of this country in the field of education.

I think all of us who have had the opportunity to travel through the country, certainly in my travels around Massachusetts over this last year—no matter where we traveled—heard the concerns that parents had about access and availability in areas of education as one of the paramount issues.

The President has addressed those concerns by recommending a tax credit, also a $1,500 tax deduction, and some $10,000 that will be helpful to working families. Also included in the Daschle proposal are recommendations that we consider the interest on the debt for education in the same way that we would consider interest on the debt for machinery or the manufacturing industry assets, in being able to provide some deduction for those expenses as well.

That effectively, Mr. President, is to respond to the President's commitment to the American people to make the next two grades beyond the 12th grade—13th and 14th, the first 2 years of college—accessible and available to the young people in this country, so that future generations will be able to say that we, as a nation, during this Congress, have committed this Nation to the next two grades in the area of education.

I think this is a bold commitment. I think it is a dramatic enterprise. I think it will take the best judgment of all of us to achieve and accomplish this. But, nonetheless, as we understand it, the President's budget that will be submitted in the next 2-week period will demonstrate the funds that will be necessary to achieve it, and we will be able to say, in effect, when we actually legislate these proposals, that they are effectively paid and paid in full. That will be very, very important and a significant commitment to the young people of this country.

Included in the education proposal, Mr. President, are a number of other items which I think all of us should be able to embrace and endorse, and these have been outlined by Senator DASCHLE, I have been informed, earlier during the course of the day.

There will be commitments in terms of additional new technologies for our young people in schools across this country, to make sure they are going to be able to take advantage of the latest in technology and also resources to make sure we are going to be able to train teachers so that they will be able to be well-trained and able to impart to the younger people of this country the skills that young people will need to be able to use these technologies.

It will be a modest program, but an important program, that follows the leadership of CAROL MOSELEY-BRAUN, to try and give focus and attention to many of the schools in local communities across the country that are in very dilapidated conditions. That is true for most of the older cities of this country. It is true in my own city of Boston. It is true in many of the older communities of my State—Lowell, Lawrence, New Bedford, Fall River, Springfield, Worcester, and many others. It is equally true in many of the large urban areas.

This is a very modest program, but a very innovative and creative program about leveraging limited financial resources to address those particular needs in a modest way. Hopefully, we will be able to bring additional support for continuation of that program into the future.

A very important continuing commitment to literacy and expanding the opportunity for children to read in our society so that we can achieve the goal that children who have reached the third grade will be able to read in a rather creative way is using the funding that will be allocated in the various competitive grants in ways that the young people of this country are going to be able to read and to really challenge the young people in our Nation, many who are going to schools and colleges, to help and assist with that undertaking, and to challenge American people, in general, to help and assist young children in this country.

These are some of the elements of it. There are a number of others which are important, but I have summarized it, Mr. President. I hope that we will be able to move ahead in the area of education. It is extremely important.

At the end of the last session, we did move forward in terms of funding various programs. We are going to have to find the funding for these programs and also for the increased number of children who will be going to high school. We are seeing an increase in total student enrollment, and we want to make sure that their particular needs are going to be attended to, as well. I think that is very important. That is something I know Senator DASCHLE has addressed, and I know that the President's program will address it.

Hopefully, we will have broad, broad bipartisan support. For so many years in this body, the support for education was broad-based and bipartisan. It is bipartisan and broad-based in the country, and we should try and find ways to maintain that in the Congress and Senate.

Second, Mr. President, is an area that I consider of enormous importance and that is to address the needs of 10½ million children who are uninsured today. Ten and a half million will be uninsured over the course of a particular year. The leader has outlined approaches to addressing this issue.

There is a rather dramatic definition of who those children are, Mr. President. Children are the fastest growing segment of the uninsured population. It is a rather dramatic phenomenon. They are the ones who are being dropped from coverage in the current insurance system. Nine out of ten of the 10.5 million children who are uninsured have parents who are working.

We have the Medicaid Program which addresses the poorest children in this country. I welcome the fact that the administration is going to try and be more creative and imaginative in terms of reaching many of those children who are eligible for Medicaid. These children are desperately in need of a healthy start and are not receiving it today. But we are talking about the next level; that is, the sons and daughters of working families. These are men and women who go to work every day, they play by the rules, 40 hours a week, 52 weeks of the year making America work. They are the backbone of so much of what is right in our society, but their children are being left out and being left behind.

The figures and statistics are a fierce indictment of what is happening in our society. As one of the major industrial nations in the world, we still have one of the highest infant mortality rates. We are 17th among the industrial nations of the world.

More than half of all uninsured children with asthma never see a doctor, with all the implications that has, in terms of a child's future development and growth. As the father of a son who now happens to be a Congressman who had chronic asthma when he was a child, it is unbelievable to me the difficulties that he had in terms of coping with the problems of asthma. I do not know how he would have coped unless he had been able to get important medical attention.

We know one out of three uninsured children who have recurring ear infections never see a doctor. There are significant increases in the number of ear infections and the number of children who are going deaf in our society from preventable diseases. And the list goes on.

The final point that I want to make in this area, Mr. President, is that expanding coverage for children is wise economic policy.

We are always going to have to come back to justify this from economic means. We all know for every dollar that is invested in immunization, the savings are $5 to $6. That is true in terms of the investment in children's health. It is true certainly in terms of providing the kind of prenatal care that would be included in this program

for expectant mothers. That is an exceedingly wise investment.

There are different ways of funding this proposal, Mr. President. My principal interest and I believe all of ours is to get the job done. I will introduce legislation that will ensure that all working families can afford to purchase private health insurance for their children. I support an increase in the tobacco tax to cover this cost because of the relationship between tobacco and children's health. A number of our States are moving forward in terms of addressing the issues of children's smoking and all of the implications that has as a gateway drug. The States know that curbing smoking among young people is a sound and wise way to proceed.

But there are alternative ways to fund this program. I have every intention of working with our leader and those on the other side of the aisle to try and find alternatives.

Our principal interest is getting the coverage for these children. If we achieve very little else in this Congress we should cover our children. We should move in those areas, and also move in the areas of coverage of pensions for working families. We need to make steps in the area of pensions when we realize that close to 60 percent of all working families do not have any pensions at all and that there is an increasing number of working families that do not have pensions.

We are all thankful about Social Security. We know we have challenges that have to be addressed in the areas of ensuring its financial integrity over the period of the years but that is basically a program to prevent people from living in dire poverty. What we are talking about are those working families that have a standard of living who have been participants in our society, in so many instances served in the Armed Forces, want to be part of a pension system, and are not part of it because of various complications that have existed out there. We ought to make it easier for them to participate, encouraging employers as well as employees.

I would say in this area, Mr. President, no one has a greater interest in this area of pension coverage than women in our society. They are the ones that often are the part-time workers. They enter and leave the work force to meet various family needs and family requirements. And they are the ones, if you identify any group, are the ones that are left out and left behind in terms of a national pension system.

We have to be more responsive to their particular needs. And I commend the work that has been done on this by Senator BOXER and CAROL MOSELEY-BRAUN and DIANNE FEINSTEIN, PATTY MURRAY, BARBARA MIKULSKI, and many in our caucus that have provided important leadership in this very important area.

Finally, Mr. President, I want to mention one area that working families are very much concerned about. These themes are all related to security for working families. What is more important for working families than they are going to be able to make sure that their children are going to get covered? What is more important for working families than making sure that their children are going to be able to continue in the areas of education? What is more important for working families than if they are going to be able to look to the future with some degree of hope and opportunities and some degree of security with the pension reforms?

I just mention, finally, unfinished business as part of our immigration law last year. We are working to ensure protection for American workers, for American jobs that are being replaced by foreign workers who are displacing those American workers, not being paid the adequate kind of salary, given the decency in terms of benefits. They are replacing an American worker in the first place and then because they are doing that at much less of a wage, much less benefits, being able to be competitive to the disadvantage of other Americans with whom they might be competing in producing widgets, for example, and therefore seeing other Americans that are going to lose their jobs.

There are two basic and fundamental concepts that underlie our basic problems with the issues of immigration—one is addressing the needs at the border in terms of halting illegal immigrants that are coming here and, second, addressing the magnet of jobs—the magnet of jobs.

If you look at the Jordan study, if you look at the Hesburgh study on what is the key issue in terms of attracting immigrants, illegal immigrants, immigrants that are going to abuse the immigration system, you will find out it is jobs. Unless we are going to make sure that Americans are not going to have important jobs, and we are talking about hundreds of thousands of jobs a year in many instances—we have really failed on the other extremely important effort in terms of immigration reform. We had important provisions in the immigration bill last year that Senator SIMPSON supported, many of us supported. Those were dropped in the conference. We will come back to that particular issue in this year.

HEALTH CARE IN THE 105TH CONGRESS

Mr. KENNEDY. Mr. President, if we act on health care in a spirit of bipartisanship this year and build on the accomplishments of last year, the new Congress can be the Health Care Congress.

There are several significant health care goals that this Congress can and should accomplish:

We should expand health insurance coverage for children and the unemployed.

We should deal with the serious problem of abuses by HMO's by adopting needed patient protections and standards for care.

We should put Medicare on a sound fiscal footing for the next decade, without dismantling the program or adding to the already high health care costs that burden senior citizens.

We should protect Medicaid, as we did last year, against any attempts to undermine protections for children, senior citizens, and the disabled.

The final months of the last Congress were a period of considerable accomplishment. We finally broke the long stalemate over health care reform. We passed a health insurance reform act. We made a start toward long-overdue parity for mental health coverage. We put an end to the insidious practice of drive-through deliveries, by guaranteeing newborn infants and their mothers a 48-hour stay in the hospital if they need it.

The Health Insurance Portability and Accountability Act of 1996 ends some of the worst abuses in the current insurance system. It guarantees that, as long as you faithfully pay your premiums, your insurance cannot be taken away—even if you become seriously ill, or change your job, or lose your job. In addition, insurance companies can no longer impose new exclusions for pre-existing conditions, as long as you do not let your insurance lapse.

The legislation on mental health parity was a first step toward the day when those who suffer from mental illness will receive the care they need and deserve. The ban on drive-through deliveries is a wake-up call to unscrupulous health plans that exalt profits over patients' needs.

Now, we have a new Congress and a new opportunity to build on these achievements. The crisis that put health care on the front-burner of public policy has not gone away. In fact, it has become worse. Between 1990 and 1994, the number of uninsured Americans rose from 34 to 40 million, and it continues to climb.

A quarter of the uninsured—over 10 million—are children. One in every seven children in America today have no health insurance. Almost all of these children have parents who work. Cutbacks in employer coverage are worsening this problem, as more and more employers decide to cut costs.

Many firms are shifting from full-time to part-time employees. Others are contracting out work to firms that typically don't provide benefits. Large employers with generous benefits are reducing the number of employees eligible for the benefits. Other employers are dropping coverage for early retirees, or even all retirees. Cost-sharing is going up, and coverage of spouses and children is going down. Every 35 seconds another child loses private insurance. Parents should not have to live in fear that their employer's failure to provide coverage will deny their children good health care.

Every Member of Congress knows that those who are uninsured or underinsured can see the savings of a lifetime swept away by a single serious illness. Every Member of Congress knows that those who are uninsured are vulnerable to financial catastrophe, and are too often denied the timely, quality care they need to avoid disability or death. Children in particular often suffer premature death or a lifetime of unnecessary suffering because they lack the access to quality care that insurance provides.

All children deserve the health care they need for a healthy start in life. Every family deserves the security of knowing their children will get the health care they need. Unfortunately, too many American children lack that care, and too many families lack that security.

Uninsured children are less likely to see a doctor regularly. As they grow, they tend to receive little or no treatment, even when they need it for injury or illness. If the case is serious enough, they go to the hospital. The only family doctor they know is the hospital emergency room.

More than half of uninsured children with asthma never see a doctor. A third of uninsured children with recurring ear infections never see a doctor, and many suffer permanent hearing loss.

Providing health care for children is sound public policy and also sound economics. It's an investment in the future. Dollars spent immunizing a child or providing prenatal care can save hundreds or even thousands of dollars in future medical costs.

At the end of the last Congress, Senator JOHN KERRY and I introduced a program to make private health insurance coverage accessible and affordable for all children through age 18. Working families will have the financial assistance they need to purchase such coverage, including care for pregnant women, so that every baby has a healthy start in life. We intend to reintroduce this legislation with other Members of the Senate early this year. A similar plan is being introduced today by Senator DASCHLE, and I am hopeful action in this area will be high on the agenda of both parties.

The legislation that Senator KERRY and I intend to offer will make Federal assistance available to the States on a sliding scale to help families purchase health insurance for their children at group rates, if they do not already have coverage under an employment-based plan or an existing public program. The covered benefits will include in-patient, out-patient, and preventive care—all comparable to the coverage available under good group health plans.

The plan does not guarantee that every child will have insurance coverage. But it will give every family the opportunity to cover their children at a cost the family can afford.

I hope this program will receive broad bipartisan support. The Health Insurance Reform Act passed by the last Congress was based on the common elements of proposals that had previously been introduced by Republicans and Democrats alike. Our current plan for coverage of children also meets that test. Every Republican proposal and every Democratic proposal introduced in the first 2 years of the Clinton administration expanded coverage by providing financial assistance to low and moderate income families to purchase private insurance. Almost all of these proposals included extra assistance to purchase children's coverage. Members of Congress on both sides of the aisle recognize the importance and priority of covering children.

Our legislation establishes no Government mandates. It relies on the private sector to provide insurance and deliver care. It imposes no price controls. It builds on the efforts of 14 States that already have similar programs in place.

Our plan will be financed by an increase in the tobacco tax, because that tax is an especially appropriate means of funding children's health coverage. Society pays dearly for the health costs of smoking. We know that the tobacco industry is targeting children. If children start smoking, the industry will live. If children stop smoking, the industry will ultimately die. It's as simple as that.

According to the Centers for Disease Control and Prevention, if nothing more is done, 5 million of today's children will die prematurely as the result of smoking. An increase in the tobacco tax is the most important single step we can take to reduce childhood smoking, save lives, and lower the health costs of smoking over the long run.

In addition, we must do more to provide health care for the unemployed. For too many workers between jobs, coverage is difficult or impossible to afford. Too often, they are forced to let their insurance lapse in order to meet other needs. Modest financial assistance can make all the difference in making coverage available and affordable. Massachusetts has already shown that such coverage can be provided at reasonable cost.

Another key area to address is managed care. In many ways, its current growth is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. Good managed care plans provide more coordinated care and more cost-effective care for people with multiple medical needs.

It compares favorably with fee-for-service medicine in a variety of ways, especially preventive care and early diagnosis of illness. But the same financial incentives that make HMO's and other managed care organizations so cost-effective can also lead to undertreatment or excessive restrictions. Some managed care plans put their bottom line ahead of their patients' well-being—and pressure physicians in their networks to do the same.

Some of the worst abuses include failure to inform patients of treatment options; excessive barriers against referrals to specialists; irresponsible attempts to slash hospital care; unwillingness to order appropriate diagnostic tests; inadequate support for clinical trials and academic health centers; refusal to pay for potentially lifesaving treatment; and lack of fair ways to resolve disputes or redress grievances. Some of these problems affect conventional insurance as well. In many cases, these failures have tragic consequences.

The ban adopted in the last Congress on drive through deliveries was a first step in dealing with these problems. We also attempted to deal with another flagrant HMO abuse—the so-called gag rules that prohibit doctors from mentioning certain treatment options with patients. Time ran out before we could complete action, but the issue is high on our agenda for 1997. Managed care plans themselves have recently taken a strong position against this abuse. But there continues to be strong bipartisan support for additional steps to guarantee consumer protections and adequate care—and this Congress should be the Congress that enacts needed legislation in this area.

As we try to pass measures to improve the health of the American people, we must not undermine effective programs already in place. In the last Congress, a destructive proposal to slash Medicaid and convert it to block grants to the States threatened to strip children and parents, senior citizens, and disabled of needed coverage. Senior citizens in nursing homes could have lost their protection of quality of care, and their families would have been increasingly burdened by the high cost of long term care. Fortunately, that assault on Medicaid failed. In this new Congress, I hope that a bipartisan approach will keep such extreme measures from serious consideration.

Finally, we need to act responsibly on Medicare. President Clinton has proposed responsible steps to protect patients while extending the life of the trust fund for a decade. Senior citizens deserve fair action by this Congress on Medicare. But we should continue to reject proposals to slash Medicare to pay for tax cuts for the wealthy, or to force senior citizens to give up their own doctor and join private insurance plans under the guise of expanding patient choice, or to pile additional out-of-pocket costs on hard-pressed senior citizens.

This Congress can be the Congress that puts Medicare and Medicaid on a stable basis for the next decade. This can be the Congress that guarantees quality and consumer protection in managed care. This can be the Congress that gives every family health security for their children and every child the opportunity for a healthy start in life. This can be the Congress that grants the unemployed needed protection for health insurance. If we

work hard together, this Congress can achieve these goals, and both Republicans and Democrats will deserve a real vote of thanks from the American people.

SENATE DEMOCRATS' LEADERSHIP BILLS

Mr. KERRY. Mr. President, I want to commend the Democratic leader for the package of initiatives he has developed on behalf of Senate Democrats. Most of these proposals came out of the 1996 Families First agenda. I was proud to be involved in that attempt to meet the real needs of everyday Americans and I am proud to be a cosponsor of these bills today.

The Education for the 21st Century Act, S. 12, continues Democrats' historic commitment to education. Federal support for education is one of the best investments our Nation can make to ensure a prosperous future. The bill would provide tuition assistance, restore the student loan interest deduction, subsidize State and local bond issues used to finance school construction and repair, fund the Parents as Teachers Program to assist parents who want to help their children become successful readers, and create a technology literacy challenge fund to catalyze and leverage State, local, and private efforts to increase technology literacy among our Nation's schoolchildren.

The Children's Health Coverage Act, S. 13, would help working families purchase private health insurance for their children. Although Senator KENNEDY and I have a bill which uses a subsidy approach rather than a tax credit approach, our bills are fundamentally similar. Both would provide assistance to children 18 and under and pregnant women to purchase private health insurance, both would provide a comprehensive benefits package, and both would provide assistance on a sliding scale to the working parents of uninsured children. I look forward to working with Senator DASCHLE, my fellow Democrats, and my Republican colleagues to pass a bill this year to provide children the health insurance they need and working parents the peace of mind they deserve.

The Retirement Security Act, S. 14, includes a wide range of proposals designed to help Americans prepare for a secure retirement. These would address the fact that too many Americans lack pension coverage by covering more workers under existing plans, creating new retirement savings options for millions of Americans, and encouraging more businesses to establish plans and more employees to participate in them. The bill would improve pension access and coverage, strengthen pension security, promote pension portability, and increase equity for women.

The Youth Violence, Crime and Drug Abuse Control Act, S. 15, would build on the success of the 1994 Crime Act and other crime fighting initiatives enacted during President Clinton's first term. I am proud to have been a leader in securing funding in the 1994 Crime Act for placing 100,000 new cops on the streets of America's communities. Thanks to the presence of the newly funded police officers, a fully funded Violence Against Women Act, and the Brady law—which has prevented more than 60,000 felons, fugitives, and stalkers from purchasing handguns, violent crime is lower than at any time since 1990. This bill balances the need to target and punish violent, young criminals with proven drug prevention programs. We would put 25,000 more police officers on the streets by extending the COPS Program for 2 years, and we would extend the Violence Against Women Act to provide shelter for 400,000 more battered women and their children, increase Federal penalties for juveniles by raising the mandatory release age from 21 to 26, increase penalties for gang violence, and reauthorize the Safe and Drug Free Schools Program.

Senator DASCHLE deserves our thanks for his leadership in spotlighting these issues of education, children's health care, retirement security, and youth violence that are so critical to the future of our Nation and to the well-being of the American people. He and his staff are to be commended for drafting these bills to address the issues. I look forward to working with Senator DASCHLE and other Senators on both sides of the aisle to pass legislation to meet these compelling needs.

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

(The remarks of Mr. DORGAN pertaining to the introduction of legislation are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

SERIES OF INITIATIVES

Mr. DORGAN. Mr. President, I intend to discuss at a later time a series of initiatives that Senator DASCHLE discussed in brief form dealing with health care, education, pensions, and a number of other issues, including discussing another issue that is important to me, a piece of legislation that Senator DASCHLE and I and others are introducing dealing with some changes with respect to agricultural programs and family farmers in our country.

I see others are seeking the floor. I yield the floor at this time.

I would like to reserve the remainder of the Democratic time today.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Mr. DOMENICI. Madam President, what is the parliamentary situation?

The PRESIDING OFFICER. The minority has reserved its time. The Senator from new Mexico may seek time.

Mr. DOMENICI. I ask that I be permitted to speak for 10 minutes.

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

THE REPUBLICAN LEGISLATIVE AGENDA

Mr. DOMENICI. Madam President, fellow Senators, I rise to compliment the Republican leader on the announcement today of the first Republican legislative agenda for the 105th Congress. I believe that most Americans would support the principles and the ideas contained in these 10 pieces of legislation. I also believe that within the Senate itself there is a compelling majority that will support these 10 proposals. From my standpoint, I support them all, but I do reserve the right in two or three instances to change some of the things that are in the bills. But in no way does it minimize my admiration of and respect for the leadership for putting these bills forth, and the Republican conference and the hard work they put into coming up with these ideas and these basic premises.

I would like to just run through each one quickly with a few thoughts of my own, and then yield the floor to my friend, the new Senator from Wyoming.

The balanced budget constitutional amendment: I do not think there is any question that that piece of legislation speaks to the wishes of a huge percentage of Americans. I would not be surprised if as many as 70 percent or 75 percent of Americans believe that we ought to build into our institutions a mandate—unless we have a war where we cannot abide by a balanced budget—that we ought to produce a balanced budget every year.

Frankly, I have been working on budgets long enough to on the one hand be pulled by those who say, ''Why don't we do it ourselves? Why do we need the force in effect of a constitutional amendment?'' I guess the fact that we have all been working on it so long and can't get it done—and that when we look across the industrial nations, all we find is that with the passage of time instead of spending less, all governments spend more; instead of getting their deficits and debts under control there is growing concern, even in Europe, among most of our industrial friends there, that such things as pension plans and deferred obligations are going to bankrupt their countries. We are doing fairly well. But I do not think anybody ought to misconstrue the trend lines in terms of our current deficits to think that it is going to be easy to keep the deficit under control.

In the next couple of weeks the Budget Committee will have a series of hearings to show what the next century is going to look like and what the major problems are, as the President

speaks of a ''bridge,'' what we ought to be carrying across that bridge so we don't have bigger problems rather than a better life in the next century.

The balanced budget amendment's time has come. There are some who will say, ''What happens when you need to spend more money and there is not enough room in this budget,'' such as unemployment compensation during a recession. Let me say that this amendment is very, very simple in that respect. If that is a serious problem, as serious as some would say, then all you need to do is get 60 votes. You don't have to pass any resolutions declaring emergencies. You just need 60 votes instead of 51 to let those expenditures take place. I believe that is good enough. I think history will reveal that we have had caps that are similar to this, to this constitutional amendment, on parts of our budget and that when we have been confronted by the need to increase something like unemployment compensation there has been far more than 60 votes to go ahead and break the caps because there is somewhat of a countercyclical economic necessity that is forthcoming.

So, from this Senator's standpoint, I hope that the early count of Senators who back home during the campaign said they were for a constitutional amendment, plus those who voted heretofore, continues to add up—and that the number clearly when you do that is there are plenty of votes to pass it—that they will not change their minds based upon Washington, DC talk—because most heard from their people, and I hope that we will all live up to that and get this job done.

Safe and affordable schools is our second one. All I can say about that is I am not sure that any of us know the extent to which we ought to be for change in our education system. But I can tell you one anomaly that is rather frightening. All you have to do is go home and talk to people in the business sector that want to employ people from your State of Maine, or my State of New Mexico, and who continue to tell us, ''Well, the people we need don't have the skills required. They don't have the right training.'' I guess in the broadest sense they are saying they are not educated for the workplace.

Frankly, I hope that we could sooner rather than later go beyond these few principles in this bill and come up with some concepts that would push our current institutions that educate our young people—and even our adults—to force them to be more responsive to the needs of our people who are looking for jobs.

I ask for another 5 minutes.

The PRESIDING OFFICER. The Senator still has 4 minutes remaining.

Mr. DOMENICI. I thought you were reporting that I didn't have any time left. Excuse me. I still ask for 5 additional minutes.

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

Mr. DOMENICI. Madam President, let me suggest that while the United States for college, community colleges, public education, and kindergarten through 12 continues to spend more and more, everywhere we look there are huge numbers of Americans who are not well enough educated for the jobs of today. Frankly, we continue to pour money into vocational institutions and vocational education; we put the strings on that so we can put money into our public education, albeit very small amounts. But somehow or another it seems that the time has come to ask the institutions which we currently spend our money on to see if they can't change their way of doing business a little bit so they may be more the engine of training and skills improvement rather than us having to fund new institutions and new ways of doing them.

Family tax relief: This Senator's only comment is that every single item in there are very exciting items. And they are all probably good for either American families, or the American economy, or are motivated by fairness. In that context, I support them. In the context of how much we will be able to afford, I reserve the right to decide. We may not be able to afford all the enumerated items in the bill. But obviously, we will have to look at that, and I want to make that comment in the RECORD.

The workplace act I think is an exciting piece of legislation. I support it. I hope we can get the message out as to what is in the bill and what is not, for some who are already talking about what they believe the bill does, but they are really talking about things that are not part of this legislation.

Product liability reform has come under some great leadership in the Senate. We have already done a lot of work on that bill, but we cannot get it passed through for the President's signature. I hope we get there.

For the partial-birth abortion ban, I believe there is a compelling majority of support for the bill. The question is whether we have enough to override a Presidential veto. I have heard words from the White House, but more importantly from Senators like Senator DASCHLE saying maybe we ought to work something out here, which leads me to believe that there are even more Senators who deplore the partial-birth abortion technique than those who voted for it. I, too, hope we can get something done there.

Let me just quickly go through the Missile Defense Act. Obviously, there are some who would not put this in the top 10, but there are many who are concerned enough about it, and I support it wholeheartedly, in an effort to solve the problems that are stated by that legislation.

The Superfund cleanup is long overdue. It is now good to know that Senator CHAFEE and Senator SMITH of New Hampshire support a measure that will reform Superfund. And reform means that we will put more of the billions that will be spent during the next 10 years into actual cleanup instead of into court cases and litigation. I think that is the motivation and that is what we are trying to do. I think that is very positive.

The Paycheck Protection Act speaks for itself. And then I will go to the last one, the Violent Juvenile Offenders Act. I am very pleased that many of the provisions of the legislation I introduced last year, after numerous hearings in New Mexico and a great deal of input from our judges and from probation officials, are in this bill. I think it is obvious that if any part of our criminal justice system has fallen apart, it is the juvenile justice system. For the most part, in most of our States, the juvenile justice system has not kept up with the times. It does not meet today's challenges, and I believe we are going to sensitize our States to this by offering to give them more financial support if they will modernize their systems. I believe this bill will lead them to hold more teenagers accountable for their actions and make more public the activities of the courts, rather than to hide their activities. They also should make juveniles more accountable, even for smaller offenses, so they do not wait until they have committed the equivalent of 10 or 15 felonies before something is done to try to help the teenager.

Many of these things are encapsulated in the bill. There are some things that I am not sure ultimately, after detailed hearings, are going to be as good as they sound. We are trying to reform the existing law. The existing law is rigid and in many cases harms juvenile justice at home in our States.

I am not sure that people are aware of it, but we have mandates in the Federal juvenile justice law, and one of them is called sight and sound separation. It has gotten way out of hand. I am not sure we should do away with the mandates entirely, but we have had a situation in New Mexico where because one correctional facility would have had the same kitchen for both adults and teenagers, the State was told that it could not house teenagers there. I guess they expanded the mandate to sight, sound, and smell, or maybe the flavor that will come from using the same kitchen. But I do not know how that had much to do with whether you ought to keep the teenagers in that facility.

Perhaps we are underfunding the OJJP provisions, we are cutting those a little bit, and we ought to look at that. There are a couple of other things we ought to include, but for the most part we are moving in the right direction, and I am very pleased to be a cosponsor and essentially had a lot to do with what we put in that bill.

I believe I am close to the time the Senate has granted me to speak, and I thank the Senate for the time and yield the floor.

Mr. LAUTENBERG addressed the Chair.

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

Mr. LAUTENBERG. Madam President, just so our new colleague from Wyoming understands, this was the order that was agreed to under unanimous consent, and therefore, since he is waiting, I want to explain that this was not just being discourteous; it had been set that way. The junior Senator from Wyoming will get used to some of those things off in the corner. He may not like it, but it works out.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 18 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

DISAPPOINTMENT WITH INTRODUCTION OF SUPERFUND BILL

Mr. LAUTENBERG. Madam President, while I am on the floor, I want to express some disappointment at the introduction today by my friend and colleague, Senator CHAFEE, of a comprehensive bill amending our Federal hazardous waste cleanup law, better known as Superfund.

This bill was introduced without consultation with any of the Democrats or with the administration. My staff, and those of the ranking member on the Environment and Public Works Committee, did not see a copy of this bill until late this morning. If we are to make reforms to Superfund this year—and it was hoped we would do it last year and the year before—it is critical that we work together in a bipartisan manner.

Today's bill introduction is not a positive first step toward that bipartisanship. Enacting any Superfund legislation this year is going to require Members of both parties in the House of Representatives and in the Senate to work together. It will also require all of us to work with the President and EPA Administrator Carol Browner.

In addition, Madam President, it would require us to appreciate that times have changed since the debate over Superfund reauthorization began in the late 1980's. The administration has made wide-ranging administrative proposals that have made a real difference, and this is not the same Superfund program of years past.

We have learned a lot. We have improved its processing. We have reduced the possibility of heavy litigation costs. I want to be clear, I support changes to Superfund that would speed cleanups, reduce litigation, increase equity, save money, and protect the health and environment of those who live near Superfund sites. But, Madam President, it is important to do this right. We should not be shifting costs from polluters to taxpayers, and the President has made it very clear that he will not abide by that either.

So, Madam President, I hope that the Senate Environment and Public Works Committee will closely examine the administrative reforms already undertaken before moving forward on changes to the Superfund program. I hold this up as an example of what is in here, introduced this morning without consultation. This is not a way to get ourselves a bipartisan kickoff to this very important reauthorization program.

I look forward, as I have for many years, to working with our distinguished colleague, Senator CHAFEE, and Senator BOB SMITH from New Hampshire and others, to find common ground. I want to reauthorize Superfund, but I would like to do it in a way that is fair to taxpayers and in a way that is going to work.

I yield back the time on the Democrats' side reserved. How much time is left?

The PRESIDING OFFICER. Time is controlled by the minority. There is 5 minutes remaining.

Mr. LAUTENBERG. I yield back the time at this point that I have not used and reserve for our side the remaining minutes.

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

Mr. FORD. Madam President, the distinguished Senator from Wyoming wishes to speak, and I don't want to get in his way, but I will need more than 5 minutes, so I will wait until others are through so I can get my time on the floor in addition to the 5 minutes. So I alert the Chair to that. Thank you.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in support of Senate Joint Resolution 1, the balanced budget amendment. I specifically chose the balanced budget bmendment as the focus of my first statement in this hallowed Chamber. I chose it because the need for a balanced budget is the most important issue facing all of America today. Without a balanced budget, our children will be saddled with a mountain of debt. Our children and grandchildren will be left with no hope of fulfilling their dreams and aspirations. Our Nation will be weakened and vulnerable.

I know how to balance a budget. I'm an accountant. I have balanced budgets as a family man, a shoe store owner, a mayor, and a legislator. You and I know how easy it is to spend money. We know it's easier to say ''yes'' to programs than ''no.'' There is a constituency for every single program. But I have had to say ''no.'' We have a duty and a responsibility to our communities, our families and our children to live within our means. Right now we are spending more money than we are taking in. Overspending is a prescription for disaster. Almost any school child understands that if you spend more than your take in—you go broke.

Because of the Federal Government's ability to print money, we can easily feel there are no spending limits. How can we pay the bills of a nation when we reach the point where interest payments on our debt exceed all the revenue? That scenario is possible. We are now on that course. Without restraint, that could happen even at an impossible 100 percent tax rate on the citizens of this great Nation. Governments go broke when they cannot afford the interest.

The Federal Government must learn to live within its means. If we were not saddled with such enormous debt, we would have additional revenues to invest in the people and we could reduce the tax burden for every working man and woman in this country. Many States have a constitutional provision to balance the budget. Those States balance their budgets. It is time for us to require ourselves to balance the budget just as they now require the States to do.

History shows we cannot balance the budget with willpower alone. It is time to look at the hard, cold facts. We now have a $5.2 trillion dollar Federal debt. The deficit looms so large. Many Americans voted for candidates based on their stand on this single issue. A balanced budget amendment was the key to voter confidence. Failure to support this issue will diminish that confidence and could lead to the defeat of other candidates in 2 years.

The balance budget amendment would help end the frustrating impasse between Congress and the President by requiring that we agree on a budget that is balanced. A constitutional requirement will remove from debate the variable of how long it will take to balance the budget. The argument about whether we should balance it at all will be removed from the discussion. All Americans know that we have to work within the parameters of fiscal sanity. The balanced budget amendment will focus our effort and our attention.

We have not had a balanced Federal budget since 1969. This fact alone illustrates the difficulty of balancing a budget without an amendment. By failing to balance the budget, we are giving in to the whims of the moment. Without a balanced budget we abandon the ideals of self-control, discipline, and hard work. When we do not balance a budget, we lead by the example of selfishness, recklessness and folly. We condone living beyond our means.

Those opposed to a balanced budget amendment fear it would result in drastic cuts to programs they deem necessary. That is a very shortsighted view of the world. Only by balancing the Federal budget, however, can we guarantee long-term security to any Federal program, including Social Security. By balancing the budget, we do a great service for all Americans. We especially serve those living on fixed income retirement programs. When we pass and the States ratify this amendment, everyone will benefit. Interest rates will decrease. Inflation will be held in check. Business will have true growth. Jobs will increase.

We need to pass this amendment with no gimmickry, no smoke and no mirrors. Any proposal to exempt Social Security would rule out the possibility

of a true balanced budget. Any exemption of Social Security plays games with the future. We need to deal with the facts. Making Social Security exempt from this process would simply allow unlimited spending. An exemption would give the false pretense that we have a balanced budget.

Getting our entitlement programs in good working order is essential. Finger pointing about who wants to cut entitlements are simply diversions. Sleights of hand over who wants to save entitlement programs are all political ploys. Don't let politics confuse the issue and stall the passage of this amendment.

The economic future of America's families depends on what we do now. My family is very important to me. I know your families are important to you as well. Every day that passes without a balanced budget hurts. The responsibility of the debt falls on the shoulders of our children and our grandchildren. Will we leave them a legacy of colossal debt totaling more than $5.2 trillion? That incredible debt will burden generations to come. Our kids and grandkids will have an enormous tax burden. They will inherit an economy so weak and a debt so large there will be no hope of them ever paying it off.

When I was going to grade school, we spent a lot of time on the enormousness of a million dollars. I've always been fascinated with Carl Sagan's emphasis of the difference between a million and a billion. Now we roll a trillion off our tongues with great ease; $5.2 trillion. This is the cruelest of all legacies.

That debt we are incurring for our kids amounts to taxation without representation. We mounted a revolution over that before. Our Founding Fathers would be embarrassed. We should imitate our forefathers in fulfilling our duty to our children and to our children's children. We must save them from the bondage of insurmountable taxes. If the balanced budget amendment fails, we lose. Future generations lose as well.

It is time to heed the words of Thomas Jefferson, ''I place economy among the first and important virtues, and public debt as the greatest of dangers to be feared.'' President Jefferson knew the economic and moral importance of not owing anything to anyone. He also knew that a large public debt could make the United States a slave to other countries and foreign interests.

Defeat is the real national danger on our horizon. The national security of the United States is threatened by the immense debt. We, as a nation, will be unable to protect ourselves against our enemies, foreign and domestic. And, we will be unable to protect Americans—their jobs and their families. We cannot leave ourselves exposed to economic collapse. A world relies on us to get our economic house in order. If we—you and I—continue the practice of overspending, history will harshly judge us.

We will say, ''We have met the enemy—and it is us.'' America has the best form of government on Earth. Now it requires responsibility from its leaders and citizens. The time for leadership is now. The time for the balanced budget amendment is now.

The American people demand an end to runaway spending. We need to show the American people that we are responsible. This bill will prove restraint by constitutionally limiting the ability to spend taxpayer dollars. Let us not fail them or ourselves.

We have the longest continuous government on the face of the Earth. This bill is a critical link to the future. We must preserve and protect our Nation and do it for our children and our grandchildren. This is the turning point. What will history say about each of us?

I urge my colleagues to support the balanced budget amendment.

CONGRATULATING SENATOR ENZI

Mr. NICKLES. Madam President, I must rise to congratulate our colleague, the new Senator from Wyoming, Senator ENZI, for his statement. I think it is an outstanding statement—his first speech, as I understand it, on the floor on our first legislative day. I just wish to compliment him. I hope every American could hear that speech, a very well-thought-out speech on the necessity and importance of a balanced budget amendment.

I think Senator ENZI's credentials are certainly meritorious of that statement, the fact he is an accountant by trade, a businessman, former State legislator as well as mayor. I compliment him and thank him for his well-thought-out speech. I hope everyone will pay attention to it and follow his advice and pass this amendment.

I thank him again for his speech.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent to proceed as in morning business for a period of 5 minutes.

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

CONGRATULATING SENATOR ENZI

Mr. GREGG. I wish to thank the Senator from Kentucky for allowing me to proceed even though he had prior permission.

I also want to congratulate the Senator from Wyoming on his superb discussion of the balanced budget amendment. It was thoughtful, to the point, focused, and really highlighted the importance of that amendment, which happens to be the first item on the agenda for the Republican majority in the Senate. Of the 10 items listed by the majority leader today as being the priority items which the Senate shall pursue under the Republican agenda, No. 1 was the balanced budget amendment.

The Senator from Wyoming has done a superb job of pointing out why it is absolutely essential that we pass that amendment.

EDUCATION IN AMERICA

Mr. GREGG. Madam President, I want to speak briefly here to the second item on the agenda, which is education. Obviously, we all recognize the significance and importance of education. We also recognize, those of us who have been involved in the issue for a while, that the issue of education is, for the most part, settled at the local school level, at the local community level, especially as it involves elementary and secondary education, and that the Federal role is narrow and one which is focused on specific areas. It is not the Federal Government's obligation nor is it appropriate that the Federal Government step into the designing or the curriculum or the choosing of the proper activities for school systems.

Rather, it is the Federal Government's role to pick areas where it can assist the local school districts and can assist parents in helping their children to get a better education. The proposal that has been put forward by the Republican Senate today, Republican Members of the Senate, as the second item on our list of 10, is a very strong proposal on behalf of the parents of America and the students of America.

It is an effort to identify a number of areas where we think the Federal Government can assist parents in helping their children get a better education. We all recognize that education is the core activity that we must undertake if we are to have a competitive society.

We especially recognize this in New England where we depend so much on brainpower because we have no great natural resources. Our natural resource is the intelligence of our citizenry, which is extraordinarily high and depends on a strong education system.

In this area I want to highlight two activities that have been pointed to by our proposal. The first is that we understand that there is this huge baby-boom generation—of which Bill Clinton happens to be the most visible individual—which happens to also have children. And all those children of that baby-boom generation, people like Chelsea, people like my own children, are moving into the college-age years.

There are a lot of parents who are very concerned about how they are going to pay for the high cost of higher education. This proposal gives parents an option. It gives them an opportunity, sets up the Bob Dole grants, which are the specific vehicle that allows parents to invest for their children's education, to save for their children's education, and be able to plan ahead so that they can use the vehicle of, basically, a designated savings account which will receive significant tax benefits to assist them in getting ready for their children's college education.

In addition, it supports prepaid tuition plans that many of our States are now pursuing, where parents can actually choose a college or group of colleges within a State and pay the tuition early and thus avoid the cost of inflation and put themselves in a position where they can better afford the cost of education as their children get older and the costs go up.

In addition, it expands the deduction for student loan interest, a very important element in having the ability to go to college or go to graduate school and to be able to get a loan and still be able to pay it back. This expansion of the deduction will have a positive impact in that area.

It expands study awards and assists employers who are assisting their employees in higher education. It is a very significant effort to make higher education more affordable for the families of America.

In addition, the bill has another major element which is absolutely critical, especially in New Hampshire. That is, it says that the Federal Government is financially going to step up to its obligation to special ed children. A long time ago we passed something called 94142, which was an excellent bill, the purpose of which was to make special education more readily available to children who needed it.

The concept was that the Federal Government would pay 40 percent of the cost and the States would pay 60 percent of the costs. Today, unfortunately, the Federal Government is only paying about 6 percent of the costs that are borne in order to care for a child who has special requirements in education.

As a result, this has put a huge burden on the local communities and the local school systems. States like New Hampshire, which rely heavily on real estate taxes to support their schools, or even States that rely on State government income taxes or sales taxes, find that a large percentage of the tax dollars they are raising for education are going to support what should have been the Federal obligation to help out with the special education child.

As we all know, the special education child can, in instances, cost $100,000 or more as compared with a child going through the system in an average school system which may cost $4,000. So it can skew dramatically the ability to apply resources to benefit other children in the system because of the fact that the Federal Government has shirked its obligation to come forward with its 40 percent, as it said it would when it initially passed this bill a long time ago.

So what we have proposed as Republicans is that the Federal Government will finally step forward and fund special education at near the 40-percent level. We are talking about a $10 billion increase in funding for special education, which increase will be met by ramping up, over a series of years, 7 years, and thus allowing the States and the communities to free up those education dollars which they are now using in order to support the Federal obligation to care for the special ed child, to educate the special ed child, to free up those dollars to use them to expand education activity for other children in the school system.

If you want to look at it in its cleanest sense, it is actually going to be the largest block grants to local education the Federal Government has ever pursued. It should have occurred earlier, but it is going to occur now as a result of the commitment that has been made by the Republican majority here in the Senate.

The sign that it is going to occur is the fact that we already made the downpayment. In the last session—and this did not get much attention unfortunately; it should have gotten a lot more attention; I do not know why it did not get a lot more attention; maybe it was because of a national election and people wanted jinglese on their positions— but in the last budget process last September we, as Republican Members of the Senate, put $730 million more into special education than the present funding was. We increased it by that amount of money.

It was a downpayment on this effort to try to fully fund the 40 percent that the Federal Government originally said it was going to fund. As a result, a State like New Hampshire will receive an increase of approximately $3 million. That is a lot of money to help out with the special education issues.

So we are not talking in rosy scenarios here. We are not using words. We are not trying to create perceptions. We are talking in terms of deeds. We have already made the downpayment on this effort to expand our commitment to special education. And now with the putting forward of the Republican list of initiatives for this Congress, we are making it very clear that we are going to follow through on that commitment.

This will be positive for the children across this country and for the educational systems across this country. I think Republicans can take great pride that we at least have been willing to step up to this very critical issue of first educating our children in college and relieving the pressure on parents who are trying to send their children to college; and, second, helping out with the special ed needs which the States have for so long borne but which the Federal Government has for so long said it would bear.

Madam President, I yield back my time.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I want to use the 5 minutes that has been assigned to the minority, and I ask unanimous consent I have such time as I need beyond that.

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

Mr. FORD. I thank the Chair very much.

CAMPAIGN FINANCE REFORM IN THE 105TH CONGRESS

Mr. FORD. Madam President, as we begin a new Congress, we begin with the hope that the bipartisanship that existed at the end of the 104th Congress will carry through the 105th Congress.

Together, Democrats and Republicans were able to put aside partisan differences and pass meaningful and important legislation, from raising the minimum wage to the Kennedy-Kassebaum health care bill, to the reauthorization of the Federal Aviation Administration and the airport improvement program, and adding additional funds to education.

Madam President, I think in not only the minds of some in this body but the general public, one glaring example where we fail to come together is campaign finance reform. While the American people saw that we can work together to pass legislative solutions to everyday problems, the American people also saw our failure to restore integrity to our political system with the passage of campaign finance reform.

Unfortunately, this last election cycle once again demonstrates that we need fundamental campaign finance reform. This last election cycle demonstrated that the money chase continues. Only this time, the pace was more intense.

Preliminary figures from the Federal Election Commission for the 1996 cycle are astounding. Fundraising by the Republican and Democrat Parties—''parties'' I underscore—in the period from January 1, 1995, through November 25, 1996, totaled $882 million. That represents a 73-percent increase over the same period for the 1992 Presidential election cycle.

The largest increase in funding and spending by the parties was soft money. The Republican National Committee raised $141.2 million, a 183-percent increase over 1992's $49.8 million. Republicans spent $149.6 million compared to their spending in the 1992 election cycle, an increase of 224 percent. Democrats raised $122 million, a 237-percent increase over 1992's $36.5 million, and spent $117.3 million, a 250-percent increase over 1992 when Democrats spent $32.9 million.

Madam President, the money chase does not stop there. Based on reports by the Federal Election Commission, congressional candidates—that includes the House and the Senate—spending may be at an all-time high. Totals for both the House and the Senate general election candidates show they raised $659.6 million, an 8-percent increase over 1994. That is in addition to the other money that I am talking about. So we are nearing the $2 billion figure as it relates to spending in campaign finance in campaigning.

One thing we will become in the House and the Senate will be bit players in the political aspects of this country—bit players because money will put us on television and money will do the work for us. So the big player will become the consultant, will become television, become advertising, and so we will become bit players in this stage called the American political system.

An average winning Senate candidate in all 34 races this past election spent $4.4 million. Compared to 1994, this represents, by the way, an 8-percent decrease. However, the States in which Senate races were held in 1996 included most of the smaller and less populated States. Nevertheless, when you break down the $4.4 million per race, that means the average a candidate would have to raise is approximately $13,969 each week for 6 years. Someone dismissed that figure by saying that most candidates raise approximately 80 percent of their funds in the 2 years prior to the election. If you accept that statistic, then the amount you have to raise each week occurring in that 2-year period is almost $34,000. With those statistics, one would be hard pressed to argue that there is no money chase.

Some have suggested that we simply do not spend enough in our elections. They have even been so bold as to suggest that we should spend more. They say we spend more on bubble gum than we spend on elections. Well, this is not about bubble gum. This is about running this great country of ours and keeping it on the right track and a leader of the world.

How much more can we spend, Madam President, when you have to raise $13,000 a week for every week of your Senate term? How can we say that we are truly doing the people's business? The more time that we have to devote to raising money, the less time we have to commit to our constituents. That is certainly the perception of the average citizen. I argue that this is one area where the perception is the reality.

Furthermore, Madam President, I suggest that the more money raised and spent in our elections does not necessarily mean that we have better campaigns. Al Hunt recently wrote in the Wall Street Journal that there is enough anecdotal evidence to suggest that the more candidates spend, the more negative the campaign. No, Madam President, I do not believe the answer is more money in our election. Rather, I believe, that the solution for real and effective campaign finance reform must include spending limits. The terms of those limits should be open to negotiation and discussion. In the end, there cannot be any real and meaningful reform without spending limits.

Changing the current system is difficult. You can understand why someone opposes changing the status quo because it is a system that got them in office, and by and large keeps them in office. I recognize that spending limits pose constitutional difficulties. I believe that we can craft a system of voluntary spending limits that will sustain constitutional scrutiny by the Supreme Court. I also believe that in order to restore the integrity of our political system, imposing spending limits is the right course of action. If we must—and I underscore if we must—then it might be worth the task to amend the Constitution.

The fact is, Madam President, when it comes to putting an overall cap on candidate spending, the Congress is way behind the curve. Just this past November, I believe the voters in the great State of Maine passed a ballot initiative that would impose spending limits on their State races.

I direct the attention of my colleagues to my own home State of Kentucky. In 1995, we had our first gubernatorial election with spending limits, $1.8 million. The previous election was $12 million. Overall, these reforms in my State worked well for the candidates and for the voters. The Kentucky system has a general election spending cap of $1.8 million. Everyone agrees the Kentucky system still has some problems and some loopholes that need to be addressed. But on the whole, I think the candidates and the electorate approved of the spending limit plan. In fact, spending limits in the Kentucky race changed the overall course of the election. With a limit on the amount they could spend, both the Republican and the Democrat candidates had to revise the campaign play book.

Spending limits put a premium on debates. A premium on debates—think about that. You try not to debate your opponent in this day and age, you try to stay away from him because he is unknown, the people are not knowledgeable. So you do not want to give him any publicity, so you do not want to have debates, maybe one or two on educational television that maybe nobody would watch while there is a basketball game, football game, or baseball game going on at that time. I have seen it. I played that game. I am no spring chicken at this game. I am still spry, but no spring chicken.

In fact, the spending limits put a premium on debates and joint appearances across our Commonwealth. The candidates didn't fly; they drove because it saved money. They were looking for every Rotary Club, Lion's Club, every J.C. Club, whatever groups were together. They were wanting to express their desires and hopes for the future of our great State. Overall, I think most Kentuckians were pleased with the results, because the candidates came and talked about issues rather than being on television. The net result was a better informed electorate and therefore a better campaign.

So, Madam President, I believe that the terms of spending limits should be open to negotiation. All items should be on the table for discussion. But I believe that we simply cannot have effective and meaningful reform without the restriction of limits that one might spend in a campaign.

In addition to spending limits for congressional campaigns, meaningful reform also requires us to close the soft money loophole. As I mentioned earlier, we saw a dramatic increase by the national parties in the raising and spending of soft money.

We also need to address issues like independent expenditures and issue advocacy. Recent decisions by the Supreme Court require the Congress, I think, to reexamine the current law. We cannot prevent an individual or group of individuals from engaging in political activity independent of a candidate or political party. But we can make sure that such activities are truly independent and that those expenditures are adequately and fully disclosed to the Federal Election Commission. We will hear a little more about the hand-off funding as we proceed into the debate on campaign finance reform. If you don't understand hand-off funding, see me or listen to one of my speeches. I will try to tell you what that is.

Finally, Madam President, I believe that we need to examine the structure and authority of the Federal Election Commission. If we are going to have an agency charged with a mission to enforce our campaign finance laws, then I believe it is incumbent upon us to make sure that the FEC has the authority and the means by which to execute that authority.

As the former chairman of the Rules Committee and now ranking member, I have sat through countless hearings on the issue of campaign finance reform. I can go back to the archives of the Rules Committee and produce volumes and volumes and volumes of testimony and printed records of hearings where the committee received testimony from Members, from professors, from campaign consultants, and all the election experts you could ever think up. We can easily identify the problems. The question is, Are we ready to try to work on solutions? The problems are there and we understand them, but are we ready to work on solutions?

Madam President, with all due respect, we do not need more hearings on these issues. We know all too well what the problems are. We need to sit down together—and I underscore together—to craft the solutions. In the past, campaign finance reform has been an issue that has received too much lip service. We can no longer afford to let the opportunity to enact meaningful reform pass us by. The time to act is now. I hope that we can move forward and make campaign finance reform one of the first and lasting accomplishments of the 105th Congress. I know that many of my colleagues share a similar commitment to reforming our campaign finance laws. I look forward to working with my colleagues. Hopefully, through this campaign finance reform, we can restore trust and we

can restore integrity to our electoral system by enacting meaningful campaign finance reform legislation.

I thank the Chair and yield the floor.

Mr. NICKLES. Madam President, I know my colleagues have been waiting patiently. Would they mind if I went ahead for a few minutes?

Mr. GRAMS. That is fine.

(The remarks of Mr. NICKLES pertaining to the introduction of S. 9 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

(The remarks of Mr. NICKLES, Mr. GRAMS, and Mr. HUTCHINSON pertaining to the introduction of S. 9 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

1996 YEAR END REPORT

The mailing and filing date of the 1996 Year End Report required by the Federal Election Campaign Act, as amended, is Friday, January 31, 1997. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 7 p.m. on the filing date to accept these filings. In general, reports will be available the day after receipt. For further information, please contact the Public Records office on (202) 224–0322.

REGISTRATION OF MASS MAILINGS

The filing date for 1996 fourth quarter mass mailings is January 27, 1997. If a Senator's office did no mass mailings during this period, a form should be submitted that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

TRIBUTE TO FORMER SENATOR PAUL TSONGAS

Mr. KENNEDY. Mr. President, it is with great sadness that we learned last weekend of the death of our former colleague from Massachusetts, Paul Tsongas. Paul served in the House of Representatives for 4 years, from 1975 to 1979, and in the Senate for 6 years, from 1979 to 1985. All of us who knew him respected him and admired him.

Paul was a great friend, a great Congressman for the people of Lowell, a great Senator for the State of Massachusetts. He had a special dedication to public service that began as a Peace Corps volunteer in Ethiopia in the 1960's and endured throughout his brilliant career, including his 1992 Presidential campaign.

As a Lowell city councilor, a county commissioner, Congressman, Senator, and Presidential candidate he had a special vision of America as it ought to be. Above all, he had an extraordinary personal and political courage. It was a courage demonstrated during his long illness and in all aspects of his years in public service. He often took stands that were unpopular. He had strongly held beliefs and he fought hard for them regardless of the passing political cause. He cared more for the truth than public opinion. And the people of Massachusetts loved him all the more because of it.

President Kennedy would have called him a ''profile in courage.''

One of his enduring legacies is the Lowell National Historic Park, which symbolized a great deal about his commitment to Lowell and to that entire region of our State. He had the vision to conceive the park and the skill to achieve it. In a larger sense, it also typified his unique ability to find new ways to see old problems. Where others saw a fading mill town, Paul saw the opportunity for rebirth, growth, and a thriving new economy.

He applied that same dedication to new ways of thinking in everything he did in our State, our country, and our common planet, yet he had both a realistic and idealistic vision of a better future and a powerful commitment to reach it so no one would be left out or left behind.

He reminded me of Robert Kennedy. As my brother often said, ''Some people see things as they are and say, why. I dream things that never were and say, why not?'' That was true of Paul Tsongas as well. We will miss him very much. Our hearts go out to his wife Niki, his sisters, Thaleia and Vicki, all the members of his wonderful family, his three daughters, Ashley, Katina, and Molly.

Mr. President, I ask unanimous consent that editorials from the Lowell Sun and the Boston Globe be printed in the RECORD.

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

[From the Lowell Sun, January 20, 1997]

COMING HOME

When he stood in the raindrops at Boarding House Park, Paul Tsongas spoke of embarking upon his ''journey of purpose'' to become the President of the United States.

We in Lowell knew better.

We in Lowell knew Paul Tsongas' purposeful journey began long before he tossed his hat into the presidential ring, and endured long after his candidacy came to an end.

For Citizen Paul Tsongas, his journey to make his city and his world a better place began as soon as he was old enough to make a difference, and continued—with as much passion and purpose as ever—until it ended all too soon Saturday night.

Let others talk about Sen. Tsongas' extraordinary contributions to the national landscape—as they should and will.

Let us in Lowell talk about contributions far more significant and enduring.

Let us talk about a man who brought a remarkable wife to Lowell, and a father who raised three wonderful children in the city of his birth.

Because before all else—before all the politics and the presidential campaigns—Paul Tsongas devoted his life to his beloved and cherished wife and daughters. And even if his journey consisted ''only'' of Nicola, Katina, Ashley and Molly, he would have succeeded—grandly—in making this city and this world a better place in which to live.

If a man's legacy is first and foremost his family, Paul Tsongas' journey has left us all with a living legacy to cherish and honor as we do his own life.

For years, we in Lowell have needed Paul Tsongas. Now it is time for all of us to begin to repay our debt to him by reaching out to Nicola, Katina, Ashley and Molly with our arms, our hearts and our prayers.

They surely don't need us to tell them, but we should let them know just how proud we are of her husband and their father, and how much we, too, will miss him.

For those who knew Paul Tsongas—and so many in this city were privileged by his friendship—we knew him first as a husband and a father. In these parts, he was not Sen. Tsongas. He was ''just'' Paul Tsongas, a guy who clearly was happiest not on the firing lines of City Hall or Capitol Hill, but rather in his back yard on Mansur Street.

'Our' Paul Tsongas was not a politician or a presidential candidate. He was something much more special than that.

He was Tsongy—our neighbor and our friend. A guy who may have been better at driving his kids to school than he was at driving legislation through the U.S. Senate. A hard-working environmentalist whose most beloved contribution to the greening of America was surely cleaning up and landscaping Kittredge Park, on his hands and knees, as content as a man could be.

Let others applaud and exalt the contributions Rep. and Sen. Tsongas made to the Commonwealth of Massachusetts—as they should and will. Let the national pundits and politicians ponder what contributions a President Tsongas would have made to the country—as surely he would have.

We in Lowell need only walk through our city to celebrate—every day—what Paul Tsongas did for his hometown.

A national park here, a Boarding House Park there. The Wang Towers over there, and an arena going up just over here. And here's one of our new middle schools, not too far from our downtown hotel. And just over there, where the river bends, we're going to have a brand new ball park for Lowell's own minor league ball club. You know, the Spinners, the team Paul Tsongas brought to town.

Let those on the national stage talk about the bumpy, bizarre and truly incredible road which Paul Tsongas nearly traveled to the White House.

Here, in Lowell, we'll walk and talk about the most important roads in Paul Tsongas' life—Highland Street, where he lived as a child. Gorham Street, where young Paul toiled in his father's dry cleaning store. And Mansur Street, where Paul Tsongas of Lowell lived and raised his family.

Let other congressmen and senators and presidents talk about the unique contribution Paul Tsongas made to deficit reduction and our grandkids at the Concord Coalition.

Here, in Lowell, we'll reminisce about the first and most important budget Paul Tsongas ever balanced in his life—the one in that dry cleaning shop on Gorham.

We knew The Road from Here would always lead back to Lowell.

And even though his journey of purpose often took Paul Tsongas to bigger cities and

faraway lands, we all knew that his journey began here, drew its strength from here, and will end, too soon, when he is buried here.

Paul Tsongas' journey of purpose may have been all to brief, but like a meteor blazing across the civic skyline he so loved, it was brilliant, intense and unforgettable.

''Lowell is my home. It is where I drew my first breath. It is where I will always derive a sense of place and a sense of belonging.

''It is what I am.''

Amen.

Think of Paul Tsongas whenever you take your kids to a Spinners game. We think he'd like that.

[From the Boston Globe Jan. 19, 1997]

PAUL TSONGAS OF LOWELL

Paul Tsongas, 55, relished the uphill fight but was unable to beat back his most formidable opponent and succumbed last night to complications from the lymphoma that dogged him since 1988.

His seemingly inexhaustible ability to rally from a battery of grueling medical procedures, including two bone marrow transplants, was testimony to his grit and a spur to anyone tempted to complain about life's lesser challenges.

Tsongas was a tough taskmaster in his political life too, always willing to challenge conventional wisdom and unafraid to give people bad news if he felt it would fix an ailing system. In 1980 he faced a hall full of doctrinaire liberals at a convention of the Americans for Democratic Action and told them it was time to ''escape the '60's time capsule.''

Probusiness, open-minded about nuclear power, a relentless deficit hawk but at the same time unstinting in his support of civil rights, gay and women's issues and the environment, Tsongas was a ''New Democrat'' long before it became trendy.

Since voting for the controversial Lowell connector highway as a city councilor in his hometown in 1972, Tsongas built a reputation on following his political conscience despite the odds.

He was a long shot in his successful 1978 U.S. Senate race against Ed Brooke and was the first Democrat to challenge President George Bush. Asked about the near-empty Democratic field for the 1992 presidential race, he replied: ''Its a medical problem: gonads, not lymph nodes.''

Independent, thoughtful, passionate, he was as devoted to his family as he was to fighting the good fight. He quit the Senate in 1984 so he could spend time with his wife Niki and three daughters. ''They're going to lay me in the ground someday,'' Tsongas said in a 1992 interview with the Globe. ''I want to do the things I would have wanted to have done when that happens so my grandchildren will feel good about me.''

Paul Tsongas has left all of us much to feel good about even as we mourn his passing.

OECD SHIPBUILDING AGREEMENT

Mr. LOTT. The 104th Congress was unable to reach a consensus on legislation to implement an OECD Shipbuilding Agreement. Opponents of the agreement, as negotiated, insisted that the amendments passed by the House of Representatives be incorporated into any implementing legislation. Supporters of the agreement found these amendments unacceptable. As a result, no legislation was passed to put the OECD Shipbuilding Agreement into effect.

If the outcome is to be any different in the 105th Congress, I would urge the Administration and the Office of the U.S. Trade Representative to fully consider the amendments to H.R. 2754 passed by the House last year. Those amendments, which were sponsored by the House National Security Committee, were in response to major concerns regarding this agreement's damaging impact on our national security interests, and on the Navy's core shipbuilding industrial base. While preserving the underlying intent of the OECD agreement, the amendments adopted by the House provide some modest safeguards with respect to these national security concerns.

Ms. SNOWE. Those amendments were approved by an overwhelming majority in the House who felt that, without the changes, the OECD Agreement failed to provide an effective mechanism for disciplining foreign shipbuilding subsidy practices. I should add that a number of Members in this body who have examined the agreement also share this view. The base agreement, coupled with the many loopholes and special concessions granted to foreign governments, would continue to place U.S. shipbuilders at a tremendous competitive disadvantage. For this reason, the largest U.S. shipbuilders, representing over 90 percent of all workers in the Nation's major shipbuilding base, opposed implementation of the agreement even though they were the primary advocates of an effective discipline on foreign government subsidy and dumping practices in the first place.

Mr. LOTT. In order to put into perspective the concerns of the U.S. shipbuilding industry, it may be helpful to review some of the background leading up to this agreement. In 1981, the U.S. Government terminated its subsidy program to the U.S. shipbuilding industry. Thus, in 1989, the United States went to the negotiating table as the only nonsubsidizing shipbuilding country. The U.S. shipbuilding industry had already lost all of its commercial shipbuilding market share and was bracing itself for a dramatic decrease in Navy shipbuilding orders.

Ms. SNOWE. In 1993, 4 years after international negotiations had failed to produce an agreement to end foreign subsidies, Congress and President Clinton revived and amended a modest ship loan guarantee program called Title XI. The purpose of this program was to help U.S. shipbuilders recapture commercial market share in the face of dramatic cuts in the Navy's shipbuilding plan and continued foreign government subsidies in the commercial market.

Mr. LOTT. This modest loan guarantee program has begun the revival of commercial shipbuilding in the United States. For the first time in almost 40 years, our major U.S. shipbuilders are building commercial ships for export. Environmentally safe oceangoing double-hulled oil tankers are being constructed for our domestic trades. Over a 2-year period, $1.7 billion in commercial shipbuilding orders has been generated in the United States. These commercial orders are helping to sustain our major builders of Navy ships.

Ms. SNOWE. In 1996, when the administration sought congressional approval of the OECD Shipbuilding Agreement, the Department of Defense submitted a Navy shipbuilding budget request for the fewest numbers of ships in more than 60 years. While the Navy's Fiscal Year 1997 Future Years Defense Plan called for an average of only 5 ships per year, the Navy anticipates that it will need to procure 10 to 12 ships per year beginning in the year 2002, if it is to maintain a 346-ship fleet. The challenge for our Nation and the Navy is to sustain the critical core shipbuilding industrial base during this alltime low in Navy shipbuilding and still have the capability to meet future Navy building needs.

Facing these circumstances, in 1989 the U.S. shipbuilding industry sought an international agreement to end foreign government shipbuilding subsidies. The industry believed then, as it does now, that it was essential to end foreign government participation in the commercial shipbuilding market if it was to have a fighting chance to make the transition to building both commercial and Navy ships, and thus survive this historic low in Navy shipbuilding.

Mr. LOTT. As negotiations dragged on for over 5 years, the marketplace was changing dramatically and rapidly, while the objective of the negotiators seemed to remain static. There was a failure on the part of our negotiators to recognize these changes and the activities of the various participating parties during the negotiations.

China, which had no commercial shipbuilding market in 1990, began to target shipbuilding to industrialize its economy. China now ranks third in the world for commercial shipbuilding, and it is not a signatory to this agreement. Other countries, such as the Ukraine and Poland, are also not covered by this agreement and have displayed a renewed interest in their shipbuilding sectors.

Ms. SNOWE. During the negotiations, Germany granted $4 billion in shipyard modernization subsidies to the former East German shipyards. South Korea approved close to a $1 billion bailout of its largest shipbuilder Daewoo. Other European countries continued to grant billions in subsidies to their shipbuilding industries to fill their order books.

Mr. LOTT. When an agreement was finally reached in 1994, major U.S. shipbuilders expressed their objections with the terms of the OECD Shipbuilding Agreement before it was signed by the U.S. and other parties. These builders articulated to the Administration their concerns with the very generous transition concessions granted to the

foreign signatories, the changing market conditions with the growing prominence of China, and the ineffective ''injurious pricing'' or anti-dumping provision—especially in light of South Korea's massive expansion of its shipbuilding capacity throughout the negotiations.

Ms. SNOWE. These concerns and the agreement's negative implications for the U.S. Navy shipbuilding industrial base were ignored by the negotiators of this agreement. U.S. shipbuilders were also dismayed that they were granted no transition period in contrast to what was granted to the foreign governments. The successful, but modest, Title XI loan guarantee program would be rendered ineffective immediately upon the agreement's entry into force and the domestic trade of the United States, as governed by the Jones Act, was placed in severe jeopardy by our negotiators. In an effort to correct these weaknesses and flaws, the House of Representatives amended the implementing legislation (H.R. 2754) to address the major national security concerns of the agreement.

Mr. LOTT. The Office of the U.S. Trade Representative has maintained throughout the debate on this agreement that the Jones Act, which requires ships transporting cargo between two U.S. ports to be U.S.-built, -owned, and -operated, is exempt from the agreement. This is only partially true. Although the agreement does not repeal the law, it establishes a framework and procedure for foreign governments to take retaliatory actions against U.S. shipbuilders and U.S. exporters for ships constructed for the domestic trades of the United States. These countermeasures include bid restrictions and bid tariffs against U.S. builders seeking international orders if they also benefit from Jones Act orders. The agreement also provides that GATT-related tariff concessions may be withdrawn against other U.S. products to offset the benefit of Jones Act ship construction contracts to U.S. builders. Moreover, the agreement states that the Jones Act is a derogation of the agreement—and I quote—''could undermine the balance of rights and obligations of the Parties under the Agreement and is unacceptable to the other Parties.''

Ms. SNOWE. U.S. ownership, manning, and construction of vessels serving the Jones Act trade has provided the Department of Defense with a pool of trained mariners, vessels, and the industrial capability to respond in time to national defense emergencies. For example, the very shipyards that build and repair Jones Act vessels were called upon to activate military reserve ships during Operation Desert Storm/Desert Shield, and it was the trained mariners who operate Jones Act vessels in peacetime who were called upon to crew these military ships once activated. The Jones Act contributes to the maintenance of this skilled work force and defense industrial capability.

Because of the importance of the Jones Act to our national security, the House adopted an amendment specifically prohibiting the imposition of trade countermeasures against U.S. shipbuilders and other exporters for Jones Act ship construction. This amendment is essential to our Nation's defense readiness.

Mr. LOTT. The House also adopted an amendment defining and exempting ''military reserve vessels'' from coverage under the agreement. This provision is essential to ensure that military ships—such as Army, Navy, and Marine Corps surge and prepositioned sealift ships—cannot be deemed commercial ships under the agreement because of their dual-use characteristics and capability. Without this exemption, DOD may be precluded from procuring military reserve and auxiliary ships with defense features from U.S. shipbuilders without the threat of retaliatory trade countermeasures.

Ms. SNOWE. Many of DOD's reserve and auxiliary ships are commercially built, owned, and operated, and they are chartered to DOD under long-term lease agreements. The U.S. Navy intends to continue this approach to acquiring these needed assets in the future. Furthermore, it is extremely difficult, if not impossible, to completely separate a ship's defense features from its commercial features. Therefore, the implementing legislation needs to contain the definition and exemption for these types of ships or the United States will be subjected to an international trade panel's interpretation of what is, or is not, a military vessel or a defense feature.

Mr. LOTT. As I mentioned earlier, the only government support program for U.S. shipbuilders is the Title XI Ship Loan Guarantee Program. The program was revived and amended in FY 1994 as part of the National Shipbuilding Initiative contained in the National Defense Authorization Act. The purpose of the program was to help U.S. shipbuilders attract commercial shipbuilding orders in the face of a dramatic turndown in Navy orders and foreign government commercial shipbuilding subsidies.

Ms. SNOWE. Title XI provides for a government guarantee of commercial loans for the construction of ships in the United States for U.S. and export customers. Up to 87.5 percent of the 25-year loan is guaranteed under the program. Upon entry into force of the OECD Shipbuilding Agreement, however, the terms of title XI would be immediately changed to guarantee only up to 80 percent of a commercial loan over a 12-year period. According to U.S. shipbuilders, the current orders for construction of large oceangoing commercial ships would not have been consummated under these terms and conditions.

Mr. LOTT. Almost every signatory to this agreement—except the United States—was granted special transition subsidy authority for a period of 3 years. Many members of the House of Representatives and Senate do not understand why the title XI program should not continue under its current terms and conditions for a 3-year period given the agreements's special deals, exemptions, and transition programs in the billions of dollars for Belgium, Portugal, Spain, Germany, France and South Korea. This inequity in the transition rules is extremely detrimental to U.S. builders were disadvantaged for 15 years while they received no government subsidies in the face of billions by foreign governments. Moreover, without a 3-year continuance of title XI, U.S. shipbuilders would be three years further behind their foreign competition. This is unacceptable to the majority in Congress.

Ms. SNOWE. The House bill would place the U.S. on an equal par with foreign signatories time-wise. It would allow title XI to continue at its present terms and conditions during the 3-year transition period in which foreign signatories were granted very generous subsidy concessions. Furthermore, major U.S. shipbuilders desperately need this extension to the program if they are to complete their transition back to building commercial ships. If this transition is unsuccessful, the Navy's core shipbuilding base will not be sustained to meet its future requirements.

Mr. LOTT. In closing, it is incumbent upon each Congress to ensure that our international trade agreements are in our best national interest. Rubber stamping every international agreement, regardless of its content or impact, is not in anyone's best interest. I understand that the office of the U.S. Trade Representative has invested years of hard work in reaching the OECD Agreement. Unfortunately, it falls abysmally short of the objectives established by the very industry which sought an international agreement. After all, who better understands the shipbuilding industry than the shipbuilding industry itself? And for that matter, who in Congress better understand our national security interests that the committees with jurisdiction over national security policy?

There are major disagreements in Congress on whether this agreement is good or bad for this country. Indications from the Office of the USTR are that it is unwilling to reopen the negotiations to achieve an agreement that addresses the concerns of the majority in Congress of both political parties. If this is the position of the U.S. Trade Representative, then I can only say that pursuing implementing legislation in the 105th Congress will result in the same outcome as that of the 104th Congress. I would hope that the USTR would have learned something from last year's experience and not waste its time or our with a repeat performance.

IN MEMORY OF PAUL E. TSONGAS

Mr. LEVIN. Mr. President, I was saddened Saturday to learn of the loss of

one of the great men that I have had the honor of serving with in the U.S. Senate, Paul E. Tsongas of Massachusetts.

Paul Tsongas and I arrived in this body at the same time almost exactly 18 years ago in 1979. By that time Paul had already distinguished himself in 4 years of service in the House of Representatives, including legislation creating the first urban national historical park in his beloved hometown of Lowell. This became the catalyst for a remarkable renaissance in that historical New England mill town.

He arrived as the first Peace Corps veteran ever elected to the Senate. He valued highly his opportunity to serve in Ethiopia and spoke frequently of those 2 years as the formative years of his desire for public service. As a member of the Senate Foreign Relations Committee he was a voice for human rights around the world, but particularly on the African continent. In his 1981 book, ''The Road From Here,'' Paul wrote, ''[Human rights] are rooted in our culture and history, and we should champion them. Third World people need to have us honor this principle because if we don't, no one effectively will. And ultimately it is the moral and economic strength of America that will count, not just our military might.''

Paul accomplished a great deal in a short time in the Senate, including the passage of the Alaska Lands Act of 1980 which more than doubled the size of the national park system and which President Carter called the most important conservation legislation of the century.

However, he will be remembered best for his years after the Senate. He retired from the Senate in 1984 after learning that he had cancer, pledging to devote more time to his family. In the book, ''Heading Home'', about his decision to leave the Senate, he wrote: ''On their deathbed, no one ever said, 'I wish I had spent more time with my business.'.''

He overcame cancer undergoing a then-experimental medical procedure, and went on to become a Presidential candidate in 1992, and a founder of the Concord Coalition, a bipartisan organization which has become a credible and widely-respected grassroots voice for fiscal responsibility in government.

As the family and friends of Paul Tsongas mourn his death and celebrate his life, Barbara and I will have Niki and Paul's three daughters Ashley, Katina, and Molly in our thoughts and prayers.

Mr. President, a member of my staff, Rich Arenberg, who served Paul Tsongas for more than 10 years as a staff member and friend wrote a few personal words which are most apt:

Paul Tsongas was an uncommon man. He honored America with the purity of his honesty and candor. There was no private Paul Tsongas, no public Paul Tsongas. He gave totally and completely of himself. He said exactly what he believed. In an age of partisan vitriol, he spoke softly and without animus. Although his voice was cool, his beliefs were passionately and tenaciously held. He believed that rational people of good will could solve any problem, bridge any difference, and lead by the force of reason. Paul Tsongas loved his family more than anything on earth and he loved his country deeply. He saw little distinction between the two because he believed the greatest gift we can give to our children is a strong future for America.

THE INAUGURATION OF PRESIDENT CLINTON

Mr. NICKLES. Mr. President, yesterday, in a moving ceremony, we witnessed the swearing in of President Bill Clinton and Vice President AL GORE for their second term. The inaugural ceremony is significant not only to the history of our Nation, but for the message it sends to the rest of the world about our democracy.

The ceremony required a tremendous amount of planning by many, many people. The extensive preparations included construction of the platform, ticket distribution, coordination of security measures, organization of the ceremony, planning the luncheon in Statuary Hall and countless other tasks.

Leading this team of dedicated people was the distinguished Senator from Virginia, Senator JOHN WARNER. As chairman of the Joint Congressional Committee on Inaugural Ceremonies, he had the monumental task of making the arrangements for this historic occasion. He performed his responsibilities with great efficiency and with outstanding attention to every detail. As master of ceremonies, he skillfully orchestrated the entire program. I, along with my colleagues, would like to thank Senator WARNER and congratulate him on a job well done.

In addition, I would like to applaud the distinguished Senator from Kentucky, Senator WENDELL FORD. His contribution of hard work and past experience as Chairman of the committee was evident in the success of this endeavor. I wish to express my gratitude to Senator FORD for his hard work.

I would also like to thank and congratulate the other members of the Joint Inaugural Committee for such a successful ceremony. Those members were Majority Leader LOTT, Speaker GINGRICH, Representative ARMEY, and Minority Leader GEPHARDT. In addition, the members of the committee were ably assisted by the officers and employees of the Senate and House of Representatives, as well as by personnel from the executive branch. The success of the ceremony demonstrated tremendous cooperation between both parties, as well as both Houses of Congress and the executive branch.

I offer my appreciation to everyone who contributed countless hours to the 1997 inauguration ceremony, particularly to the chairman, Senator WARNER, and the ranking member, Senator FORD. Thanks to the efforts of all involved, the ceremony will be a memorable event for our Nation.

KENTUCKY DOMINICAN SISTERS 175TH ANNIVERSARY

Mr. FORD. Mr. President, I am proud to stand before you and my colleagues today to recognize the 175th anniversary of the founding of the Kentucky Dominican Sisters. They are the oldest group of Dominican Sisters in the United States and I am pleased they chose to put down roots in Kentucky.

It was a time in our Commonwealth's history when the rural communities were sometimes forgotten. But nine pioneers took it upon themselves to help meet the needs of those in rural Kentucky. They made a commitment to the community to serve through service, prayers, and study—a commitment which has lasted 175 years. It was this group of women who laid the foundation for the Kentucky Dominican Sisters of today.

The Sisters responded to the needs of their time. They nursed soldiers in Kentucky during the Civil War and established hospitals for residents who previously traveled miles for emergency care. As the times have changed so have the needs of citizens of Kentucky. But the Sisters are still answering those in distress. My regret today is that I can only highlight some of their recent work including working with persons living with AIDS, assisting refugees to resettle and advocating for food, shelters and health care for not only the people of Kentucky, but for those throughout our great United States.

On April 4, 1997, Sisters from around the United States will gather at their Motherhouse in Springfield, KY, for a weekend of celebration. Mr. President, I ask you and my distinguished colleagues to join me in honoring the Kentucky Dominican Sisters for 175 years of service.

HONORING BILL WEBER, ST. CHARLES CHAMBER OF COMMERCE 1996 CITIZEN OF THE YEAR

Mr. ASHCROFT. Mr. President, I rise today to honor the St. Charles Chamber of Commerce 1996 Citizen of the Year, William H. Weber. On January 24, 1996, Bill Weber will gather with friends, family, and colleagues to celebrate his distinguished contributions to his community.

Bill is a lifelong resident of Missouri and St. Charles. His volunteer career has touched innumerable oragnizations with his leadership, commitment, and unselfish hard work. Bill has been the driving force behind such significant projects as fund raising to build both the St. Peters Rec-Plex and the YMCA of St. Charles County. After a volcano destroyed the city of Armero, Colombia, South America, he worked tirelessly to build a YMCA facility to provide basic needs and housing for the children of that disaster.

Closer to home, he has served on the boards of directors for Boys and Girls Town of Missouri, the Regional Commerce and Growth Association, St. Louis Sports Commission, St. Charles Public Schools, St. Charles Police and Fire Board, Crimestoppers, Mid America Theater, St. Charles County Horse Racing Commission, Daniel Boone District Chairman, Boy Scouts of America and the Eagle Board of Review, YMCA and United Services Blue Ribbon Committee.

He received the Boy Scouts' highest honor, the Silver Beaver Award in 1989, Channel 5's [KSDK] Volunteer Board of Governors Jefferson Award in 1993, the YMCA's highest leadership award and Youth in Need honored him as its first recipient of their Youth Leadership Award. For this lifetime of service, I rise today to recognize and salute William H. Weber, St. Charles Chamber of Commerce 1996 Citizen of the Year. His volunteer work has been a shining example to me as well as all Missourians.

HONORING THE POTTERS ON THEIR 50TH WEDDING ANNIVERSARY

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data is undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of ''till death us do part'' seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today to honor Donna and Ralph Potter of Kansas City, MO, who on Sunday, January 5, 1997, celebrated their 50th wedding anniversary. My wife, Janet, and I look forward to the day we can celebrate a similar milestone. Donna and Ralph's commitment to the principles and values of their marriage deserves to be saluted and recognized.

LOUIS J. AMABILI

Mr. ROTH. Mr. President, today I would like to say something about a hero. The distinguished historian Stephen E. Ambrose says that we need to teach our children about heroes. It is by understanding the contributions of great men and women that our youth set standards of achievement for themselves. Common heroes provide a sense of unity and inspire us to aim a little higher than we did the day before.

This week in Delaware, an outstanding man is being recognized for his more than 50 years of service to community, State, and Nation. His name is Louis J. Amabili. He's a loving husband, a devoted father, an attentive grandfather, and fearless firefighter. He's a man who, for half a century, has risked his life to protect the lives and property of others.

Louis is my friend, and I am honored to count him among my friends. He is a member of the Hockessin Fire Company and the founding Director of the Delaware State Fire School. For 32 years, he served as director of that school, leading it to its current preeminent position as one of the leading fire training facilities in the United States.

During his tenure, the Delaware State Fire School not only built its facility in Dover, but established training centers in Sussex and New Castle Counties, providing fire training centers within 30 minutes of every fire company in Delaware.

In additions to these many successes, Louis Amabili also served as president of the New Castle Volunteers Firemen's Association, the Delaware Volunteer Firemen's Association, and the International Association of Fire Service Instructors. Richard Nixon appointed him to the Fire Prevention and Control Commission, and Delaware Governor Pete DuPont recognized him with the ''Order of the First State.''

Mr. President, Louis Amabili is one of the most well-recognized fire service leaders in America. He served on the Board of Directors of the National Fire Protection Association, and chaired the Fire Officers Professional Qualifications Standards Committee for more than a decade.

Louis was a member of the International Fire Service Training Association and received their highest honor for his role in fire service training. He chaired the Joint Council of National Fire Service Organizations and helped establish the National Fire Service Professional Qualifications System.

He serves as a member of the board of directors of the Congressional Fire Services Institute—which I have the honor of co-chairing—and he has received that institute's highest honor, the CFSI Fire Service Person of the Year Award.

On this occasion, as Louis Amabili retires from a distinguished career, it is my privilege to recognize his years of selfless service, the lives he has touched, the lives he has taught, and the lives he has saved. I want to express my gratitude to his wonderful wife, Carmen, to his son Louis Jr., and to his daughter, Janice, and I want the record to show without question that we do, indeed, still live in a time of heroes. Quite often these valiant men and women live right next door.

CHILDREN'S HEALTH CARE

Mr. WELLSTONE. Mr. President, children's health care coverage needs to be a priority in this Congress. We need to be committed to providing access to affordable coverage and care to all working families in America. We also need to provide coverage for uninsured pregnant women, in order to ensure that children get a healthy start in life. All children should have access to services that provide for their basic health care needs such as immunization, preventive services, acute care, and dental care services, regardless of whether they live in rural or urban areas.

Employers are rapidly cutting health care coverage for children of their employees. When a family earning $16,000 each year is required to pay over 10 percent and sometimes as much as one-third of their income to purchase health insurance for their children, they are forced to make very difficult choices. They must choose between providing their children with basic needs such as food and shelter, and paying for health insurance.

Health care coverage for children is an investment in the future. Children with undiagnosed or untreated health problems may have difficulty learning in school. A child with poor vision that has not been diagnosed or treated may be unable to see the blackboard. A child who is in pain from preventable tooth decay may not be able to eat an adequate diet, and the pain may make it difficult for the child to concentrate. A child with asthma who has poor access to care may spend many hours in an emergency department and many days in the hospital for treatment of problems that could have been prevented. This occurs at a significant cost not only in terms of dollars, but also in terms of lost opportunities to attend school, and loss of work time and income for the child's parents. These situations can be prevented with adequate health care coverage and access for children.

Children in rural areas are especially vulnerable, as there are fewer services available in these areas, and some needed services are located at significant distances from their homes. In addition, these children often live in homes where their parents work for small employers, who are unable to offer dependent coverage at a low cost.

Several States have demonstrated the cost savings available by providing assistance to working families. My home State, Minnesota, operates its own program that helps families buy private health insurance. Ninety-thousand people are covered, including 50,000 children. Over the years, more than 41,000 families have used MinnesotaCare to leave or stay off welfare, saving the taxpayers $26 million per year.

It is essential that we address this issue and provide low- and middle-income families with the option to purchase affordable private insurance coverage for their children. These families must be provided with the means to purchase this coverage in a timely manner, so that they do not have to delay the purchase of coverage for their children.

We need to build on successful private, State, and Federal efforts to help working families afford to provide health coverage for their children. Providing coverage for children through

age 18 and pregnant women is the next logical step in incremental health care reform. It is sound policy and makes economic sense. It will ensure that all children in America have a healthy start in life.

S. 10, THE VIOLENT AND REPEAT OFFENDER ACT OF 1997

Mr. ASHCROFT. Mr. President, earlier today Senator HATCH introduced S. 10, the Violent and Repeat Offender Act of 1997. Senators LOTT, DOMENICI, SESSIONS, and I worked with him in developing the bill. While not perfect, the bill does take the initial steps in dealing with the epidemic of violent juvenile crime sweeping the Nation.

Mr. President, the face of crime in America is indeed changing. Throughout our history, one thing has been clear: government's first responsibility is to keep the citizenry safe. John Jay wrote in The Federalist, No. 3, ''Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be first.''

The murderers, robbers, rapists, and drug dealers of yesteryear were typically adults. Now they are typically juveniles. As the age of these criminal predators becomes younger and younger with each passing year, so does the age of their victims.

Last Wednesday afternoon, 12-year-old Darryl Dayan Hall was abducted at gunpoint from the Southeast Washington area by three teenagers of a gang known as the Simple City Crew. This is the same gang that opened gunfire at a crowded community swimming pool in June 1993, wounding six children. This past Saturday, police found Darryl's frozen body. He had been shot once in the back of the head and at least once in the body.

The three teenagers who are now charged with Darryl's murder have had numerous prior brushes with the law. One of Darryl's assailants was charged as a juvenile with possession of PCP in 1995 and then was released—as is too often the case—promising not to run afoul of the law again. Another of Darryl's assailants was, and is, on probation following his juvenile conviction last spring for possession of PCP with intent to distribute. Darryl's third assailant was charged as a juvenile just last month with carrying a deadly weapon.

Mr. President, from 1984 to 1994, the number of juveniles murdered in this country increased 82 percent. In 1994, one of every five juveniles murdered was killed by another juvenile. The rate at which juveniles 14 to 17 years old were arrested for murder grew by 22 percent from 1990 to 1994 and the problem is going to get worse, much worse.

Congress over the last three decades has established 131 separate Federal programs—administered by 16 different departments and agencies—to serve delinquent and at-risk youth, according to a report issued by GAO last March. Conservative estimates of Federal appropriations used for these at-risk and delinquent youth programs was more than $4 billion in fiscal year 1995.

Despite this ongoing massive expenditure, the Federal Government has failed to meet its responsibility of providing public safety in this arena because it has not focused on holding juveniles accountable for their violent crimes. We now have a new category of offenders that requires a different, tougher approach. In short, we have criminals in our midst—young criminals—not juvenile pranksters and truants.

The juvenile offenders of today will become the career criminals of tomorrow, if government continues to fail to recognize that America has an acute social illness that cannot be cured solely with money spent on social programs. This legislation introduced today takes a common sense approach in dealing with the current epidemic of juvenile violence. It would help States make urban, suburban, and rural communities safe once again.

The bill would provide $2.5 billion over 5 years in new incentive grants for States to enact accountability-based reforms in their juvenile justice systems. This legislation would authorize funding for various programs, including efforts aimed at trying our most violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share such criminal histories and information within a State, with other States, and with the Federal Government; and establishing Serious Habitual Offender Comprehensive Action Program [SHOCAP]. Religious organizations would also be permitted to participate in the rehabilitative programs included in the bill.

Mr. President, serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that was created around the time of the silent film. We are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and then turns around and hugs the juvenile terrorist, whispering ever so softly into his ear, ''Don't worry, the State will cure you.''

The juvenile justice system's primary goal today is to treat and rehabilitate the juvenile offender. Such a system can handle runaways, truants, and other status offenders; but it is ill-equipped to deal with those who commit serious and violent juvenile crimes repeatedly.

The criminal justice system can emphasize to adult criminals that acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This legislation would provide financial assistance to States to help them reform their juvenile justice system to get the message to juveniles that their acts have real consequences to them as well. States will be eligible to receive Federal funds to help provide for the adult prosecution—as a matter of law or prosecutorial discretion—of juveniles 14 or older who commit violent crimes such as murder, forcible rape, armed robbery, and assault with a deadly weapon or offenses involving controlled substances or involving the possession of a firearm or a destructive device.

Mr. President, punishing dangerous juveniles as adults is an effective tool in fighting violent juvenile crime. For example, in Jacksonville, FL, State Attorney Harry Shorstein instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, the number of juveniles arrested in the city dropped from 7,184 to 5,475. While juvenile arrests increased for most of the Nation, Jacksonville's arrest rate actually decreased by 30 percent.

Mr. President, States also need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge those records when the juvenile reaches age 18. The time has come to discard the anachronistic idea that crimes committed by juveniles, no matter how heinous, must be kept confidential from the rest of society.

Our laws continue to view juveniles through the benevolent prism of basically good kids gone astray. The law should really view the juvenile predators of today as the criminals that they are. These young criminals know that they can commit crime after crime because their juvenile records are kept hidden under a ''veil of secrecy.'' They also know that when they reach their 18th birthday, they can begin a second career as adult criminals as if they had never committed a crime in their young lives. The argument is that we are protecting juveniles from the stigma of a record, but in reality we are coddling hardened criminals. We must separate rhetoric from reality by lifting the ''veil of secrecy.''

The law enforcement community needs to know if an individual has a prior juvenile criminal record in order to conduct criminal investigations and apprehend those responsible for crimes in their towns, cities, and counties.

According to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police, law enforcement is in desperate need of access to juvenile criminal records. The police chief says, ''Current juvenile records (both arrest and adjudication) are inconsistent across the States, and are usually unavailable to the various programs' staff who work with youthful offenders.'' Chief Walchak also notes that ''there are only 26 States that even allow law enforcement access to juvenile records * * * if we [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene.''

Mr. President, it is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the ''veil of secrecy'' draped over their criminal histories and records undermines the ability of law enforcement to protect the rest of society.

In order to empower local law enforcement, the proposed bill would provide money to States to create and maintain juvenile criminal records, and to share those records with other federal, State, and local law enforcement agencies.

Mr. President, school officials also need access to juvenile criminal records to assist them in protecting the best interests and safety of all students. The decline in school safety across the country can be attributed to a significant degree to laws that put the protection of dangerous students ahead of protecting innocent, law-abiding students. While visiting with school officials in Sikeston, MO, a teacher told me how one of her students came to school wearing an electronic monitoring ankle bracelet. The student told the teacher, ''You don't know if I'm a murderer or a rapist and I ain't gonna tell you.'' That student was not only brutally honest, he was right. No one had any knowledge of what crime he had committed and, more importantly, they had no way of finding out.

If schools knew the histories of violent juveniles, they could respond to any misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student's locker near a teacher's doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence against other children at school.

Mr. President, for purposes of adult sentencing, adult courts need to know that convicted felons have a history of criminal behavior. According to the 1991 Survey of Inmates in State Correctional Facilities, nearly 40 percent of prison inmates also had prior criminal records as juveniles. That is approximately 4 in 10 prison inmates. The proposed legislation would allow adult courts to have access to juvenile records so that criminals could no longer masquerade as neophytes before the adult criminal justice system.

The bill also allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program [SHOCAP].

SHOCAP is a multi-agency crime analysis and case management process for identifying and prosecuting violent and hard-core juvenile offenders in a community. SHOCAP targets such serious habitual offenders for intensive social supervisory interventions, intensive accountability in school attendance and discipline, and strenuous investigation and prosecution when they commit a new crime.

The Office of Juvenile Justice and Delinquency Prevention [OJJDP] conducted five test pilots of SHOCAP. Oxnard, CA was one of the sites selected. When SHOCAP was implemented in Oxnard in 1983, officials found that less than 2 percent of all juveniles arrested in that community were responsible for over 35 percent of the felonies committed by juveniles. Four years later, Oxnard's juvenile violent crime dropped 38 percent. Illinois and Florida have also recently established statewide SHOCAP programs in an effort to reduce their juvenile crime rates. S. 10 would allow all jurisdictions to use Federal funds to help implement SHOCAP.

Mr. President, reforms are also necessary at the Federal level as well. S. 10 would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older without having to go through the Attorney General's office in Washington.

Federal juvenile court proceedings would be opened to the general public. When imposing a sentence, the district court would also be allowed to consider a juvenile's entire criminal record under the bill. In any case in which a juvenile is tried as an adult, access to the record of that offense would be made available to law enforcement authorities and others in the same manner that adult criminal records are publicly available.

Mr. President, the government should also be able to mount a counterattack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. Gangs are no longer concentrated in the big cities, they are now in rural towns. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We as a nation and a government must challenge this culture of violence and restore the culture of personal responsibility and accountability. It is high time to consider hard-headed and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish severely. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message to violent juveniles: ''Serious acts have serious consequences.''

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, it was not quite 12 months ago—on Friday, February 23, 1996—that the Federal debt broke the $5 trillion sound barrier for the first time in history. The records show that on that day, at the close of business, the debt stood at $5,017,056,630,040.53.

Just 20 years earlier, in 1976, the Federal debt stood at $629 billion—and that was after the first 200 years of America's history had elapsed, including two world wars. Then the big spenders really went to work and the interest on the Federal debt really began to take off—and, presto, during the past two decades the Federal debt has soared into the stratosphere, increasing by more than $4 trillion in two decades from 1976 to 1996.

So, Mr. President, as of the close of business Friday, January 17, 1997, the Federal debt stood—down-to-the-penny—at $5,309,774,506,681.99. On a per capita basis, every man, woman, and child in America owes $19,917.66 as his or her share of that debt.

This enormous debt is a festering, escalating burden on all citizens and especially it is jeopardizing the liberty of our children and grandchildren. As Jefferson once warned, ''to preserve [our] independence, we must not let our leaders load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.''

Was Mr. Jefferson right, or what?

N O T I C E

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 7:19 p.m. adjourned until Wednesday, January 22, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 21, 1997:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AYSE MANYAS KENMORE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2000. (REAPPOINTMENT)

LEGAL SERVICES CORPORATION

JOHN T. BRODERICK, JR., OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1999. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

SUSAN E. TREES, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2002, VICE PETER SHAW, TERM EXPIRED.

INTER-AMERICAN FOUNDATION

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION, FOR A TERM EXPIRING SEPTEMBER 20, 2002, VICE ALEXANDER FLETCHER WATSON.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

PAUL ALBERT BISEK, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

SUSUMO KEN YAMASHITA, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

SUSAN KUCHINSKI BREMS, OF THE DISTRICT OF COLUMBIA
CHRISTINE M. BRYNE, OF VIRGINIA
JAMES ERIC SCHAEFFER, OF FLORIDA

DEPARTMENT OF COMMERCE

KARLA B. KING, OF FLORIDA
TERRY J. SORGI, OF WISCONSIN

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

U.S. INFORMATION AGENCY

TANIA BOHACHEVSKY CHOMIAK, OF FLORIDA
LINDA JOY HARTLEY, OF CALIFORNIA
SHARON HUDSON-DEAN, OF PENNSYLVANIA
CONSTANCE COLDING JONES, OF INDIANA
STEVEN LOUIS PIKE, OF NEW YORK
DAVID MICHAEL REINERT, OF NEW MEXICO

DEPARTMENT OF STATE

SARAH J. METZGER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA EFFECTIVE JUNE 28, 1996:

DEPARTMENT OF STATE

MARC C. JOHNSON, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA

ROBERT L. ADAMS, OF VIRGINIA
VEOMAYOURY BACCAM, OF IOWA
DOUGLASS R. BENNING, OF THE DISTRICT OF COLUMBIA
STEVEN A. BOWERS, OF VIRGINIA
MICHAEL A. BRENNAN, OF CONNECTICUT
KERRY L. BROUGHAM, OF CALIFORNIA
ANDREA BROUILETTE-RODRIGUEZ, OF MINNESOTA
PAAL CAMMERMEYER, OF MARYLAND
PRISCILLA CARROLL CASKEY, OF MARYLAND
JULIANNE MARIE CHESKY, OF VIRGINIA
CARMELA A. CONROY, OF WASHINGTON
JULIE CHUNG, OF CALIFORNIA
EDWARD R. DEGGES, JR., OF VIRGINIA
THOMAS L. ELMORE, OF FLORIDA
WAYNE J. FAHNESTOCK, OF MARYLAND
DENIS BARRETT FINOTTI, OF MARYLAND
KENNETH FRASER, OF MARYLAND
GARY R. GIUFFRIDA, OF MARYLAND
PATRICIA M. GONZALEZ, OF TEXAS
DAVID J. GREENE, OF NEW YORK
RAYMOND FRANKLIN GREENE III, OF MARYLAND
RONALD ALLEN GREGORY, OF TENNESSEE
DEBORAH GUIDO-O'GRADY, OF VIRGINIA
AUDREY LOUISE HAGEDORM, OF VIRGINIA
PATTI HAGOPIAN, OF VIRGINIA
CHARLES P. HARRINGTON, OF VIRGINIA
RONALD S. HIETT, OF VIRGINIA
RUTH-ERCILE HODGES, OF NEW YORK
KRISTINA M. HOTCHKISS, OF VIRGINIA
ANDREAS O. JAWORSKI, OF VIRGINIA
RALPH M. JONASSEN, OF NEW YORK
MARNI KALUPA, OF TEXAS
JANE J. KANG, OF CALIFORNIA
SARAH E. KEMP, OF NEW YORK
FREDERICK J. KOWALESKI, OF VIRGINIA
STEVEN W. KRAPCHO, OF VIRGINIA
GREGORY R. LATTANZE, OF VIRGINIA
CHARLES W. LEVESQUE, OF ILLINOIS
JANICE O. MACDONALD, OF VIRGINIA
C. WAKEFIELD MARTIN, OF TEXAS
BRIAN I. MCCLEARY, OF VIRGINIA
ALAN D. MELTZER, OF NEW YORK
DAVID J. MICO, OF INDIANA
CHRISTOPHER S. MISCIAGNO, OF FLORIDA
JOSEPH P. MULLIN, JR., OF VIRGINIA
BURKE O'CONNOR, OF CALIFORNIA
EDWARD J. ORTIZ, OF VIRGINIA
MARIA ELENA PALLICK, OF INDIANA
DAVID D. POTTER, OF SOUTH DAKOTA
ERIC N. RICHARDSON, OF MICHIGAN
HEATHER C. ROACH, OF IOWA
TAYLOR VINSON RUGGLES, OF VIRGINIA
THOMAS L. SCHMIDT, OF SOUTH DAKOTA
JONATHAN L.A. SHRIER, OF FLORIDA
JAMES E. SMELTZER III, OF MARYLAND
CHRISTINE L. SMITH, OF VIRGINIA
KEENAN JABBAR SMITH, OF PENNSYLVANIA
BRIAN K. STEWART, OF VIRGINIA
CHRISTINE D. STUEBNER, OF NEW YORK
STEPHANIE FAYE SYPTAK, OF TEXAS
ERMINIDO TELLES, OF VIRGINIA
MARK TESONE, OF VIRGINIA
MICHAEL ANTHONY VEASY, OF TENNESSEE
GLENN STEWART WARREN, OF CALIFORNIA
MARK E. WILSON, OF TEXAS
ANTHONY L. WONG, OF VIRGINIA
GREGORY M. WONG, OF MISSOURI
KIM WOODWARD, OF VIRGINIA
MARTHA-JEAN HUGHES WYNNYCZOK, OF VIRGINIA
TERESA L. YOUNG, OF VIRGINIA

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JOHN WEEKS, OF VIRGINIA

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

LARRY CORBETT, OF NEVADA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

HANS J. AMRHEIN, OF VIRGINIA

DEPARTMENT OF STATE

PHYLLIS MARIE POWERS, OF TEXAS
MICHAEL S. TULLEY, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KIMBERLY J. DELANEY, OF VIRGINIA
EDITH FAYSSOUX JONES HUMPHREYS, OF NORTH CAROLINA

DEPARTMENT OF STATE

JEMILE L. BERTOT, OF CONNECTICUT

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALFRED B. ANZALDUA, OF CALIFORNIA
DAVID A. BEAM, OF PENNSYLVANIA
DONALD ARMIN BLOME, OF ILLINOIS
P.P. DECLAN BRYNE, OF WASHINGTON
LAUREN W. CATIPON, OF NEW JERSEY
JAMES PATRICK DEHART, OF MICHIGAN
JOSEPH DEMARIA, OF NEW JERSEY
MICHAEL RALPH DETAR, OF NEW YORK
RODGER JAN DEUERLEIN, OF CALIFORNIA
STEPHEN A. DRUZAK, OF WASHINGTON
MARY EILEEN EARL, OF VIRGINIA
LINDA LAURENTS EICHBLATT, OF TEXAS
JESSICA ELLIS, OF WASHINGTON
STEPHANIE JANE FOSSAN, OF VIRGINIA
CHRISTOPHER SCOTT HEGADORN, OF THE DISTRICT OF COLUMBIA
HARRY R. KAMIAN, OF CALIFORNIA
MARC E. KNAPPER, OF CALIFORNIA
BLAIR L. LABARGE, OF UTAH
WILLIAM SCOTT LAIDLAW, OF WASHINGTON
KAYE-ANN LEE, OF WASHINGTON
BRIAN LIEKE, OF TEXAS
BERNARD EDWARD LINK, OF DELAWARE
LEE MACTAGGART, OF WASHINGTON
RICHARD T. REITER, OF CALIFORNIA
KAI RYSSDAL, OF VIRGINIA
NORMAN THATCHER SCHARPF, OF THE DISTRICT OF COLUMBIA
JENNIFER LEIGH SCHOOLS, OF TEXAS
JUSTIN H. SIBERELL, OF CALIFORNIA
ANTHONY SYRETT, OF WASHINGTON
HERBERT S. TRAUB III, OF FLORIDA
ARNOLDO VELA, OF TEXAS
J. RICHARD WALSH, OF ALABAMA
DAVID K. YOUNG, OF FLORIDA
DARCY FYOCK ZOTTER, OF VERMONT

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF STATE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEREK A. BOWER, OF VIRGINIA
STEVEN P. CHISHOLM, OF VIRGINIA
HENRY J. HEIN, JR., OF VIRGINIA
HOLLY ANN HERMAN, OF VIRGINIA
E. KEITH KIRKHAM, OF MAINE
MARY PAT MOYNIHAN, OF VIRGINIA
JOHN W. RATKIEWICZ, OF NEW JERSEY

SECRETARY OF THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

WILLIAM B. CLATANOFF, JR., OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 18, 1992:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH B. BOLLMANN, OF MISSOURI
MARSHA D. VON DUEREKHEIM, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992 NOW TO BE EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW TO BE EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

SYLVIA G. STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE OCTOBER 12, 1986:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOAN ELLEN CORBETT, OF VIRGINIA
JUDITH RODES JOHNSON, OF TEXAS
MARY ELIZABETH SWOPE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON NOVEMBER 6, 1988, NOW EFFECTIVE JANUARY 3, 1988:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

SYLVIA STANFIELD, OF TEXAS

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON APRIL 7, 1991, NOW EFFECTIVE NOVEMBER 19, 1989:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

VIRGINIA CARSON YOUNG, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 6, 1991, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDITH M. HEINMANN, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE APRIL 7, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JUDY LANDSTEIN MANDEL, OF THE DISTRICT OF COLUMBIA
MARY C. PENDLETON, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE, PREVIOUSLY PROMOTED INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED ON OCTOBER 18, 1992, NOW EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JEANANNE LOUIS, OF VIRGINIA
SHARON MERCURIO, OF CALIFORNIA
RUTH H. VAN HEUVEN, OF CONNECTICUT
ROBIN LANE WHITE, OF MASSACHUSETTS

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

TERRENCE J. BROWN, OF VIRGINIA
KELLY C. KAMMERER, OF THE DISTRICT OF COLUMBIA
LINDA E. MORSE, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ROSE MARIE DEPP, OF MARYLAND
GREGORY F. HUGER, OF THE DISTRICT OF COLUMBIA
GEORGE JONES, OF COLORADO
LINDA N. LION, OF VIRGINIA
CARLOS E. PASCUAL, OF THE DISTRICT OF COLUMBIA
ERIC R. ZALLMAN, OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

HARRY F. BIRNHOLZ, OF NEW YORK
PAUL A. BISEK, OF ILLINOIS
DOUGLAS A. CHIRIBOGA, OF VIRGINIA
PAUL R. DEUSTER, OF VIRGINIA
WILLIAM J. GARVELINK, OF VIRGINIA
VIVIANN GARY, OF WASHINGTON
GENE V. GEORGE, OF NEW YORK
RICHARD H. GOLDMAN, OF FLORIDA
RICHARD J. GOUGHNOUR, OF FLORIDA
FREDERICK J. GUYMONT, OF FLORIDA
JOHN VAN D. LEWIS, OF THE DISTRICT OF COLUMBIA
JOHN R. MARTIN, OF ILLINOIS
LOUIS MUNDY III, OF FLORIDA
EVERETT B. ORR, OF FLORIDA
KAREN M. POE, OF VIRGINIA
THOMAS LEE RISHOI, OF FLORIDA
TERRENCE P. TIFFANY, OF OREGON

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES INFORMATION AGENCY FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

MARILYN MCAFFE, OF FLORIDA

EXTENSIONS OF REMARKS

ADOPTING THE RULES OF THE HOUSE FOR THE 105TH CONGRESS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, during the debate on House Resolution 5, adopting House Rules for the 105th Congress, my good friend from Michigan [Mr. DINGELL] inserted a statement in the RECORD complaining about the provision in the rules packages that reduces from 3 days to 2 days after a measure or matter is approved by a committee, the time for filing additional, supplemental or minority views. To quote from his statement:

> I find it ironic indeed that during the 40 years of control by the Democratic Party, we never considered limiting this fundamental right of the minority to file views on legislation. Yet after just 2 years in control of the House, the Republicans have found the granting of 3 whole days to the minority to file its views as somehow being too onerous.

Mr. Speaker, I am responding to that inserted speech by inserting my own rebuttal under the general leave granted to Members to revise and extend their remarks on House Resolution 5.

I only regret that the gentleman from Michigan [Mr. DINGELL] was apparently not on the floor to hear my opening statement on the rules package in which I explained that the proposal for 2 rather than 3 days to file views was originally made by Rules Committee Chairman JOE MOAKLEY before the Joint Committee on the Organization of the Congress in the 103d Congress. Moreover, when the joint committee did not include that proposal in its recommended bill (H.R. 3801, Representative HAMILTON, Feb. 4, 1994), the chairman inserted it in his chairman's mark or substitute for the joint committee's bill.

We did not object to the proposal when Mr. MOAKLEY testified in support of it before the joint committee on May 20, 1993. Nor did we object to it when he included it in his chairman's mark of August 1, 1994. Nor did we present an amendment to the Rules Committee to delete it during the committee markup of H.R. 3801 on August 4, 1994—even though we did file with the committee a rather lengthy package of other amendments we intended to offer.

Although the markup was suspended on August 4 by Chairman MOAKLEY over the prospect of a repeal of proxy voting, after only one majority amendment had been disposed of, it should be made quite clear that the suspension of the markup was not caused by any Rules Committee Republican opposition raised or noticed on the 2-day rule for filing views.

Indeed, if that had been even a minor factor in the chairman's reasons for suspending markup, I doubt very much that he would have included the very same 2-day rule in his subsequent chairman's mark of September 19, 1994.

As I indicated to the House in my opening remarks on this rule package for the 105th Congress, we were offering the Moakley 2-day rule for filing views in the spirit of bipartisanship, giving him full recognition for being the author of the proposal, and full support for the Moakley rule. So the gentleman from Michigan is just factually, dead wrong in asserting that such a rule was never proposed by the Democrats in all of its 40 years of control of the House. In fact it was, and came very close to being adopted just prior to the 1994 elections when we gained control of the House.

As Mr. MOAKLEY made clear in his testimony before the joint committee in 1993, it was his hope that by shortening the period for filing views, it would be less necessary in the future for the Rules Committee to waive the 3-day requirement for reports to be available to Members before they can be considered by the House. We share that same hope.

Mr. Speaker, with that I insert at this point in the RECORD the testimony of Mr. MOAKLEY before that joint committee in 1993, as well as the relevant text of his rule from his August 1 and September 19, 1994, chairman's marks for H.R. 3801, which also included the automatic filing authority for committees on the second day.

The materials follow:

STATEMENT OF THE HONORABLE JOHN JOSEPH MOAKLEY, CHAIRMAN, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES BEFORE THE JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS, MAY 20, 1993

Mr. Chairman, I would like to thank the Joint Committee for the opportunity to appear before you today to talk about committee and floor procedures in the U.S. House of Representatives. As Chairman of the House Rules Committee, I realize I am an obvious spokesperson for the procedures by which bills are considered in the House. I do not come before you today to blindly defend our current practices. Rather, I view this as a valuable and essential opportunity to take an objective, critical look at our rules and procedures and to comment on what areas might possibly be improved.

Before getting to specifics, I would like to briefly express my gratitude to the Joint Committee for the work it has done to date. I commend the Committee for both its diligence and the seriousness with which it has undertaken its work. Yours is not an easy task, I know. Change is always difficult, particularly when it is uncertain whether the proposed changes will actually improve the status quo. I can appreciate the enormity of your assignment and hope that my comments today assist you with your comprehensive evaluation of the Institution.

Reflecting upon the atmosphere in Congress of late, I must confess that I am almost relieved that we have reached this juncture—it is time for us to confront our problems, either real or perceived, and resolve them one way or another. In my twenty-one years in Congress, I have never experienced partisan tensions as aggravated and sustained as they have been over the past couple of years. While a certain amount of sparring between the parties is unavoidable, healthy even, I believe we have far surpassed the level of disagreement that characterizes a healthy democracy.

I am most concerned with the element of distrust that seems to pervade our daily interactions. We cannot do our jobs well when we distrust those with whom we work. We were sent here to make sound, well-reasoned policy decisions on behalf of our constituents, our country and the world. I am deeply concerned that the public good is being compromised in the conflicts of our rival parties.

It is out of these concerns that I admit certain changes are needed. On the procedural front, I think I can recommend several improvements which will not only enhance the quality of deliberation in the House of Representatives, but will also lessen some of the partisan jealousies which arguably consume too much of our time and energy. As I have not yet talked with the Speaker about these ideas, I in no way wish to imply that my remarks today reflect the sentiments of the Leadership.

First, I would like to note the Democratic Leadership's recent efforts to allow for more open, inclusive debate. By inclusive I mean providing for greater participation by both the majority and the minority. The views of the minority are a vital component of the legislative process, and within reason, should be accommodated. I say within reason because underlying the legislative procedures of the House is the general principle that a determined majority of members should be able to work its will on the floor without undue delay by the minority. While House rules and procedures generally recognize the importance of permitting any minority, partisan or bi-partisan, to present its views and prepare alternatives, the rules do not enable that minority to filibuster or use other devices to prevent the majority from accomplishing its objectives in a timely manner.

I think everyone would agree that it is the prerogative of the majority party leadership to both set the legislative agenda and to provide for the orderly consideration of legislation in the House. And while the role of the Rules Committee is to try to facilitate the Leadership's legislative agenda, its power is not without limitation. The Rules Committee can only recommend special rules to the House—it cannot impose its recommendations on the membership. It is for the House to decide, by majority vote, whether it is prepared to accept the ground rules, including any restrictions on amendments that the Committee proposes.

The Rules Committee structures its rules based not only on the views of its members, but also on its perception of what a majority—218 members—of the House is prepared to support. Ultimately, the House agenda is subject to control by a voting majority. This majority is not static, nor is it strictly partisan. Rather it is continually shifting and must be constructed and reconstructed from one issue to the next.

Unfortunately, bare statistics do not always reflect the considerations behind the types of rules reported by my Committee. The first ten rules reported by the Rules Committee in the 103rd Congress were indeed by definition ''restrictive'', that is, providing certain limitations on the number or types of amendments that could be offered. But while my friends on the other side of the aisle suggest that there amendments were arbitrarily rejected by the Rules Committee, this simply isn't true.

Before condemning the Democratic Leadership as callous or insensitive to the ideas

of the minority, one must examine the nature of the bills and the types of amendments offered. Interestingly, of the ten examples cited by the Republican Leadership Task Force on Deliberative Democracy as egregious examples of the Rules Committee unreasonably denying amendments for floor consideration, the first five amendments were not even germane to the measures being considered. It is common knowledge that House rules and precedents require all amendments to be germane to the text they would amend. Therefore, I see nothing unreasonable about the Rules Committee's decision not to make these amendments in order. Moreover, another two amendments cited by the Task Force would have been subject to other points of order. In sum, seven of the ten amendments cited by the Task Force would not even have been made in order under an open rule.

As for the restrictive rules that the Rules Committee has reported to date, let me say this: the baseball season is only one month old—just because the Tigers are now in the lead doesn't mean they're going to win the pennant. In other words, be patient. There is no rigid program governing the types of rules to be reported by the Rules Committee. Rather, each rule will be determined on a case by case basis.

As you know, the Rules Committee recently reported open rules on three bills—nobody should be surprised when such contentious issues such as reconciliation and campaign finance are considered under structured rules—but as the House moves further into its legislative season I anticipate more open rules being reported by my committee.

Another change I would recommend relates to the motion to recommit. The change would arguably strengthen the minority's ability to act as a constructive partner in the development of legislation. I endorse a modification of the plan proposed by Tom Mann and Norm Ornstein in one of their earlier reports to the Joint Committee.

I propose amending House Rule XVI, clause 4, so as to guarantee the minority a motion to recommit with instructions whenever a special order reported by the Rules Committee precludes the minority from offering amendments in the Committee of the Whole. This right would be subject to a couple of conditions. First, the motion would be guaranteed only if offered at the specific direction of the Minority Leader or his designee. Second, upon receipt of the motion, the Speaker would have the power to postpone debate and votes on the motion and final passage for up to two hours.

I consider these conditions to be reasonable as they would allow the minority a vote on its position on major issues and at the same time allow the majority a reasonable amount of time within which to prepare its response to the minority's alternative. Theoretically, limiting control of the motion to recommit to the Minority Leader or his designee would ensure that the motion would be used in a serious, constructive manner. Members with fringe views would be unable to make frivolous motions.

A third change I would recommend involves clause 2(l) (5) and (6) of House Rule XI which respectively provide for a three day period within which members may file supplemental, additional or minority views to be included in a committee's report, and an additional three day period for members to review the committee report before the measure is considered by the House. In his recent statement before the Joint Committee, Mr. Solomon expressed concern that the opportunity for members to review committee reports was too often being waived due to scheduling considerations. Let me say I empathize with Mr. Solomon and hope that my plan alleviates some of his concerns.

My proposal tries to balance the legitimate need for flexibility in scheduling legislation for floor action with the important right of members to express their alternative views and to review committee reports prior to debating a measure on the House floor. I don't believe the rule as it is presently written allows us to use our time efficiently. Presently, the three day period for filing views begins to toll the day immediately following the day on which a committee orders a measure reported and expires at midnight of the third day. Since presently there is no automatic authority for a committee to file immediately upon the expiration of this third day, it may be another day before the committee files its report, and yet another day before the report becomes available in the document room. Only then will the three day layover period for members' review of the report begin. Thus, more than two weeks may go by before a bill becomes available for floor consideration.

In the interest of both preserving this important right and using our time well I would recommend the following: tighten the way in which the three day period for filing views is calculated by starting the clock tolling immediately upon a committee's ordering of a bill reported. Often many valuable hours remain in a day on which a bill is ordered reported. Additionally, I would recommend giving committees automatic authority to file until midnight of the third day.

These changes arguably would achieve the dual goal of allowing for more efficient scheduling of legislation and insuring an adequate period for members to file and review views. While the Committee on Rules would still reserve its right to waive the three day layover requirement, I believe that if these changes were to be made the need for such waivers would be significantly reduced. In fact, I think it is safe to assert that had this proposal been in place earlier this Congress, none of the waivers of the three day layover period granted by my Committee would have been necessary.

My final recommendation is that the House, in some manner, implement the Oxford-Union style debate program proposed by Norm Ornstein and Tom Mann. Such a program strikes me as a useful vehicle for conducting thoughtful, substantive, and balanced debate on important national issues. Unlike one-minutes or special orders which tend to be one-sided monologues free of contest or rebuttal, such a program would allow for a meaningful exchange of ideas between members and would serve as a valuable supplement to our regular debate time on major legislation.

In closing, I would like to add that I agree with the prevailing sentiment that procedural or mechanical changes alone will not cure the ailments of this Institution. Attitudinal change is as important an ingredient. I am encouraged by the progress that is already being made in this area and hope that we can sustain this spirit of cooperation throughout the 103rd Congress.

I again thank the members of the Joint Committee for this opportunity to testify before you today. I would be happy to answer any questions.

FROM MOAKLEY SUBSTITUTE FOR H.R. 3804, AUG. 1, 1994

SEC. 112. AVAILABILITY OF LEGISLATIVE INFORMATION.

(a) VIEWS.—Clause 2(l)(5) of rule XI of the Rules of the House of Representatives is amended—

(1) in its first sentence, by inserting ''and including the day the measure or matter is approved'' after ''holiday''; and

(2) after its second sentence, by inserting the following new sentence: ''Upon receipt of all such views, the committee may (without permission of the House) file the report until midnight of the third such calendar day.''.

AMENDMENT TO H.R. 3801 OFFERED BY MR. MOAKLEY, SEPTEMBER 19, 1994

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Legislative Reorganization Act of 1994''.

RESPONSES TO QUESTIONS AND COMMENTS ON HOUSE RESOLUTION 5, ADOPTING HOUSE RULES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, since the House adopted House Resolution 5 on January 7, 1997, establishing the standing rules of the House for the 105th Congress, several questions and comments have been raised as to the application or interpretation of the new rules.

Let me first direct my colleagues to the debate on House Resolution 5 in the CONGRESSIONAL RECORD of January 7, 1997, during which additional materials were inserted in the RECORD for the benefit and guidance of Members and committees. The text of the resolution itself begins at page H8 of the RECORD. My introductory remarks explaining the rules package begins at page H10. Immediately after my remarks are a ''Highlights and Section-by-Section Summary'' (pp. H11–12), followed by a more detailed ''Section-by-Section Analysis'' (pp. H12–15), and a letter from Ways and Means Committee Chairman BILL ARCHER further explaining the more specific definition of income tax rate increases contained in House Resolution 5 with respect to the three-fifths-vote rule and the prohibition on retroactive income tax rate increases (p. H15). I have also included in the RECORD a press release and table on comparative legislative data for the 103d and 104th Congresses (pp. H15–16); and a brief history of how the process for adopting House rules at the beginning of a Congress has evolved over the last century (pp. H16–17).

Mr. Speaker, since the adoption of the rules on January 7, I have: First, responded to two letters from colleagues regarding the ''truth-in-testimony rule;'' second, responded to a letter from the minority leader forwarded to my Rules Committee office by the Speaker; and third, written to the Parliamentarian to further clarify the intent and application of the rules that allows for exceptions to the 5-minute limit in questioning hearing witnesses, copies of which have been sent to all committee chairmen and ranking minority members. In addition, I have inserted remarks elsewhere in this RECORD in response to Mr. DINGELL's inserted statement on the new rule on time allowed for filing views on committee reports.

Mr. Speaker, at this point in the RECORD, I include my exchange of correspondence with Representatives FROST and SKAGGS on the ''truth-in-testimony rule''; the minority leader's letter to the Speaker on several provisions in the rules package and my response; and my

letter to the Parliamentarian on the rule allowing for extended questioning of witnesses.

The materials follow:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, December 24, 1996.

Hon. GERALD B. SOLOMON,
Chairman, Committee on Rules, The Capitol, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my opposition to the so-called ''Truth in Testimony'' amendment to the Rules of the House of Representatives. It is my understanding that while this amendment was not included in the package of amendments to the Rules of the House for the 105th Congress approved by the Republican Conference in November, it is currently under consideration for inclusion in that package. While I have not yet been provided with language of this or any other proposed amendment, I must register my strong opposition to including such a potentially far reaching amendment in the Rules of the House without providing those affected the opportunity to comment.

Having served as Chairman of the Democratic Caucus Committee on Organization, Study and Review for 10 years, I am fully aware that rules changes for a Congress are matters that are vetted through the party process. But it was my experience that serious and substantive changes to the operations of the House of Representatives were given ample opportunity to be discussed and analyzed within the Democratic Caucus. Had an amendment of this magnitude been proposed during my tenure as Chairman of that Committee, I can assure you that I would have referred it to the Committee on Rules for consideration in the regular committee process. I urge you to do that in this instance.

I cannot argue that substance of this proposal since I have not yet seen any language. But I do want to make a procedural case against including this amendment in the Republican rules package on January 7. This is a substantive matter and one that deserves full analysis and examination. I urge you, as Chairman of the Committee on Rules, to oppose including the amendment in the Republican rules package.

I appreciate your attention to this matter, and with every best wish for a happy New Year, I remain

Sincerely,

MARTIN FROST.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.

Hon. MARTIN FROST,
Rayburn House Office Building, Washington, DC.

DEAR MARTIN: Thank you for your letter of December 24 expressing your opposition to the new ''Truth-in-Testimony'' rule, and for raising the issue for discussion at our Committee's organizational meeting yesterday.

You are correct that the proposed rule change was not included in the package presented to our Conference on November 22nd. It was initially felt that the Leadership would simply urge committees to adopt it as a committee rule, since nothing in House Rules would preclude that. However, during the discussion of the draft rules package at the November Conference, several Members spoke-out in strong support for including a uniform disclosure requirement in House Rules. The Leadership subsequently agreed with that recommendation and the provision was included in the package that was finally adopted by the Conference on the morning of January 7th.

Your point about the need to refer for Rules Committee consideration rules changes ''of this magnitude,'' and how Democrats did this, is both curious and well taken. I do not recall the proposal for delegate voting in the Committee of the Whole ever being referred to the Rule Committee and yet it was included in your last Democratic House Rules package at the beginning of the 103rd Congress. On the other hand, the Doolittle ''Truth-in-Testimony'' rule was referred to the Rules Committee and was presented to us by Rep. Doolittle on July 17, 1996—the first in a series of four hearings we conducted entitled, ''Building on Change: Preparing for the 105th Congress.'' (See pages 29–33 of printed hearings) So, contrary to your assertion that there has been no opportunity for comment, there has been plenty of opportunity dating back to the July 17th hearing. I'm only sorry you were not able to attend that hearing and therefore missed the testimony and the opportunity to question Rep. Doolittle on his proposal

As a result of some subsequent concerns expressed about the penalty in the Doolittle resolution of expunging a non-complying witness' testimony from the hearing record, we dropped that provision before it was presented to the Conference and the House.

I appreciate your calling my attention to the David Skaggs letter (which was delivered to us in the middle of our organizational meeting yesterday) calling for a Rules Committee hearing to discuss the effect and purpose of the ''truth-in-testimony'' rule.

The simple purpose of the rule is public disclosure of public funds received by an individual or organization so that Members and the public alike will have a better perspective on a witnesses' interests as they relate to the subject matter of a hearing. The simple effect of the rule will be better-informed committee members as they prepare for and participate in their committees' hearings. Too often, such information is requested at a hearing, and witnesses do not have it readily available. Consequently, it is only supplied at a later date for the hearing record when it is too late to ask relevant questions bearing on that information.

Madison, in Federalist 58 referred to the House's ''power over the purse,'' as ''the most complete and effectual weapon with which any constitution can arm the immediate representatives.'' Certainly, in this regard, it is a legitimate function, indeed an obligation, of our committees to have a better understanding of how public funds are being expended—by whom and for what purposes—especially as we continue to downsize the government and move towards a balanced budget. Our hearing and oversight process is one of the best methods we have for obtaining such information so that our committees, and ultimately the Congress, can effectively deliberate and make the best possible and most informed and prudent decisions.

What would be the effect of non- or partial-compliance? As we explained in our section-by-section analysis of the rules package that was inserted after my floor statement on H. Res. 5 yesterday (Congressional Record, Jan. 7, 1997, pp. 11–17), non-compliance would neither prevent a witness from testifying, nor result in the testimony being stricken from the hearing record. However, I think it could result in an objection to a unanimous consent request that the written statement be included in the hearing record, leaving only the oral summary of testimony actually presented as part of the official hearing record.

You can be assured that, just as we did during the 104th Congress with respect to the rules adopted on opening day of that Congress, the Rules Committee will be conducting ongoing oversight of the operation of this and other new rules as we prepare for the 106th Congress.

Sincerely,

GERALD B. SOLOMON,
Chairman.

HOUSE OF REPRESENTATIVES
January 8, 1997.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to request that the Committee on Rules hold a hearing to take testimony and discuss the effect and purpose of section 10 of the H. Res. 5, adopting the Rules of the House of Representatives for the One Hundred Fifth Congress.

As you know, section 10, the so-called ''Truth in Testimony'' provision, requires any person appearing in a nongovernmental capacity as a witness before committees of the House to include as part of her written statement a list of the amount and source of all federal grants, subgrants, contracts, or subcontracts received during the previous three fiscal years by the witness or entities she represents.

As I stated yesterday on the Floor of the House, I have strong concerns about the effect and purpose of section 10 and regret that it was adopted without the full and thoughtful consideration made possible by committee hearings.

I believe this provision will only create another barrier to citizens exercising their right to petition the government, in this case the House of Representatives. In many cases, this provision will also force organizations to divert resources from productive work to the paperwork and administrative activities made necessary by the provision's requirements.

Again I urge the Committee on Rules to schedule a hearing to consider the effects of section 10 of H. Res. 5.

Sincerely yours,

DAVID E. SKAGGS.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.

Hon. DAVID E. SKAGGS,
Longworth House Office Building, Washington, DC.

DEAR DAVID: Thank you for your letter of January 8 urging that the Rules Committee hold a hearing to discuss the effect and purpose of the new ''truth-in-testimony'' rule.

The fact is that we did hold a hearing on July 17, 1996, at which the proposal was presented by its sponsor, Rep. Doolittle, and discussed. The testimony was offered as part of our series of four hearings (at which you testified) entitled, ''Building on Change: Preparing for the 105th Congress,'' from which many of the rules changes adopted by the House were initially proposed.

The simple purpose of the rule is public disclosure of public funds received by an individual or organization so that Members and the public alike will have a better perspective on a witnesses' interests as they relate to the subject matter of a hearing. The simple effect of the rule will be better-informed committee members as they prepare for and participate in their committees' hearings. Too often, such information is requested at a hearing, and witnesses do not have it readily available. Consequently, it is only supplied at a later date for the hearing record when it is too late to ask relevant questions bearing on that information.

Madison, in Federalist 58 referred to the House's ''power over the purse,'' as ''the most complete and effectual weapon with which any constitution can arm the immediate representatives.'' Certainly, in this regard, it is a legitimate function, indeed an

obligation, of our committees to have a better understanding of how public funds are being expended—by whom and for what purposes—especially as we continue to downsize the government and move towards a balanced budget. Our hearing and oversight process is one of the best methods we have for obtaining such information so that our committees, and ultimately the Congress, can effectively deliberate and make the best possible and most informed and prudent decisions.

What would be the effect on non- or partial-compliance? As we explained in our section-by-section analysis of the rules package that was inserted after my floor statement on H. Res. 5 yesterday (Congressional Record, Jan. 7, 1997, pp. 11–17), non-compliance would neither prevent a witness from testifying, nor result in the testimony being stricken from the hearing record. However, I think it could result in an objection to a unanimous consent request that the written statement be included in the hearing record, leaving only the oral summary of testimony actually presented as part of the official hearing record.

I do not think the requirement will, as you assert, ''force organizations to divert resources from productive work to the paperwork and administrative activities made necessary by the provision's requirements.'' Any business or organization that does not have ready access to basic information on the source and amounts of its Federal grants and contracts over the last three years is probably guilty of questionable or sloppy bookkeeping practices, which in turn raises the question of whether they should be entrusted with expending taxpayer funds in the first place.

You can be assured that, just as we did during the 104th Congress with respect to the rules adopted on opening day of that Congress, the Rules Committee will be conducting ongoing oversight of the operation of this and other new rules as we prepare for the 106th Congress.

Sincerely,

GERALD B. SOLOMON,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 9, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Since floor procedures yesterday limited our ability to have a full debate on all of the Republican Conference's recommended rules changes in H.Res. 5, I am writing to notify you of additional objections to certain provisions that our Leadership and minority members have put forth. Please note recommendations on the following seven points:

In section 8(a)(2), strike the proposed new subparagraph (2), providing that investigative and oversight reports will be ''considered as read'' in committee under certain circumstances, and redesignate accordingly;

Strike section 10, placing information burdens on non-governmental public witnesses by requiring them to disclose federal grants and contracts they have received;

Strike section 12, creating exceptions to the five-minute rule in hearings;

Strike section 14, reducing the time allotted for Members to file supplemental, minority, or additional views;

Strike section 15, creating a slush fund for committees;

Strike section 17, permitting ''dynamic scoring'' estimates to be included in reports on major tax bills;

In the last sentence of section 25, strike '', or at the expiration of January 21, 1997, whichever is earlier''.

I would hope that you might consider revisiting these matters in light of minority objections. I am certain that such efforts would enhance the spirit of bipartisanship and comity in the 105th Congress.

Sincerely,

RICHARD A. GEPHARDT.

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 13, 1997.

Hon. RICHARD A. GEPHARDT,
Minority Leader, The Capitol,
Washington, DC.

DEAR MR. LEADER: This to acknowledge your letter regarding the rules changes contained in H. Res. 5. I have asked Rep. Gerald Solomon, chairman of the Committee on Rules, to review your comments to see if some accommodations can be made.

Regardless of the outcome of Chairman Solomon's review and his recommendations, I sincerely hope that you and other members of the Democrat leadership will do your utmost to see that the rules of the House are followed and that decorum is maintained.

Rest assured that the Republican leadership is committed to protecting the decorum of the House and the dignity of its proceedings.

Sincerely,

NEWT GINGRICH,
Speaker.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 1997.

Hon. RICHARD A. GEPHARDT,
Minority Leader, The Capitol,
Washington, DC.

DEAR DICK: This is to acknowledge the Speaker's transmittal to me of your letter expressing concerns about several of the House Rules changes adopted on the opening day of the 105th Congress.

You have asked the Speaker that we might revisit these in light of minority objections, and in the spirit of bipartisanship and comity in the 105th Congress.

As I have already indicated in letter to both Martin Frost and David Skaggs with respect to the ''truth-in-testimony rule'' (one of those on your list), it is my full intention that our Committee will carefully monitor the operation of all the new rules adopted in H. Res. 5 as part of our ongoing oversight responsibilities over House rules and procedures.

As you will recall, during the course of the last Congress the Rules Committee reported modified versions of suggestions that were in your minority opening day rules amendments relating to the gift rule and book advances and royalties. Moreover, towards the end of the second session we held four hearings on ''Building on Change: Preparing for the 105th Congress,'' at which we heard from Members of both parties who had suggestions for further rules changes. Many of those proposals were incorporated in this year's opening day package.

In summary, I fully intend to proceed on a bipartisan basis as we monitor the effectiveness of the rules changes and consider possible adjustments, additions or deletions. I welcome your continuing advice and suggestions as we proceed with this effort.

Sincerely,

GERALD B.H. SOLOMON,
Chairman.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 16, 1997.

Mr. CHARELS W. JOHNSON III,
Parliamentarian of the House, Office of the Parliamentarian, The Capitol, Washington, DC.

DEAR CHARLEY: It is my understanding that some questions have been raised regarding the application of section 12 (''Exceptions to the Five-Minute Rule in Hearings'') of H.Res. 5, adopting House Rules for the 105th Congress. The purpose of this letter is to clarify the intent of that rule.

Section 12 amends clause 2(j)(2) of House Rule XI which previously provided that: ''Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.''

The amendment adopted to that rule by section 12 of H. Res. 5 provides that, ''Each committee may adopt a rule or motion permitting an equal number of its majority and minority party members each to question witnesses for a specified period not longer than 30 minutes,'' and that, ''A Committee may adopt may adopt a rule or motion permitting committee staff for its majority and minority party members to question a witness for equal specified period of time.''

In the section-by-section analysis of the rules changes that I inserted following my introductory remarks on H.Res. 5 (Congressional Record, January 7, 1997, pp. H12–15) it is noted that, ''That rule or motion could permit designated majority or minority party member or staff to question witnesses for a period longer than their usual 5-minute entitlement (p. H14, emphasis added).'' The underscored words were intended to clarify that the exception to the five-minute rule for extended questioning applies to only those members designated. It in no way is meant to supplant the right of other committee members to question witnesses for five-minutes, though the extended questioning period could occur before other members are recognized.

It is not the intent of the rule to permit a motion that provides for further extended questioning of the same witness after 60-minutes of extended questioning has already been allowed. The 60-minutes should be the maximum limit on extended questioning of the same witness, whether by designated majority and minority party members or staff, in order to protect the rights of other members of a committee to exercise their rights to question a witness under the five-minute rule.

The analysis goes on to indicate that: ''A motion under this House rule would not be privileged for any member of a committee to offer. Instead, it would be at the discretion of the chair to recognize a member to offer such a motion.'' However, it is not the intent of this rule that either a committee rule or motion allowing for such extended questioning should be used solely for the purpose of permitting such extended questioning only of witnesses of the chairman's or committee majority's choosing. Just as the rule imposes an equal time requirement for the parties' in the extended period for questioning witnesses, it is expected that the committee chair and/or committee majority would treat the minority fairly in allowing for extended questioning of a witness or witnesses of their choosing, and therefore that such arrangements could be worked out between the chair and ranking minority member in advance of a hearing.

For example, if the majority wishes to apply the extended questioning rule to witnesses A and B, the minority should be allowed to apply the extended questioning to witnesses C and D, i.e., an equal number of witnesses of their choosing. That is not to say that the minority should have a veto over extended questioning of witnesses A and B of the majority's choosing simply because the minority may not want to use their half of the time.

In summary, the rule was designed to provide fairness to both parties, both in terms

of the time allowed for the extended questioning of witnesses, and in the determination of which witnesses may be subjected to such extended questioning.

I hope this will help to further clarify the rule's intent for any questions directed to your office, and for the purposes of any committee rules or motions developed to implement this rule.

Sincerely,

GERALD B.H. SOLOMON,
Chairman.

PAYING TRIBUTE TO SARA AND SIMHA LAINER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Sara and Simha Lainer, close friends of mine for more than 40 years and people passionately dedicated to the welfare of the Jewish community of Los Angeles. This year the couple are receiving the Lifetime Humanitarian Achievement Award from the West Coast Friends of Bar-Ilan University in Israel. I cannot think of two more deserving recipients.

Sara Lainer, a distinguished author of scholarly articles, has been an active volunteer on behalf of Hadassah, Pioneer Women, General Israel Orphans Home, the Yiddish Culture Club, and many other organizations. She continues to lecture in Hebrew and Yiddish to groups in Los Angeles, and she holds an honorary doctorate from the Hebrew Theological College, Jewish University of America. Her commitment to the intellectual and spiritual components of Judaism is extraordinary.

Simha Lainer, who ran a successful real estate business in the San Fernando Valley, is a strong supporter of, and a dedicated volunteer with, the University of Judaism, the Jewish Community Foundation, the ADL, and West Coast Friends of the Hebrew University. Anyone who cares about the Jewish community of Los Angeles owes a huge thanks to him.

In 1989, the Lainers established the Simha and Sara Lainer Fund for Jewish Education, which has thus far awarded $290,000 in scholarships to 400 children around the city. I can think of nothing more important than ensuring Judaism remains vibrant and alive in Los Angeles.

Simha and Sara raised three sons, Mark, Nahum, and Luis, who have followed in the tradition of their parents in working hard on behalf of their community. I am indeed lucky to be good friends with all three, as well as their wives, Ellie, Alice, and Lee.

Mr. Speaker, I ask my colleagues to join me in saluting Sara and Simha Lainer, whose tireless efforts to make this a better world inspire us all.

HONORING THE ROTARY GREATER MIAMI URBAN PEACE CONFERENCE

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mrs. MEEK of Florida. Mr. Speaker, on February 8, 1997, the Rotary Clubs of Dade County will sponsor the Greater Miami Urban Peace Conference at the Wolfson Campus of Miami-Dade Community College.

Inspired by Rotary International President Luis Giay, the conference will focus on solutions to the problems of youth and violence. Rotary seeks to identify effective programs which demonstrate results, but which could benefit from additional assistance to reach their full potential. Rotary's purpose is to go beyond merely examining problems. They want to connect hundreds of Dade County Rotary volunteers with projects to stem youth violence.

I commend the work of Rotary to constructively address a matter of growing local and national concern. It is easy to rush toward punitive measures before providing positive role models to those most in need. Rotary is assembling forces who have the ability to provide real solutions to a very real challenge. I am sure that my colleagues will join me recognizing the Dade County Rotary Clubs for their endeavors.

TRIBUTE TO MRS. ISABEL MÉNDEZ

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to an outstanding Puerto Rican woman, Mrs. Isabel Méndez, who has dedicated her life to taking care of others, especially Hispanics in New York City.

Mrs. Méndez was honored by the House of Puerto Rican Cultural Heritage, known as ''La Casa de la Herencia Cultural Puertorriqueña,'' on January 11 in New York City for her longtime commitment to the advancement of the Hispanic community.

She was born in Yabucoa, Puerto Rico. In 1926, at the age of 17, she came to New York City. Since her arrival, she has fought every day to improve the living conditions of Hispanics and has helped them overcome the difficulties that are a part of the experience of immigrating to a new land.

In 1932, Mrs. Méndez was instrumental in founding the first Hispanic Catholic Church, ''La Milagrosa Church,'' in El Barrio, east Harlem. Together with her husband, Tony Méndez, who was the first Puerto Rican male district leader of the Democratic Party, she fought tirelessly for the welfare of Hispanics in the city.

In 1950, she founded the Puerto Rican Association of Women Voters, which is still in existence. Through this organization she assisted in furthering the advancement of Puerto Rican women. Mrs. Méndez also served as an interpreter for 24 years, first as a volunteer and later on as an employee, at the New York City civil court.

Through her community activism, she has helped to ease the road for those who have come after and who have embraced New York City as their new home. She is the widow of Tony Méndez and the mother-in-law of State Senator Olga A. Méndez.

Mr. Speaker, I ask my colleagues to join me in recognizing Mrs. Isabel Méndez for her devotion to our community and for making all of us Puerto Ricans and fellow Americans proud.

THE FUTURE OF EDUCATION IN AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SOLOMON. Mr. Speaker, let me commend to you the following article from an editorial in the Post Star newspaper in Glen Falls, NY. This article succinctly expresses my reasons for calling for the abolishment of the U.S. Education Department. While this Department was created with a noble eye toward protecting and advancing public education in this country, in reality it has only created dubious Federal mandates while siphoning scarce Federal dollars away from the students that truly need it. By creating an Office of Education to continue to represent public school interests and allowing more parental involvement, students will ultimately be much better served.

[From the Post Star, Glen Falls, NY]

EDUCATION DEPARTMENT NEEDS TO BE DISMANTLED

If you wonder what big idea Bill Clinton intends to ride into history, consider this one: Education.

Everybody agrees education is a wonderful thing, but increasingly, Americans fret about the quality of public schooling. The issue of instructional quality has split the educational establishment. On one side stand votaries of the National Education Association, which has worked long and hard to define mediocrity down. On the other are devotees of educational choice and home schooling, programs designed to spare kids the travail of politically correct education.

Enter President Clinton, promising to bridge the chasm. In a recent speech to the Democratic Leadership Council, he echoed Americans' apprehensions about the state of education: ''We must dramatically reform our public schools, demanding high standards and accountability from every teacher and every student, promoting reforms like public choice, school choice and charter schools in every state.

At the same time, he staked out new ground for Uncle Sam: ''I am not for federal government national standards. But I am for national standards of excellence and a means of measuring it so we know what our children are learning.''

Here is Bill Clinton doing what he does best: bending a conservative issue to liberal ends. He has made it clear in subsequent talks that he wants to defend teachers unions, while creating a larger federal role in determining what students should and shouldn't learn.

That's not an encouraging sign, given recent trends in government-sponsored instruction. As Lynne Cheney has noted to devastating effect, school textbooks today subject students to politically correct nonsense. Some standard history books, for instance, mention Harriet Tubman more often than George Washington, Thomas Jefferson and Robert E. Lee combined!

Meanwhile, self-esteem programs assure students that accuracy isn't everything in mathematics: If you come close, that's good enough. (Tell that to the Internal Revenue Service.)

The President's case for standards rests on the beguiling but dubious notion that experts know enough to set ''proper'' standards. There are no data to support that claim, and considerable evidence that schools tend to thrive in direct proportion to parental involvement in school. In other words, mother and father know best.

Clinton's talk to the Democratic Leadership Council framed the upcoming reform debate. If you want a larger federal role, you're ''for'' education; if you want decentralized control, you're ''against'' standards that could guarantee excellence.

Republicans ought to hop into the fray immediately. The best way to protect the sovereignty of local systems is not to hand more power to the Department of Education. Just the opposite: The goals of excellence and local sovereignty would best be served by dismantling the department, and spinning off the Office of Educational Research and Improvement, which provides important and useful educational research.

Today, the federal government makes educators do everything from diagnosing sexual abuse and distributing condoms to serving as guardians for messed-up kids. At the same time it has heaped new duties on educators, it has clamped down on innovations Washington bureaucrats don't like. This happened to Detroit when local authorities tried to set up all-boys schools to deal with their very real problems.

By shutting down the education department while saving its research office, Congress could give Americans just what Bill Clinton is promising—a revitalized sense of local control, aided by a federal clearinghouse that could offer useful data about what does and doesn't work in the classroom.

TRIBUTE TO JON A. KASTRUP

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the personal achievement of one of our community's most talented and dedicated young men, Mr. Jon A. Kastrup. Jon's own success is sweeter than most, as he not only had to overcome the regular stresses of daily living but, also had to accomplish this while being profoundly deaf.

Many people like Jon would surrender to their condition, but Jon, never questioning his resolve, earned dual degrees in the fields of mechanical engineering and law and now holds the distinction of being one of only four functionally deaf attorneys in the United States. After his graduation from the Brigham Young University's J. Reuben Clark School of Law, Jon served as a legal intern for the U.S. Court of Federal Claims in Washington, DC. Previously, Jon lent his valuable services to the California Center for the Law and Deaf in Oakland, CA where he served as a legal assistant and law clerk, and in the State of Utah as a court appointed special advocate for the Guardian Ad Litem Program.

Jon has also served in several notable capacities for private and public sector institutions, including the Department of Human Development at the Rochester Institute of Technology, where he served as a student development assistant. He was also an engineering aide for the U.S. Navy and previously served as an engineer drafter for the Unidynamic Corp. of St. Louis, MO. Jon has excelled in everything he has set out to accomplish. Despite his physical limitations, he never once relented in his ambition to succeed. Jon has proven that through steadfast dedication and a deep belief in oneself, ''if you can dream it, you can do it.''

TRIBUTE TO BETTE JANE RODRIGUEZ

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to my friend, Bette Jane Rodriguez, who is being recognized by the city of Cudahy on February 13, 1997, as she retired after serving the Treasurer's Office for 33½ year.

Throughout her long and dedicated term, Bette Jane has served as deputy treasurer to several city treasurers. Her leadership while assisting the government of the city of Cudahy to run more effectively and efficiently should be commended.

Ms. Rodriguez has served on the Cudahy Area Business and Professional Women's Club since 1973. She has also served on the Cudahy Democratic Unit by providing assistance on several local and Presidential elections, as well as on the Cudahy Municipal Credit Union and on the Cudahy Historical Society for the last 10 years.

Bette Jane Rodriguez will truly be missed in City Hall, but knowing her as I do, she will only become more active in the community following her retirement. Therefore, it is with great pleasure I join Bette Jane's coworkers, the city of Cudahy, and many friends in honoring her many years of service and contributions to the city of Cudahy.

Best wishes, Bette Jane, and on behalf of the residents of the city of Cudahy, I offer a heartfelt ''thank you'' for your unselfish work over the years and for a job well done.

CONGRESSMAN BILL RICHARDSON: ON TO DIPLOMACY FOR HIS COUNTRY

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. RADANOVICH. Mr. Speaker, a recent event affecting this House leaves us with mixed emotions. We are losing one of our Members, but the service to which he is going is greatly important to our Nation.

Congressman BILL RICHARDSON has been nominated to be America's next Ambassador to the United Nations. In that role, he will serve in the President's Cabinet and be a principal in the guidance and implementation of our country's foreign policy.

I salute President Clinton for his wise choice of BILL RICHARDSON. We need someone with his firmness and no-nonsense approach to represent our interests at the United Nations.

All of us are familiar with BILL RICHARDSON'S record as a hostage negotiator in troubled world areas. He showed on several occasions that he can identify critical issues and find the means of resolution.

My familiarity with BILL RICHARDSON comes not alone from being aware of his creative diplomatic strategies in North Korea, Iraq, and Sudan. I had the good fortune to serve with him on the Resources Committee and on its National Parks, Forests and Lands Subcommittee, where he was the ranking Democrat.

BILL RICHARDSON, as the President said, in announcing his intention to nominate him, also is one of our Nation's most prominent and proud Hispanic leaders. His example is one that reflects pride to that community and his heritage.

In saluting our colleague as he embarks on a new set of challenges, I take pleasure in sharing with the House the following transition of an article that was published recently in the German newspaper, Handelsblatt. Written by diplomatic and political correspondent Viola Herms-Drath, this report makes plain the high hopes America's allies have for the role BILL RICHARDSON will play.

[From the Handelsblatt, Dec. 17, 1996]

CLINTON'S NEW U.N. AMBASSADOR SEEN AS UNORTHODOX DIPLOMAT

With the appointment of the long-time Congressman from New Mexico, Bill Richardson, as Washington's new U.N. Ambassador, U.S. President Bill Clinton has achieved two successful political moves. First, he has placed a politically correct Hispanic on his team and, second, he has appointed a creative diplomat with style and a great deal of tact. Clinton has no doubts that Richardson will be able to represent U.S. interests and ideals at the U.N. and in the world.

Richardson first came to public notice through his exploits in the political arena, especially because of his spontaneous actions for the release of American citizens being held by totalitarian countries, from North Korea to Bangladesh, Cuba and Iraq. Just a week ago this son of a Mexican mother and an American father was in the Sudan, negotiating an arrangement for the release of two Red Cross pilots and an Australian nurse. Richardson's extraordinary diplomatic mission began by chance when he was participating in Pjonjang in the discussion on nuclear disarmament. At the same time, a U.S. helicopter was shot down over Korea. Richardson took it upon himself to see to the release of the pilots.

In 1993 this cosmopolitan liberal Democrat helped Clinton with negotiations on the North American Free Trade Agreement (NAFTA) and in efforts to achieve as balanced a budget as possible. In opposition to the Senate Foreign Relations Committee, he opposed the embargo on Havana after the Cubans shot down two unarmed American planes and Clinton approved the step for tactical reasons and extended it to other countries, to the great irritation of his European trading partners.

This Democrat who is also popular with the Republicans now has the task of explaining the U.N. operations to the Senate committee which must confirm his appointment. Although the U.S., as a founding member of the U.N., has always recognized the principles of U.N., now Richardson must continually preserve U.S. prerogatives. The Clinton Administration has always, on the one hand, advocated strengthening the U.N. through reform measures, but on the other hand, has certainly made it clear that for its own economic and security interests, it intends to rely on its own strengths and alliances.

In contrast to the rather aggressive behavior of his predecessor, Madeleine Albright, who has now been elevated to the position of Secretary of State, Richardson has shown himself to be a flexible negotiator, a clever diplomat and a reliable go-between.

PAYING TRIBUTE TO MR. WADE BRUNSMANN

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. COSTELLO. Mr. Speaker, I want to ask my colleagues to join me in paying tribute to Mr. Wade Brunsmann, who was selected by the East-West Gateway Coordinating Council in the St. Louis Metropolitan Region to receive their Achievement Award in 1996.

I have known Wade for many years, through our joint service on the St. Clair County Board. Wade is a dedicated public servant; he is a Navy veteran of World War II, and has served on the county board since 1954, except for an 8-year gap. He is also an outstanding family man, married and the father of four grown children and five grandchildren. He is the retired owner/operator of Brunsmann's Heating and Refrigeration Service.

Wade Brunsmann has been a leader in the St. Clair County region. He currently serves as chairman of the County Board's environmental committee, and has served as such for the past 7 years. He has been an aggressive leader on zoning, land use, and landfill issues for all citizens. He also serves as a volunteer with Belleville Area College's Programs and Services for Older Persons, is a member of St. Theresa's Catholic Church and is an active and outstanding member of the Democratic Party.

Of course, for all of these contributions and his overall dedication to serving the public, East-West Gateway awarded him with their Achievement Award. I fully agree, and ask my colleagues to join me in congratulating him on this fine recognition.

HONORING PIKESVILLE VOLUNTEER FIRE COMPANY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CARDIN. Mr. Speaker, I rise today to honor the Pikesville Volunteer Fire Company on its 100th anniversary.

It all began on February 4, 1897 when a group of local citizens met for the first time to discuss the need for organized fire protection, they met at the Odd Fellow's Hall. During this meeting, the group nominated several names for the fire company, The Pikesville Volunteer Fire Company won the election by an overwhelming margin of 23 to 6. The following year, a fire hall was built and a community wide dedication celebrated its opening.

Known as the company of first, the Pikesville Volunteer Fire Company is a leader in volunteer fire protection. Its members are made up of both civilian and military personnel. In fact, each year, a memorial service honors members of the Fire Company who served their country as well as their community.

Today, their membership roll is over 150 (a third of whom are active service) which provides enough manpower to keep the Pikesville Volunteer Fire Company responsive to the thousands of calls each year from the community.

I hope my colleagues will join me in extending congratulations to the Pikesville Volunteer Fire Company in celebrating its 100-year history in Baltimore County, and in thanking these volunteers for contributing to the growth and safety of the Pikesville community.

FLORIDA DEPARTMENT OF HEALTH INAUGURATED

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to express my best wishes to Secretary James Howell, M.D. MPH, and Executive Administrator Annie R. Neasman, R.N., M.S., as they assume the leadership of the State of Florida's new Department of Health.

The Florida Legislature voted in 1996 to create the Florida Department of Health as a separate entity. The legislature charged the Secretary and staff with promoting and protecting the health and safety of all Florida residents and visitors in partnership with county governments.

On February 3, Secretary Howell and the Florida Department of Health staff in Dade County will gather at Miami Dade Community College Wolfson Center with their local partners to inaugurate the department.

I congratulate them on this day as they embark on their mission to make Florida healthier. I know that under the leadership of Secretary Howell and Administrator Neasman, their dedicated staff and their community partners will rise to the many challenges ahead.

PAYING TRIBUTE TO IRWIN ROSENBERG

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to Irwin Rosenberg, who for the past 8 years has played Santa Claus at the Pacoima Community Youth Culture Center's Christmas party. I have not met many Santas named Rosenberg; then again, I have not met many people like Irwin. A successful businessman, Irwin somehow finds the time to remain active in many organizations and on behalf of numerous causes. Like few others, he is there for his community.

Irwin is irrepressible. Not only does he immerse himself in outside activities, more often than not he ends up in a leadership role. For example, he is the past president of the Granada Hills Little League; past president and past chairman of the Government Relations Committee, San Fernando Chamber of Commerce; commissioner of the Los Angeles County Private Industry Council; and senior vice-chairman of the board of directors of New Directions for Youth. There is hardly a sector of the San Fernando Valley that has not been the recipient of Irwin's time and efforts.

In honor of his many charitable and civic contributions, Irwin has been the recipient of numerous awards. In 1989, he was given the California Association of Physically Handicapped's Humanitarian of the Year Award; in 1990, he was named Kiwanian of the Year (San Fernando); 2 years later he received the J. Leo Flynn Citizen of the Year Award from the San Fernando Chamber of Commerce.

Of all his civic and professional duties, I know that nothing gives Irwin more pleasure than being Santa to many underprivileged kids every year at the PCYCC Christmas party. He is every bit as happy to see the kids as they are to see him.

I ask my colleagues to join me in saluting Irwin Rosenberg, whose tireless work in the community is a shining example to us all. I am proud to be his friend.

THANK YOU DR. MALEEHA LODHI

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. MARTINEZ. Mr. Speaker, I rise on behalf of my colleagues and myself to place in the RECORD a bipartisan statement of appreciation for the outgoing Ambassador of Pakistan, Dr. Maleeha Lodhi, who is returning home shortly after completion of her tenure as Ambassador to the United States of America.

Ambassador Lodhi worked with dedication and resolve to strengthen the traditional friendship between the United States and Pakistan, paving the way for greater cooperation between our two nations. Through her untiring efforts, significant progress has been made towards redefining United States-Pakistan relations in the post-cold-war period.

In our interaction with Ambassador Lodhi, we always found her to be a highly persuasive advocate of her country in a forthright and objective spirit. We admire her commitment to democracy, freedom, and human rights, qualities that created a common bond with us.

Both the United States and Pakistan have been served with distinction by Ambassador Lodhi and we wish her the very best for the future.

TRIBUTE TO TWO IMPORTANT AMERICAN PATHOLOGY ORGANIZATIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to two outstanding organizations, the College of American Pathologists (CAP) and the American Society of Clinical Pathology (ASCP). This year, CAP will be celebrating its 50th Anniversary, and ASCP will be celebrating its 75th Anniversary.

Dr. Rob Mckenna, who is the President of ASCP, and Dr. Ray Zastrow, the current CAP President and a good friend, have led these organizations with the help of their many members through a long history of protecting patients by providing high quality laboratory and patient care. ASCP is the largest organization of pathologists and medical technologists in the world, and CAP is the largest

organization of board-certified members in the world.

These organizations and the members who practice pathology and laboratory medicine provide a substantial contribution to medical science and patient care through accurate medical test results that enable physicians to make accurate diagnoses and recommend appropriate treatments.

CAP started as an outgrowth of ASCP and they have worked closely ever since. Their common bond has been a symbol to both patients and fellow professionals of their dedication to professional excellence.

Congratulations, CAP and ASCP, on your many years of committed service to the field of medicine.

''IMMIGRANTS ARE NEW YORK CITY'S GREATEST ASSET''

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. KING. Mr. Speaker, throughout his years as U.S. Congressman, mayor of the city of New York and as mayor for life of the city of New York, Ed Koch has secured for himself the title ''The Voice of Reason.'' Mayor Koch has a unique capacity to find common sense solutions for the problems that plague our society. Even more importantly, he is not afraid to be controversial. He is a true New Yorker who knows how to get to the heart of the problem. This quality was most recently typified in his recent column entitled ''Immigrants are New York City's Greatest Asset'' which appeared in the New York Post on January 17. I commend this column to my colleagues because it touches so meaningfully on the issue of immigration which is being exploited and demagogued by too many politicians today.

IMMIGRANTS ARE NEW YORK CITY'S GREATEST ASSET

(By Ed Koch)

Ellis Island is holy ground: My parents landed there separately in the early 1890s. Before 1924, there were no limits on the number of people permitted to enter this country. If you survived the voyage in steerage and did not suffer from a contagious disease, you gained entry.

My parents and millions of others came here looking for a better life. They sought economic opportunity and freedom from anti-Semitism. They did not believe the streets were paved with gold. But, like millions of others, they did believe America would be free of the daily cursing they endured from their non-Jewish neighbors in Poland. And they believed America would offer them and their children a future denied them elsewhere.

Several years before my father's death, my sister and her son Jared sat down with him and taped some of his early memories. She asked, ''Daddy, what did you do for fun in the winter?'' He replied, ''Mostly we went inside to get warm.''

My mother's home in Poland was part of the Austro-Hungarian Empire. I recall asking her, when I was quite young, ''Mama, why do you always refer to Kaiser Franz Joseph as the 'good Kaiser Franz Joseph?' '' She replied ''Sonny, because he didn't kill the Jews.''

For years, I always wondered if she was right. After her death, I read that Kaiser Franz Joseph issued a decree that there was to be no Jew-bashing in his domain. Mama was always right.

I've visited Ellis Island a number of times, both before and after its renovation and designation as a federal museum. Like many others whose parents or grandparents came through the Great Hall, I was elated when given an opportunity by the new museum to mark my parents' passage with metal markers.

Now, when I go to the island, I visit those markers. I touch my lips with my finger-tips in a symbolic kiss and then touch my parents' names inscribed on the metal plates.

My parents, who were marvelous people with very few worldly goods and a very limited education, nevertheless made it, raising three children—my brother, Harold, the eldest; my sister, Pat, the youngest; and me—and becoming part of America's middle class.

My mother died at age 62, my father at age 87. Mother lingered in excruciating pain before her death, an experience that has made me believe in physician-assisted suicide. I will never forget her screams of unending pain as she pleaded with me, ''Eddie, please let me die.'' And I, in tears, replied ''Mother, you're getting well,'' when I knew that she was not.

My father, a gentle and beloved man with an enormous number of friends, died easily, quickly and painlessly. We thanked God for allowing him to pass over to the next world in such peace. We were not so appreciative of the painful passage of our mother.

I've always been bewildered by the Catholic acceptance of pain in the onset of death. If I understand the concept correctly, the pain of one dying individual is in some mystical way a great benefit for humanity and provides enormous good for others.

Two princes of the Catholic Church—Joseph Cardinal Bernardin, whom I met briefly and admired, and Terence Cardinal Cooke, with whom I had a warm friendship—both embraced death and pain.

My mother told me early on, ''Ed, don't mix in someone else's religion.'' So I won't. While I do not fear death, having had a full life, I do ask God to allow me to pass over without pain when the time to go arrives.

Why am I dwelling on the lives of my parents? Because recently there has been a spate of stories on immigrants, particularly those who came to New York in the last 10 years.

The City Planning Commission issued a report entitled ''Annual Immigrant Tape Files, 1990-94, U.S. Immigration and Naturalization Service Population Division.'' I won't list its many conclusions — all favorable — concerning the impact of legal immigrants on the City of New York. But these conclusions reinforce the need to fight the mean-spirited efforts by Congress to punish immigrants.

It isn't wrong to require sponsors of immigrants to fulfill their legal obligations to support those they brought here who otherwise would become public charges, as the new law mandates.

But it is wrong to deny legal immigrants who arrived before this law went into effect the SSI coverage and welfare benefits they'd been receiving. The new laws stripping legal immigrants of welfare inclusion should have been prospective and not retroactive.

Recently I read the comments of Massachusetts Gov. William Weld, a Boston Brahmin, on the value to our country of the immigrant: ''I have long said that in the 1920's and 1930's the best Americans were Europeans, and principally European Jews who had reason to know what made this country special. In the 80's, the best Americans were Asians, for the same reason.'' I silently cheered.

According to the City Planning Commission report, legal immigrants are coming to the U.S. in even larger numbers, and increasing percentages of the total number of these immigrants hail from parts of the world that did not participate in large-scale immigration when my parents came here, including Africa, Asia and Latin America.

These immigrants, like their predecessors—my parents among them—add to the richness of this country. They give us the benefit of their intelligence, their labor and their children. In the words of Martha Stewart, ''It's a good thing.''

My father never learned to write anything besides his name in English, although he could read. He worked hard all of his life, generally holding two jobs to support his family. He retired from his small fur coat manufacturing business at 75, but, bored, he went to work for Bloomingdales' fur coat storage six months later.

When elegant ladies asked him to store their coats, he would ask them to write their name and address on a ticket. He would invariably look at the ticket and say, ''I see by your address that my son is your congressman.''

It made no difference if these women lived in Brooklyn or Jersey City. My father saw me as representing the entire United States.

We should acknowledge the enormous contributions of immigrants, embrace them and warmly welcome them. Immigrants are New York City's greatest asset, today and for the future.

Updating the philosophy of the good Kaiser Franz Joseph, ''Let there be no immigrant-bashing in the U.S.''

HONORING ROSALIE KUNTZ OF PASADENA, TX

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor one of my constituents, Rosalie Kuntz of Pasadena, who is a civic leader in her community and a pioneer for women in the insurance industry. Mrs. Kuntz is active in a wide range of community activities and served as the first female president of the Texas Association of Life Underwriters. The following article from the January 8, 1997, Houston Chronicle describes her many accomplishments and honors:

HER JOY IS IN THE JOURNEY—ROSALIE KUNTZ REVERED BY PASADENA COMMUNITY

(By Pat Swanson)

Willingness and commitment have not only earned Rosalie Kuntz success, but respect in her profession and in the Pasadena community she calls home.

Kuntz is celebrating 41 years in the insurance business. And, at age 72, she continues to be heavily involved in civic activities for the Pasadena-area community.

Kuntz and her husband Gerald (Jerry), a retired surveyor for Shell Oil Co., have lived in Pasadena 48 years. The couple are owners of the Kuntz Insurance Agency. Their children, Rita, Linda and Kyle have given them eight grandchildren. The Kuntz' are longtime members of St. Pius V Catholic Church.

Scott Loomis, an insurance man who has known Rosalie Kuntz for 30 years, said, ''Rosalie is one person who could handle herself in a man's world before it was fashionable. While some men were intimidated by Rosalie, others wanted her on a project because they knew she would do a good job.''

Parker Williams, president of San Jacinto College South, said, ''Rosalie is known by

her actions. She is the type of person that doesn't demand respect, but people respect her. She is one smart cookie. She has a bright mind and a deep faith.

''Rosalie is the type of person who believes you can do anything you want to do if you want to do it badly enough. You know she is always there if you need her. She gives back to the community what she takes out.''

Kuntz was the first female president in the 59 year history of the Texas Association of Life Underwriters that has a membership of 8,300.

She served in that capacity for the 1984–1985 term. During that term, Kuntz received national honors at the National Life Underwriters Conventions for Public Service and Membership achievements for the State of Texas and Pasadena Association of Life Underwriters.

Prior to her presidency in the organization, Kuntz served as T.A.L.U. Vice-Chairman of Public Service and Public Service Chairman.

She is a life member of the Texas Leaders Round Table and a charter member of its Lone Star Leaders. Kuntz has served in all offices of the Pasadena Association of Life Underwriters, including president.

One of Kuntz's most memorable experiences was in 1983. As past president of Women Life Underwriters Conference, Kuntz was one of 50 women invited to be a luncheon guest of President Reagan in the White House.

Kuntz was born in Houston. After she and Jerry moved to Pasadena in 1948, Rosalie assumed the position of assistant manager at the Pasadena Bowling Center working for Charles (Monty) Manoshagen.

''Monty left the bowling center to go into the insurance business, and was also responsible for getting me into it. He and his wife came over to the house one night in 1956 with a bunch of books. He threw the books on the coffee table and said, 'Rosalie, you're going into the insurance business.' I told him I didn't know a thing about insurance. He said, 'I'll teach you.' And, he did. I will finish my 41st year in the business today, Jan. 8, 1997,'' Kuntz said.

''When I went into the business, there weren't many women in the insurance business. It was very difficult at first because women were not accepted in the insurance field, just like the real estate business.

''Now, women are building up in the real estate business and also in the insurance business,'' Kuntz said.

''I had some good friends and good teachers to teach me the business, and I went on from there. One doesn't do anything by themselves. They always have someone that will help them.

''I was very fortunate in having Mr. Manoshagen to be around to help me along. He kept up with me as long as he lived. (He died about four or five years ago.) He would always call me each year and say, 'What is your goal for next year?' And every goal I told him I had set, I made throughout the years.

''It is a great profession for women. And, it is the greatest career anyone could ever get into, any type of insurance business really, but specifically life and health,'' Kuntz said.

Jerry and Rosalie's secretary, Jannie Pugh, get much of the credit from Kuntz.

''Jerry helps me an awful lot. So does my secretary, Jannie, who has been with me almost 20 years. She is just like a member of the family. They are behind the scenes, but they sure do help a lot,'' said Kuntz.

''We have worked together so long, we are more like friends,'' said Pugh.

For her services to the community, Kuntz was chosen Pasadena Citizen of the Year in 1968. She was elected to the Pasadena Hall of Fame in 1988 for the same reason.

According to Stella Walters, owner of Bruco, Inc., ''Rosalie and I have been involved with a lot of the same organizations for 30 years. We also are good personal friends. We have worked together on everything, including the Pasadena Chamber of Commerce, Optimists, Red Cross, YMCA, American Heart Association, to name a few.

''She has more energy in her, for her age, than anyone else I know. She and Jerry have been married 48 years. She is a good mother. I doubt there is anyone in business in Pasadena who does not know her. She is just amazing.''

As a member of the San Jacinto Day Foundation, Kuntz chaired the first Strawberry Festival in Pasadena in 1974. She served as an advisory board member in 1986.

She was presented the 1992 Lone Star Award for volunteer service in the community. She was a director of the South Houston Chamber of Commerce from 1978 until 1980.

Kuntz has been Director and Membership Chairman of the Deer Park Chamber of Commerce since 1991 and is the immediate past president of the organization.

Kuntz was the first woman to be elected president of the Pasadena Chamber of Commerce, and currently serves as a member of the organization's Cultural Affairs, Voice of the Chamber and Governmental Affairs Committees.

She also was chairman of the Pasadena Chamber's New Member Orientation Committee during the 1990–1991 and 1992–1993 years.

From 1968 to 1996, Kuntz has been a director of the American Heart Association, Pasadena Unit. She served as chairman of the Heart Business Drive for 12 years, and was chosen Volunteer of the Year in 1987, with a grant named in her honor.

She was appointed to serve on the Advisory Board of the Battleship Texas from 1983 to 1989, by Texas Governor Mark White.

Kuntz is past president of the Soroptimist International of Pasadena, and has served on the advisory board of The Rose, a Texas-based, non-profit organization dedicated to breast cancer screening since 1987. She also has served as a member of the Rehabilitation Foundation since 1984.

Additionally, Kuntz has been a director of the former Barbour's Cut Seaman's Center since 1991. The facility is now the Lou Lawler Seaman's Center.

She is past director of the Texas Society of the Prevention of Blindness; the recipient of the 1975 Distinguished Service Award from the Pasadena Jaycees; 1969 chairman of the Pasadena Drug Abuse Committee; vice-chairman of the Committee for the National Olympic Girls Volleyball Team and past vice-chairman and member of the Pasadena City Beautification Commission.

As a longtime member of St. Pius V Catholic Church, Kuntz is a past secretary of the Diocese of Galveston-Houston Board of Education; the St. Pius Finance Committee and past member of the St. Pius V Church Parish Council.

For 25 years, Kuntz also served as a volunteer coach for the St. Pius V Catholic girls softball and volleyball teams.

According to Bud Osborne, former owner of Osborne-Apple Ford, ''Rosalie is a vibrant get-up-and-go person. She always bought cars from us and insures our whole family. We like to kid her and tell her we sent all her kids to college. She comes by at least once a month to talk to us. She is just a wonderful person. We think a lot of Jerry, too.''

''Rosalie is my dear friend,'' Nina Osborne said. ''When she was inducted as president of the Deer Park Chamber of Commerce, she arranged to have us seated with her family. She is just like family to us, too.''

Billie Fife, former Civil Defense Director for the City of Pasadena and administrative assistant to past Pasadena Mayor Clyde Doyle, said of her friend, ''Her interest in you continues long after you take out a policy. There is no monetary reward.

''She is just there for her clients. She is there for your needs no matter when she last saw you—a couple of days ago or 15 years ago. She is just like that little rabbit with the battery. I believe her joy is in the journey. She will never retire.''

CELEBRATING THE 100TH ANNIVERSARY OF THE BELLEVIEW

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. YOUNG of Florida. Mr. Speaker, one of the great privileges of serving from the 10th Congressional District of Florida is to represent one of our Nation's landmark hotels, the Belleview of Belleair, FL, which celebrates its 100th anniversary later this month. Not only is it world renowned as a tourist destination, but it is listed on our National Registry of Historic Places.

Henry B. Plant, the railroad magnate who became known as one of Florida's greatest developers, opened the doors to his elegant hotel named the Belleview on January 15, 1897. Built on a bluff that overlooks Clearwater Harbor, the original 145-room hotel quickly became recognized as a favored winter retreat.

Later, as golf courses and swimming pools were added, the hotel became uniquely modern for its time. In addition to serving its guests, the hotel was also the location for the Belleair post office and fire station. While the hotel ownership changed and the railroad cars left the siding, the importance of the Belleview to the area did not wane. In fact, during World War II, the hotel was leased to the U.S. Army Air Corps to serve as the auxiliary barracks for MacDill and Drew Fields in Tampa.

Several years later, the hotel, now with more than 500 rooms, reopened as a resort and began a new chapter that led to its being qualified for a listing in the National Register of Historic Places on March 7, 1980. I was privileged to have been a part of that program, and it is a special honor for me to be able to salute the Belleview Hotel—now the Belleview Mido—on this its 100th anniversary.

The Belleview has always been known for its hospitality and its graciousness. It has hosted countless numbers of dignitaries, conventioneers, and others who wish to enjoy its golf course, its pools and sunshine, its cuisine, and its spa and fitness center. Today its guests are no less important than those who were greeted by Henry B. Plant, and as we look to the new year and the 21st century, I congratulate the Belleview Mido on its 100th anniversary and I thank the management and staff for their work in preserving this magnificent structure, its history, and contributions to the Town of Belleair and to Pinellas County.

A TRIBUTE TO THE SAGINAW NEWS

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CAMP. Mr. Speaker, I rise today to call my colleagues' attention to an editorial in the Saginaw News. To open the New Year, the editors published a set of principles. These principles remind us that our local communities are the wellspring of America's greatness, and an endless source of inspiration for our national leaders.

Put forth in these principles are many of the driving forces behind the work we do in Congress and the vision we share for our country: lower taxes, a smaller government, and economic opportunity for all Americans. I believe these principles serve as goalposts for the 105th Congress as well. I urge my colleagues to read the News' basic principles as we begin work in the new Congress.

Mr. Speaker, at this time I would like to submit the editorial from the January 1, 1997 edition of the Saginaw News:

ISSUES AND OPINIONS: OUR BASIC PRINCIPLES

The principles a newspaper holds may often be obscured by the rush of day-to-day events. But we think it's important for readers to know that our views of those issues are guided by a set of fundamental beliefs.

That's why The Saginaw News each year publishes a statement of the principles on which it intends to base editorial-page comments over the days and months to come.

Each matter on which we express our opinion is reviewed and judged on its own merits. As circumstances change, they may prompt a fresh look at our own ideas.

But the constant process of review and judgment that leads to editorial opinion rests on a firm foundation. Some issues are transitory; others, more fundamental to our lives and our society, bear repeated attention.

While the thoughts here are general expressions of ideas and ideals, they help determine our approach to the people, events and proposals that shape our life.

Our basic goal is to speak in which we perceive to be the best interests of our readers.

Editorials, while based on reporting and analysis of news events and developments, express a viewpoint. So we expect disagreement. If we stimulate independent thought and discussion, we believe we have achieved one of our major purposes whether or not our words have been persuasive.

But we believe we have an obligation to seek to persuade. A newspaper has a responsibility to its community to be, as best it can, not only its voice to the world, but its interpreter of that world; to be its advocate and defender, and sometimes its critic and counselor, always toward the benefit of its citizens.

We acknowledge that is a very large responsibility indeed. We welcome any and all suggestions from our readers on how we can better fulfill it. We don't seek to act in place of public opinion, but to give the public an opportunity to expand on its own beliefs.

That cannot happen, though, without mutual understanding.

We hope this statement of the principles of The Saginaw News will further that understanding.

LOCAL ISSUES

On Saginaw-area issues. The News supports:

Efficiently providing the best public service at the lowest possible cost to the taxpayers.

High-quality representation for all segments of each community.

Progressive, professional management at county, city and township levels.

Planning for development of human and physical resources in awareness of the constant challenge for fresh approaches.

A strong central urban area serving the entire community.

Maximum cooperation among all governments, with consolidation of municipal services to the greatest possible extent.

Recognition that racial and ethnic diversity is a strength on which to build toward the common goals that unite us.

Strong human-relations efforts to assure dignity and equal opportunity for all.

Care for our streets and homes, because a community can be no better than its neighborhoods.

School systems that provide a comprehensive education.

Strong academic and behavioral standards for students; quality instruction and administration; and equitable public financial support adequate to achieve those goals.

The free-enterprise profit system as that which most fully ensures economic liberty and a high standard of economic life to business, industry and employees.

Expansion of job opportunities, and diversification of the economic base, in recognition of the serious challenges of constantly changing times.

Workplace policies respecting the rights of employees, management—and the public.

STATE ISSUES

On state issues, The News supports:

A fair system of taxation to maintain efficient, quality state services at the lowest possible cost.

Achievement of an economic climate conducive to retaining existing industry and diversifying Michigan's economic base.

Preservation of Michigan's natural beauty and resources while balancing the legitimate needs of the state's agriculture, other economic institutions and population.

Recognition that the auto industry remains the region's and state's economic mainstay.

Swift and fair administration of justice. Respect for the law by citizens—and of citizens by the law and those sworn to enforce it.

Political leadership, at the state level and in our representation at the national level, that responds to the needs of the state and its people.

NATIONAL ISSUES

On national issues, The News supports:

A limited government under which political power rests in the wisdom of the governed, and the rights of the people to control their own destinies, through their representatives.

Strong defense of the Bill of Rights as the unique section of a unique Constitution on which rests preservation of our most fundamental individual liberties.

A decent respect for the financial resources of our citizens, expressed through restraint in taxation and spending.

Policies encouraging the opportunity to seek and find employment for all who desire it.

A strong, efficient defense, essential amid a changing world's twists and turns.

Safeguarding the national environment consistent with economic stability and growth.

Maintaining the strength of political parties as American institutions best able to build citizen interest and involvement in government, and to develop responsible leadership.

INTERNATIONAL ISSUES

On international issues, The News supports:

A foreign policy that stresses the desire of the United States to live in harmony with all nations; that recognizes the right of all peoples to peaceful self-determination; that encourages the continued expansion of freedom in all nations; that advocates nonviolent resolution of disputes; that recognizes that remaining threats to our freedom, and others', require strong alliances to deter aggression even as we welcome the reduction of the danger of war.

Free and fair trade as the interdependent economies of the world evolve in new directions.

The right of all people to achieve and maintain a decent standard of living, to develop and prosper.

PERSONAL LIFE

Finally, The Saginaw News believes there is more to the quality of life than our personal relationships, jobs and leisure activities. The News believes in encouraging people to look beyond themselves. We believe that life becomes more satisfying and meaningful when we care about all our neighbors and the community of which we all are a part.

IN HONOR OF THE CONCORD HIGH SCHOOL CRIMSON TIDE MARCHING BAND

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BASS. Mr. Speaker, I rise today to pay tribute to the Crimson Tide Marching Band of Concord High School in Concord, NH. The talents of this 120-piece band, under the direction of Bill Metevier, were recognized by the Presidential Inaugural Committee, leading to an invitation to perform in the Inaugural Parade in our Nation's capital on January 20, 1997.

Concord High School has one of the best marching bands in all of New England. These young musicians earned the wonderful opportunity to perform in front of the President and the First Lady, as well as the entire Nation watching on television.

The city of Concord embraced the Crimson Tide Marching Band, as individuals and local companies raised over $20,000 to help pay for the band's trip to Washington, DC. The Concord Schools Friends of Music deserve much credit for leading the fundraising effort to allow these students to enjoy an opportunity that will be remembered for a lifetime.

I know that the parents and families, the teachers, students and staff of the Concord School District, and the entire state of New Hampshire are exceedingly proud of the accomplishments of the Crimson Tide Marching Band.

Mr. Speaker, I ask all of my colleagues to join me in congratulating the musicians of the Concord High School Crimson Tide Marching Band for participating in a memorable and historic occasion, the 1997 Presidential Inaugural Parade.

RECOGNIZING THE GENEROSITY OF ALLEN LEEPA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BILIRAKIS. Mr. Speaker, I rise today to recognize the extraordinary generosity of two wonderful people who live in my Ninth Congressional District in Florida. Allen Leepa and his wife Isabelle have donated a $2.15 million endowment and a multimillion dollar art collection to be housed in a new museum at the Tarpon Springs campus of the St. Petersburg Junior College in Tarpon Springs, FL.

Mr. Leepa has said that ''art is a vehicle to promote education,'' and his gift will certainly benefit not only the students and faculty of the college, but the residents of Florida's suncoast as well.

The college will be building the Leepa/Rattner Museum of Fine Arts, which is to honor Mr. Leepa and his late stepfather, Abraham Rattner. The museum will house 150 works by Mr. Leepa, an abstract artist, and 20th century modernists including Georges Rouault, Hans Hoffman and Henry Moore. Two works by Pablo Picasso will also be included.

A resident of my birthplace in Tarpon Springs for 14 years, Dr. Leepa studied art in Chicago, New York, and Paris at the Sarbonne. He has taught at several fine universities around the country, and he has published three books about modern art.

Mr. Speaker, art means different things to different people. However, it does serve as an outlet for the creative side of all of us. Throughout history, the expressions of talented artists have contributed to a greater understanding of our society and of ourselves.

As a result of Dr. Leepa's generosity and kindheartedness, Floridians will be able to enjoy the finest in art right in the heart of Florida's suncoast. I ask my colleagues to join me in thanking Dr. Leepa and wishing the Leepa/Rattner Museum all of the best in the future.

CONGRATULATIONS TO SAN FERNANDO HIGH SCHOOL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to San Fernando High School, which this year is celebrating its 100th anniversary. I know of few high schools in southern California with such a long and rich history.

One way to judge a school is by its alumni. Using that criterion, San Fernando High School receives high marks. For example, Hawley Bowlus, the man who supervised the construction of the Spirit of St. Louis, Charles Lindbergh's plane, was a graduate of San Fernando High. Another alumnus, Denny Crum, is today one of the top college basketball coaches in the country. A third, Jimmy Velarde, is a four-time Emmy winner and producer of shows such as ''Culture Clash.''

The school has also had its share of sports glory. Two of the greatest running backs in USC history, Anthony Davis and Charles White, attended San Fernando High. Fifty years earlier, in 1925, San Fernando produced its first championship football team. Other sports fared well; the school has produced champions in baseball, track, and basketball.

San Fernando High School today has many reasons to be proud. The school commonly graduates 675 seniors out of a class of 700, and is virtually free of the crime, drugs, and gangs that unfortunately plague many urban high schools. I have attended several events at the school, and have always admired the spirit of its students and the commitment of its faculty and staff.

I ask my colleagues to join me in saluting San Fernando High School, an excellent institution with a proud history. Congratulations to all on this special anniversary.

TRIBUTE TO REV. JOSEPH M. ROLLINS, JR.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Rev. Joseph M. Rollins, Jr., who was honored on January 18 for his long and fruitful career as a community activist and pastor of Saint Augustine Presbyterian Church, at 838 East 165th Street in my congressional district, the South Bronx.

Reverend Rollins, a third generation Presbyterian minister, will be retiring as pastor of the church at the end of this year after 24 years of service. The tribute in his honor, entitled ''This Is Your Life'', highlighted his tireless work in the fight for civil rights and his dedication to the service of his fellowship and community.

Reverend Rollins was born in Newport News, VA, in 1926. He is the great grandson of a former slave, Mrs. Clements, who gained her freedom at the age of 11. Reverend Rollins holds a degree from Johnson C. Smith University, in Charlotte, NC, an institution which was formerly associated to the Presbyterian Church. In 1954, Reverend Rollins organized the Trinity Presbyterian Church in Tallahassee, FL.

A man of tremendous faith, he was among the first who believed in peaceful dissent as a catalyst of equal rights for all people regardless of color. In 1955, he was involved in the organization of the first bus boycott in Tallahassee, right after the arrest of three students from Florida A & M University. Reverend Rollins was among those who marched with Martin Luther King, Jr., during the civil rights movement.

In 1963, he came to New York City and served as associate executive for the Commission on Religion and Race for the Presbyterian Church. In 1968, he became the executive of the National Committee of Black Churchman, an ecumenical movement.

He was also a member of the National Presbyterian Black Caucus, and served in many community organizations, including Community Board #3, the South Bronx Leadership Forum, and 163 Improvement Council, all three in the Bronx.

Reverend Rollins has received two honorary degrees from University of Dubuque, IA and Inter-Denominational Theological Center in Atlanta, GA. He is the widower of Julia Rollins, with whom he had two children, Cecilia and Metz Rollins, and is the grandfather of three.

Mr. Speaker, I ask my colleagues to join me in recognizing Rev. Joseph M. Rollins, Jr. for his lifelong commitment to his ministry and for his community activism, which has so well served all of us countrymen.

HONORING THE ''LOVE YOUR NEIGHBOR'' CAMPAIGN

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mrs. MEEK of Florida. Mr. Speaker, I rise today to offer my congratulations and support for the ''Love Your Neighbor'' campaign that is sweeping south Florida.

The ''Love Your Neighbor'' campaign is dedicated to promoting the use and spirit of the phrase ''Love Your Neighbor'' in oral and written communications to make Miami and the world a better place; work towards reducing stress and improving our mental health; reduce suffering, violence, and crime by becoming considerate, respectful, and caring towards one another; and identify south Florida as a community that cares for all people regardless of race, ethnicity, religion, or social status.

Three years ago, Metropolitan Dade County embraced the ''Love Your Neighbor'' campaign. Since that time, over 750,000 ''Love Your Neighbor'' bumperstickers have been distributed, including 16,000 purchased by the Metro-Dade police department and 250,000 distributed by Dade County Public Schools. The Miami-Dade Public Libraries distribute ''Love Your Neighbor'' bookmarks, the phrase appears on the side of many Metro-Dade Transit buses, and a billboard flashes the sign at Miami International Airport.

The newly-elected mayor of Metropolitan Dade County, Alex Penelas, has endorsed a week of activities for February 9–15, 1997, and Governor Chiles has already proclaimed that week as ''Love Your Neighbor'' week in south Florida. Even Kenny Rogers Roasters has become involved in the campaign, carrying the message in all of their franchises. Other corporations have donated space on 600 billboards, and are involved in producing a music video and a public service announcement to be aired on local television.

''Love Your Neighbor'' was started by Jim Ward, Dade County's Human Resources director. Mr. Ward is an ex-police officer, having protected and served the people of Jacksonville, FL for 17 years. He moved to south Florida 17 years ago, to Miami's great benefit. For the last 3 years he has worked tirelessly to promote the ''Love Your Neighbor'' campaign, watching it grow from one man's idealistic dream to the massive campaign it has become, spreading throughout south Florida and even as far as Macon, GA.

Mr. Speaker, Dade County and the city of Miami owe a great debt of gratitude to Jim Ward for the ''Love Your Neighbor'' campaign. I wish him every success in spreading his message throughout our community and our country.

CONGRATULATING THE CITY OF ELGIN, IL

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. HASTERT. Mr. Speaker, I rise today for two reasons. First, to congratulate Money Magazine on its 25th anniversary, but also to commend the magazine for adopting the city of Elgin, IL and beginning a year-long project to enhance the personal-finance knowledge of the city's residents.

Mr. Speaker, the city of Elgin, in my 14th District of Illinois, was chosen for this project because it is truly a microcosm of our Nation. A city with an industrial heritage that has seen a surge in suburban growth in recent years, Elgin is also home to several of the Nation's largest firms which have experienced strong export sales growth.

In the coming year, Money Magazine, in conjunction with Elgin Community College, will provide free financial seminars for Elgin residents. In addition, a dozen Elgin families will be highlighted in a series of articles dealing with family financial concerns and innovative ways of addressing those concerns. The project kicks off on January 29, 1997 with a ceremony at Elgin High School, to be attended by former President and Mrs. George Bush.

It is significant to note that while Money Magazine could have celebrated its 25th anniversary quietly, and without fanfare, the publisher and editors of the magazine have instead decided to mark this occasion by assisting this community and its residents with their financial planning. This action deserves our commendation and our thanks.

Mr. Speaker, I also congratulate the city of Elgin, its citizens, and civic and business leaders, on its selection for this worthy project. Elgin is an outstanding community, and one I am proud to represent in this House.

LOOKING TO THE WESTERN HEMISPHERE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. GALLEGLY. Mr. Speaker, today, I officially became the chairman of the Subcommittee on Western Hemisphere of the International Relations Committee. I am looking forward to working with my colleagues, both Republican and Democrat, on the subcommittee as we begin a very exciting and challenging period in which we will review our relations with our partners in the hemisphere.

The end of the cold war and the movement toward democracy and economic reform in Russia and central Europe held great promise that the world would enter a period free of superpower rivalry, a lowering of the nuclear threat, and an all-around feeling that peace and political stability would prevail throughout the world.

Despite the expectations that evolutionary changes in Europe would serve as a model for a greater global commitment to open societies, the promotion of democracy, and the development of strong economies and markets, the international environment remains as complex and as dangerous as ever.

United States foreign policy continues to face complex and ever changing challenges from Bosnia to China, from terrorism to the stability of the global economy, from Palestine to Northern Ireland.

But while U.S. policymakers within the administration and the Congress struggle to resolve the most difficult and dangerous of these issues, we are ignoring one of the most dramatic success stories of the post-cold war period. And the irony of it all, is that this transition is taking place right in our own backyard of the Western Hemisphere.

The evolution of the nations of Latin America to democratic governments, market economies, and open societies has been perhaps the most overlooked event since the fall of the Berlin wall.

Despite the direct impact events in Latin America have on the United States in terms of trade, narcotics trafficking, and immigration, U.S. policymakers, including the Congress, have often, although not entirely, turned an uninterested eye south of our borders and have failed to take advantage of the enormous potential for peace, political stability, and economic opportunity these changes are bringing about.

The resolution of the crisis in Haiti, the recent peaceful elections in Nicaragua, and the signing of the peace accords in Guatemala, ending 35 years of confrontation, clearly argues that the transition to peace, cooperation, and the democratization of the entire hemisphere, although sometimes rocky, is in its final stages. The economic miracles taking place in Argentina, Brazil, and Chile are a credit to the genuine commitment of those governments and peoples to take their place as regional role models.

Unfortunately, these stories are going largely unnoticed unappreciated in the United States.

Latin America is a success story which the United States should be celebrating by pursuing a more engaged foreign policy designed to support the peace process, promote continued political stability, renew old friendships, cultivate new ones, and lend strong support to regional economic development and free market economies.

Like many, though, I fear that the momentum achieved thus far by the nations of Latin America could be stalled unless the United States reenergizes its efforts to provide strong leadership throughout the region. Confronting no major conflict or problem in the region, U.S. policy seems to lack clarity or coherence which could lead to a further decline in our ability to influence events in the region.

There can be no doubt that economic growth in the region is the key to strengthening democracy, ensuring long-term political stability, and reducing poverty. The 1994 Summit of the Americas held great promise for the critical areas of trade and economic development. The momentum created there must be renewed and sustained.

But leadership requires a better knowledge and understanding of the nations of the hemisphere and the great strides made thus far. U.S. policy must look forward and should be based, not on what has happened in the past, but what can happen in the future if we work with the nations of the hemisphere in a cooperative partnership to strengthen democracy, implement economic development policies, encourage free trade, and to make a renewed commitment to civilian authority, human rights, and social justice.

This is not to say that all is well in the hemisphere. Lingering problems associated with drugs, illegal immigration political corruption, arms competition, and the strength of the peso, temper the euphoria of the success story. Beyond those endemic problems, which must be addressed primarily by the nations of Latin America themselves, nagging questions arise regarding the future of the new democracies, NAFTA, fast track, and Cuba. Also, to a lesser, but nevertheless important degree to many in the United States are issues regarding intellectual property, patent, and copyright violations, the environment and labor standards which must be addressed.

The foreign policy agenda for the Western Hemisphere is large and laden with both promise and problems. And while these issues may not seem as important as issues facing this Nation elsewhere, I believe we would be making a tremendous mistake if we did not take advantage of the positive signs and events emerging from the hemisphere by actively engaging our neighbors to the south in a renewed partnership for peace, stability, and economic development.

This will be the thrust of the subcommittee's work and I look forward to getting on with the job.

TRIBUTE TO KENT SWANSON, JR.

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. EHRLICH. Mr. Speaker, today I rise to pay tribute to a heroic young man whose life ended tragically and prematurely, Kent Swanson, Jr.

Kent Swanson was raised in Phoenix, MD, where his parents still live, and graduated in 1989 from Dulaney High School in Cockeysville. He attended Lewis and Clark College in Portland, OR, receiving a degree in biology in 1995.

Kent had a lifelong love of the outdoors. Upon graduating from high school, Kent travelled to the Andes, where he climbed his first 20,000 foot mountain. His experiences in the majestic Pacific Northwest, however, defined the course of his life.

While in college, Kent joined the Portland Mountain Rescue Squad. This enabled him to use his love of the mountains to help others. He used his skills, his good judgement, and his intimate knowledge of the often treacherous mountain terrain to rescue skiers and climbers lost or stranded in the mountains.

On one occasion, Kent and his team braved freezing rain to reach three stranded colleagues. Such acts of heroism became routine in Kent's life. While a member of the ski patrol of Mammoth Mountain, a popular resort near Los Angeles that handles 15,000 skiers a day, he personally treated or rescued an estimated 3,000 injured skiers during one season.

Kent was known for his expertise as a mountain climber as well as for his bravery. He spent his summers working at the American Alpine Institute in California, where he developed a guide and instruction manual for the

14,494-foot Mount Whitney. ''He had all the qualities that go into making a great teacher and guide,'' one of his supervisors said. ''His clients liked him because of his teaching skills and his wonderful companionship.''

On January 11, Kent Swanson, Jr. died in a helicopter crash in British Columbia. Typically, Kent was en route to an avalanche rescue class. This young man died as he lived—a hero.

He leaves behind his parents, Kent Sr. and Tricia Swanson; his maternal grandfather, Robert A. Bishton; and host of aunts, uncles, and cousins. He also leaves behind a lot of people who might not be alive today without his heroic efforts. My sympathy goes out to the Swanson family during this sad time. As they mourn his death, I hope they will take pride in his life.

TRIBUTE TO ARTHUR H. BILGER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in recognizing Arthur H. Bilger for his great contributions to the nonprofit House of Justice of Bet Tzedek Legal Services of Los Angeles.

Bet Tzedek Legal Services is one of the leading poverty law centers in the country. Thousands of indigent, elderly, and disabled individuals benefit each year from the free legal services provided at Bet Tzedek's headquarters in the Fairfax District of Los Angeles, the Valley Rights project in North Hollywood, and the 32 senior centers throughout the Los Angeles area. Bet Tzedek is open to all who pass through its doors and even makes house calls to the ill and frail. Its services are vital and they are not otherwise readily available to those who need them.

Arthur H. Bilger has been a constant believer in Bet Tzedek's mission to be a place of refuge and assistance to Los Angeles' most needy residents. As one of the most dedicated and successful fundraisers for Bet Tzedek, his efforts have allowed this generous organization to continue to operate at full capacity while maintaining its promise of services at no cost to its clientele. We owe Arthur H. Bilger a debt of gratitude for his vision, his devotion, and his support of this most worthy cause.

I am delighted to bring Mr. Bilger's tireless and selfless work on behalf of Bet Tzedek Legal Services to the attention of my colleagues and ask you to join me saluting him for his many important contributions.

VISCLOSKY HONORS RESIDENTS OF NORTHWEST INDIANA ON MARTIN LUTHER KING DAY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. VISCLOSKY. Mr. Speaker, as we celebrate the birth of Dr. Martin Luther King, Jr. today, and we reflect on his life and work, we are reminded of the challenges that democracy poses to us and the delicacy of liberty. Dr. King's life, and unfortunately his vicious murder, remind us that we must continually work and, if necessary, fight, to secure and protect our freedoms. Dr. King, in his courage to act, his willingness to meet challenges, and his ability to achieve, embodied all that is good and true in that battle for liberty.

The spirit of Dr. King lives on in many of the citizens in communities throughout our Naiton. It lives on in the people whose actions reflect the spirt of resolve and achievement that will help move our county into the future. In particular, I would like to recognize several distinguished individuals from Indiana's First Congressional District, who, in the past year and in their own ways have, have acted with courage, met challenges, and used their abilities to reach goals and enhance their communities.

Mr. Jack Parton, director of the United Steelworkers of America, District 7, Mr. Eric Mason and Mr. Michael Krueger, both graduates of Portage High School, led a prodiversity rally in Portage, IN, last May to peacefully, but forcefully, counter a march by the Ku Klux Klan. Their efforts sent a strong and clear message to members of the KKK, as well as members of our communities and citizens throughout the country, that ethnic, racial, and religious hatred will not be tolerated. The counter-rally that they developed and carried out was an overwhelming success. It generated enormous support from religious, labor, business, and civic groups throughout the region. The courage of these men should be held up as an example to all that, through thoughtful, united action, the values of human rights that we all cherish can—and must—be maintained, even in the face of ignorance and hatred.

I would also like to recognize Janee Bryant, Brandon Crayton, Brandie Frifth, LaKisha Girder, Damara Hamlin, Markika Harris, Rasheedah Jackson, Leah Johnson, Jacleen Joiner, Ayashia Muhammad, Clinton Pearson, Kala Simmons, Sheria Smith, David Suggs, DeKeyur Summer, Jennifer Thompson, Stephanie Thompson, Courtney Williams, and Joey Willis.

These outstanding individuals are the members of the Tolleston Junior High School team, which won the Indiana State Bowl Championship in spelling. This wonderful accomplishment is a reflection of their hard work and dedication to study. Their scholastic effort and rigorous approach to learning have made them the best in the State. They have brought pride to themselves, their families, their school, and their communities. Their success is also a credit to the outstanding ability and leadership of their teacher-coaches, Mrs. Margaret Hymes, Mrs. Paula Thompson, Mrs. Sandra V. Alfred, Ms. Dionne Moore, Mrs. Janice L. Williams, and Mrs. Juanita Vincent. The Tolleston students, who won the State Bowl Championship in spelling, as well as their gifted teachers, deserve recognition as true role models in our State.

Though very different in nature, the achievement of all of these individuals reflects many of the same attributes that Dr. King possessed and the values he espoused. Like Dr. King, these individuals saw challenges and rose to the occasion. They had goals and worked to achieve them. Mr. Speaker, I urge you and my other colleagues to join me in commending their initiative, resolve, and dedication.

TRIBUTE TO THE VOLUNTEERS OF TABERNACLE TOWNSHIP

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. SAXTON. Mr. Speaker, I rise today to pay tribute to the residents of Tabernacle Township, NJ at the time of their second annual Tabernacle Volunteer Appreciation Dinner.

It would be difficult to name, in the context of this extension of remarks, all those worthwhile organizations whose members are being honored. That one community supports such a myriad of organizations, which run the gamut from religious, civic, athletic, public safety, educational, community support, and political groups, is testament to its citizens.

On February 2, 1997, special recognition will be given to the Tabernacle Township PTA, Inc. at the time of its 75th anniversary. This association of parents and educators has been active in local schools since 1921. Through its provision of books, school equipment, scholarships, family activities, after-school child care, and summer recreation programs, this organization has proven its worth for three-quarters of a century—quite an achievement.

I extend my congratulations to the PTA's members, past and present, as well as to the many selfless volunteers who will be honored for their commitment to their community.

They deserve our praise and thanks.

HOMELESS IN THE HEART

HON. WALTER H. CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CAPPS. Mr. Speaker, I want to bring to my colleagues' attention an essay written by a constituent of mine that illustrates the best of the human spirit. Torin Rea, his mother, and his younger brother found themselves homeless and living in a shelter in my hometown of Santa Barbara when he was in his teens. But instead of giving up, he and his family worked hard to make a better life for themselves.

Torin's eloquent and moving essay details his struggle of dealing with the horrible toll homelessness can take on a family. But more importantly, he describes how, faced with adversity, a family can pull together and overcome even the toughest times, becoming even closer in the process.

When the word homeless is mentioned, one quickly pictures a poor soul huddled in a box, eating the few scraps of food they can find. Or a person too mentally imbalanced to lead a productive life in society, wandering down the street babbling in words only he or she can understand. In Jo Goodwin Parker's short story, ''What is Poverty?'', Parker tells her graphic and incisive experience with homelessness. She accounts the times when she had nothing to eat for herself, only her children. The hard nights on the street with the cold biting at her side, with no ability to warm herself, she curls up with her children in a cardboard box. The painful feeling of not being able to feed her children runs deep into the heart. This mother had no means of supporting herself or her children, but she valiantly continues to mother them in the best

way she can. This woman felt so much humility and shame throughout her life, it is amazing she has any courage or strength left at all. Although her account was sad and full of despair, not all stories of homelessness are as shocking. Many families live in the same predicament with shelter. I have been a homeless child who lived in a community shelter. I too have shared the same fear and sadness, the shame of society, and the gained strength of independence from surviving the loss of my home.

My social status throughout my life has never been one of wealth, but far from poverty. My family lived in a beautiful country cottage for twelve years, while raising two boys and launching a prosperous business. We lived the American lifestyle. There was always dinner on the table, and presents under the tree at Christmas. Our needs and wants were always met.

When I was twelve my parents began suffering serious marital distress. Unable to resolve the issues that can sometimes never be resolved, my mother told my father to leave. With no other suitable and stable means of income my mother, brother, and I began to have financial problems. Unable to pay the rent, our landlord promptly served us with an eviction notice. Within thirty days we had nowhere to go, and nobody to turn to; reluctantly my abridged family moved into a nearby motel for a week. I recall that week as one of the most disorienting times in my life. When I came home to our motel room I had no bed to call my own, no kitchen to make myself a snack as we were living out of an ice box, and nothing to call my own anymore, just the bag that I came with. I constantly questioned my mother where we were going to move and she always replied, ''I don't know son.'' Two days before our stay at the motel was up my mother told my brother and I that we were going to move into a family shelter in Santa Barbara. My heart sank into my shoes. Shelters were for people who lived in alleys. Shelters were for the people who had no family. Shelters were for people who had no place to go, and we had nowhere to go. Within two days we had moved our remaining valuable possessions into an eight by ten room. The shelter we moved into had five bedrooms crammed with bunk beds, clothes, and children. Each room housed a mother and her children, and a large restaurant style kitchen which served as our collective eatery. The floors were dirty, the kitchen smelled of rotting vegetables, but I was with my family and we were safe. The first night we were there I tried with all my might to decorate my room as if it were my home, but the walls felt as if they were cardboard, liable to disappear at any moment. I laid in bed that night, struggling with my emotions, and wondering if I would ever have a home again.

The next day while commuting to school, I tried to decide what I would tell my friends. How could I gracefully tell them, most of whom were all wealthy, that I had moved into a homeless shelter? I had never felt so much shame, and I had never felt so small. While my friends were going out to dinner every Friday night, I was at my dirty shelter cooking macaroni and cheese watching my brother and helping him with his homework. I could never leave him alone, or family services would come and take us both away from our mother. While my friends' parents were having dinner parties, my mother was out working extra hours to save for rent, and to put food on the table. Many nights I had to come home from school to baby-sit my brother while my mom was out. This made a social life completely unattainable. We were not allowed any visitors inside the shelter, so when friends came over, I shamefully told them to wait outside while I grabbed my things. They all asked where I lived and I told them I lived in an apartment complex, ashamed to tell them the truth. I had no extra money to spend on fun, as most of it was used on gas and maintenance on my car to get to school. My whole existence as a carefree teenager became the duty of a father to my brother, a confidant to my mother, and a starving student living in shame of his existence.

As time slowly passed by we became accustomed to the makeshift home we lived in. My mother continued saving money every day to move out, since we were only allowed six months to stay. I continued with school into my senior year, and was doing remarkably well. My brother, who used to be a shut in, began making friends at his new school in Santa Barbara. We trudged through day after day living in the shelter with screaming babies, and beaten wives, finding strength in places we never knew about. I began to cook more often, and enjoyed the simple satisfaction of serving my mother and brother dinner.

My mother became so strong and driven I couldn't help but to admire her courage and her grace in such a time of despair. My own strength grew as well and I began to see that everyone can have happiness if they choose to. I began to love the small family that lived in the shelter; the mothers, the babies, and the bond that we all shared by having nothing but one another. Coming towards the end of the sixth month, my mother found a home. She had finally saved enough money to move and our time in the shelter had come to an end. Six months of struggle, six months of humility, and six months of strength would now send us out into the world. Our dreams still intact, and our happiness soaring, we moved into our first house we could call our own.

Three years later I still look back upon that time in my life and smile. It was then when I truly found my strength and happiness. I had never been so close to my family until everything we had was taken from us. Becoming homeless can be the most horrible and humbling experience in a person's life, but it can also be the most empowering. Homelessness is not always bums on the sidewalk, it can be good decent families that have stumbled into hard times, unable to fight the power of money. My experience of being without a home was the most painful time in my life, but in a way it was the brightest. It was then I found myself and my strength. It was then when I found my family. It was when I had nothing, that I found everything. I will never forget our shelter on De La Vina street, and the person I found there.

Torin Rea is now 21 years old sharing a home in San Diego, CA, and working at one of the highest selling Nordstroms in the country. Last year he was the first 21-year-old ever to achieve the honor of top seller in the region. He is a legend in his own time.

A TRIBUTE TO 'COACH' DISNEY

HON. RANDY ''DUKE'' CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 21, 1997

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to Mr. Richard 'Dick' Disney. Coach Disney was a long time teacher, coach, and friend to thousands of Escondido's children. His life exemplifies the hard work, dedication, and concern for our children that we expect from our Nation's teachers.

I submit for the RECORD the following article which chronicles Mr. Disney's life and achievements.

[From the North County Times, Jan. 15, 1997]

''COACH'' DISNEY, 62, DIES AFTER COLLAPSING

(By L. Erik Bratt)

ESCONDIDO.—Richard ''Dick'' Disney's goals in life, his friends say, were to inspire students through athletics, build their self-esteem and make them realize that teamwork is the key to success.

He was about to bestow an award reflecting those ideals to a student-athlete at Orange Glen High School Monday night, but he never got the chance to do so.

Mr. Disney, 62, collapsed and died just before presenting the award—named after himself—to senior Matt Embrey, the grandson of legendary Escondido High coach Chick Embrey, now retired.

Mr. Disney, a trustee of the Escondido Union High School District and a former longtime coach and teacher at Orange Glen, was taken to Palomar Medical Center after collapsing at 8 p.m. from what his wife, Sharon, said was a major heart attack.

''He was the most wonderful husband in the world,'' Mrs. Disney said. ''He died doing what he loved most, working with kids and trying to help them be the best they can be.''

Mr. Disney, known to most Escondido residents simply as ''coach,'' was a Point Loma High graduate. He taught at both San Marcos High and Escondido High before becoming a founding faculty member at Orange Glen when it opened in 1962. He was a physical education teacher, as well as the head football coach and athletic director for several years.

In 1967, he guided the Patriots to an undefeated record and the county championship, said Paul Moyneur, quarterback of that team and now a San Pasqual High teacher.

''I think the thing that stands out about him is that he genuinely enjoyed being around kids,'' Moyneur said. ''He was very fair. He was very good at getting the most out of people.''

Mr. Disney retired as head coach in 1972 but continued to serve as an assistant, as well as coach of the freshman team. At one point, he served as an assistant Moyneur, who was head coach from 1976 to 1984.

Mr. Disney's first wife, Sandra, died of cancer in 1980, and he later remarried. He retired as a teacher in 1992. Two years later, he won a seat on the high school board in a landslide. He was an active member, helping solicit campaign donations to get the district's $43 million general obligation bond passed last June.

''I even called him 'coach' because the way he treated any kind of problem or concern was in a coaching way, never in a confrontational how to play ball with their youngsters so the children would not be ridiculed later in school,'' Gawronski said.

''He was, and always will be, a coach,'' said Charlie Snowder, school board president. ''That is how he lived his life. He always promoted teamwork and individual excellence in everything he ever did in life.''

Besides his wife, Mr. Disney is survived by his father, Richard V. Disney; his stepmother, Gladys Disney; two sons, Doug Disney and Richard Disney; two daughters, Darlene Coughlin and Dee Ann Disney-Jones; a stepdaughter, Wendy Leggett; and a stepson, Matt Wilson.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S119–S148

Measures Introduced: One hundred seventy-eight bills and fourteen resolutions were introduced, as follows: S. 1–178, S. J. Res. 1–9, and S. Res. 15–19. **(See next issue.)**

Measures Passed:

Technical Correction: Senate passed H. J. Res. 25, making technical corrections to the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104–208). **(See next issue.)**

Nomination—Time Agreement: A unanimous-consent agreement was reached providing for the consideration of the nomination of Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State on Wednesday, January 22, with a vote to occur thereon. **(See next issue.)**

Appointments:

Senate Arms Control Observer Group: The Chair, on behalf of the Minority Leader, pursuant to S. Res. 105, adopted April 13, 1989, as amended by S. Res. 280, adopted October 8, 1994, announced the appointment of the following Senators as members of the Senate Arms Control Observer Group: Senators Biden, Byrd (designated to serve as Minority Administrative Co-Chairman), Bumpers, Daschle, Glenn, Kennedy, Kerrey, Levin (designated to serve as Co-Chairman for the Minority), Moynihan, and Sarbanes. **(See next issue.)**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, a report concerning biological and chemical weapons; to the Committee on Armed Services. (PM–5). **(See next issue.)**

Transmitting, a report on the continuation of the emergency regarding terrorists; to the Committee on Banking, Housing, and Urban Affairs. (PM–6). **(See next issue.)**

Nominations Received: Senate received the following nominations:

Ayse Manyas Kenmore, of Florida, to be a Member of the National Museum Services Board for a term expiring December 6, 2000.

John T. Broderick, Jr., of New Hampshire, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1999.

Susan E. Trees, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2002.

Jeffrey Davidow, of Virginia, to be a Member of the Board of Directors of the Inter-American Foundation, for a term expiring September 20, 2002.

Routine lists in the Foreign Service. **Pages S146–48**

Messages From the President: **(See next issue.)**

Messages From the House: **(See next issue.)**

Communications: **(See next issue.)**

Executive Reports of Committees: **(See next issue.)**

Statements on Introduced Bills: **(See next issue.)**

Amendments Submitted: **(See next issue.)**

Notices of Hearings: **(See next issue.)**

Additional Statements: **(See next issue.)**

Adjournment: Senate convened at 12 noon and adjourned at 7:19 p.m., until 10 a.m., on Wednesday, January 22, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record.)

Committee Meetings

(Committees not listed did not meet)

ECONOMIC OUTLOOK

Committee on the Budget: Committee held hearings to examine the state of the United States economy and economic outlook, receiving testimony from Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System.

Committee will meet again tomorrow.

NOMINATION

Committee on Foreign Relations: On Monday, January 20, committee ordered favorably reported the nomination of Madeleine Korbel Albright, of the District of Columbia, to be Secretary of State.

House of Representatives

Chamber Action

Bills Introduced: 45 public bills, H.R. 452–496; and 11 resolutions, H.J. Res. 32–35, H. Con. Res. 9–11, and H. Res. 31–34, were introduced.

Pages H242–44

Reports Filed: No reports were filed today.

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Bereuter to act as Speaker pro tempore for today.

Page H171

Select Committee on Ethics Report: By a recorded vote of 395 ayes to 28 noes with 5 voting "present", Roll No. 8, the House agreed to H. Res. 31, in the matter of Representative Newt Gingrich.

Pages H171–H235

Committee Leave of Absence: Read a letter from Representative Barr wherein he requests a leave of absence from the Committee on Veterans' Affairs.

Page H235

Committee Elections: Agreed to H. Res. 31 and H. Res. 32, electing Members to certain standing committees of the House of Representatives.

Pages H235–36

Morning Hour Debate: It was made in order that on Mondays and Tuesdays of each week through the second session of the 105th Congress, the House shall convene 90 minutes earlier than the time otherwise established by order of the House for the purpose of conducting morning-hour debate. **Page H236**

State of the Union Address: The House agreed to H. Con. Res. 9, providing for the State of the Union address by the President on Tuesday, February 4, 1997. **Page H236**

Presidential Messages: Read the following messages from the President:

National Emergency re Middle East Peace Process: Message wherein he transmits his notice concerning the emergency declared with respect to the Middle East peace process—referred to the Committee on International Relations and ordered printed (H. Doc. 105–28); and **Page H236**

Threat of Biological and Chemical Weapons: Message wherein he transmits his report describing the policy functions and operational roles of Federal agencies in countering the threat posed by biological and chemical weapons of mass destruction—referred to the Committee on National Security and ordered printed (H. Doc. 105–29). **Page H236**

Quorum Calls—Votes: One recorded vote developed during the proceedings of the House today and appears on pages H234–35. There were no quorum calls.

Adjournment: Met at 12 noon and, pursuant to the provisions of S. Con. Res. 3, adjourned at 2:24 p.m. until 12:30 p.m. on Tuesday, February 4, 1997.

Committee Meetings

COMMITTEE ORGANIZATION

Committee on Commerce: Met for organizational purposes.

COMMITTEE ORGANIZATION

Committee on Education and the Workforce: Met for organizational purposes.

OVERSIGHT—STATUS OF EFFORTS TO IDENTIFY PERSIAN GULF WAR SYNDROME

Committee on Government Reform and Oversight: Subcommittee on Human Resources and Intergovernmental Relations held an oversight hearing on the status of efforts to identify the Persian Gulf War syndrome. Testimony was heard from Donald Curtis, M.D., member, Presidential Advisory Committee on PGW Veterans' Illnesses; Kenneth Kizer, M.D., Under Secretary, Health, Department of Veterans Affairs; Bernard Rostker, Special Assistant, PGW Illnesses, Department of Defense; and public witnesses.

COMMITTEE ORGANIZATION

Committee on the Judiciary: Met for organizational purposes.

The Committee also approved oversight reports.

COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 22, 1997

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry, to hold an organizational meeting, 9:30 a.m., SR–328A.

Committee on Armed Services, to hold hearings on the nomination of William S. Cohen, of Maine, to be Secretary of Defense, 10:30 a.m., SH–216.

Full Committee, closed business meeting, to consider the nomination of William S. Cohen, of Maine, to be Secretary of Defense, 3 p.m., SR–222.

Committee on Banking, Housing, and Urban Affairs, to hold hearings on the nomination of Andrew M. Cuomo, of New York, to be Secretary of Housing and Urban Development, 10 a.m., SD–538.

Committee on the Budget, to hold hearings on long-term budget projections and prospects for long-term growth, 10 a.m., SD–608.

Committee on Commerce, Science, and Transportation, to hold an organizational meeting, 2 p.m., SR–253.

Full Committee, to hold hearings on the nomination of William M. Daley, of Illinois, to be Secretary of Commerce, 2:30 p.m., SR–253.

Committee on the Judiciary, to hold hearings on proposed legislation to balance the budget, 10 a.m., SD–226.

Committee on Labor and Human Resources, to hold an organizational meeting, 9:30 a.m., SD–430.

House

Committee on the Judiciary, Subcommittee on the Constitution, hearing regarding limiting terms of office for Members of the U.S. Senate and the U.S. House of Representatives, 9:30 a.m., 2141 Rayburn.

Next Meeting of the SENATE

10 a.m., Wednesday, January 22

Senate Chamber

Program for Wednesday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 12 noon), Senate will consider the nomination of Madeleine Albright, to be Secretary of State.

Next Meeting of the HOUSE OF REPRESENTATIVES

12 noon, Tuesday, February 4

House Chamber

Program for Tuesday, February 4: The House will meet in Joint Session with the Senate to receive the President's State of the Union Address.

Extensions of Remarks, as inserted in this issue

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