SENATE—*Monday, September 23, 1991*

(Legislative day of Thursday, September 19, 1991)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we seek inspiration today from that God who holds aloft the scale in which the destinies of nations are weighed, the Senate will be led in prayer by the Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

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

Let us pray:

Eternal God, Your Word is very precise:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:34. *Blessed is the nation whose God is the Lord * * *.*—Psalm 33:12. *And I will walk at liberty: for I seek thy precepts.*—Psalm 119:45.

God of our fathers, on this final day of Constitution Week we express our gratitude for this profound instrument to which, for 200 years, every national leader commits himself when he takes office. As we remember the Constitution, may we be reminded of the words of Thomas Jefferson upon which the Bill of Rights is based:

"We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable Rights * * *."

"Our fathers' God, to Thee,
Author of liberty,
To Thee we sing:
Long may our land be bright,
With freedom's holy light;
Protect us by Thy might,
Great God, our King,"

—"America," fourth verse.

Amen.

RESERVATION OF LEADERSHIP TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1992

The PRESIDENT pro tempore. The Senate will now proceed to the consideration of H.R. 2521, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2521) making appropriations for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[$24,526,100,000]** *$24,136,000,000***[***: Provided,* That the Army shall not involuntarily separate any military personnel, except for causes consistent with past policy.**]**

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[$19,577,700,000]** *$19,603,025,000.*

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[$6,086,800,000]** *$6,055,360,000.*

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[$18,905,500,000]** *$18,838,800,000.*

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$2,320,800,000]** *$2,298,800,000.*

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$1,718,600,000]** *$1,710,600,000.*

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$354,900,000]** *$342,400,000.*

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for

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

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personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; [$721,500,000] *$715,100,000.*

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; [$3,395,700,000] *$3,320,400,000.*

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,145,500,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

[(INCLUDING TRANSFER OF FUNDS)]

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; [$18,362,945,000] *$20,913,805,000*[: *Provided,* That of the funds appropriated and made available in this paragraph, $36,800,000 for Depot Maintenance, $450,000,000 for Real Property Maintenance, and $152,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further,* That $350,000 shall be available for the 1992 Memorial Day Celebration and $350,000 shall be available for the 1992 Capitol Fourth Project: *Provided further,* That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $4,000,000 shall be available only for a grant to the National D-Day Museum Foundation, and $4,000,000 shall be available only for a grant to the Airborne and Special Operations Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That $350,000 shall be available only to the Oregon Department of Economic Development: *Provided further,* That $40,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS): *Provided further,* That of the funds appropriated, $22,000,000 shall be transferred by the Secretary of the Army to the local educational authority at Fort Irwin, California for the construction of an elementary and a high school at Fort Irwin. The transfer of funds to the local educational authority at Fort Irwin is contingent upon an agreement from the local educational authority to assume responsibility for the operation and maintenance of such elementary and high school. In addition, impact aid cannot be reduced to the Fort Irwin school district because of this specific increased funding grant:] *Provided, That $26,000,000 shall be available only for procurement of the Extended Cold Weather Clothing System (ECWCS): Provided further, That of the funds appropriated under this heading, $20,000,000 shall be available only for the upgrade of facilities and equipment at the Army's Combat Training Centers.*

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,609,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; [$21,394,932,000] *$23,012,390,000*[: *Provided,* That of the funds appropriated and made available in this paragraph, $600,000,000 for Depot Maintenance, $330,000,000 for Real Property Maintenance, and $168,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992:] *Provided, That of the funds appropriated under this heading, $78,000,000 shall be available only for shipyard modernization projects to remain available for obligation until September 30, 1994: Provided further,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts[: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels]: *Provided further, That not less than $2,000,000 shall be made available to the Secretary of the Navy for a study, to be submitted to the Committees on Appropriations no later than August 1, 1992, on the costs of improving the Port of Haifa, Israel, and facilities in the immediate vicinity, to accommodate the full complement of services required for the maintenance, repair and associated tasks needed to support a carrier battle group.*

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; [$2,082,500,000] *$2,109,665,000: Provided,* [That of the funds appropriated and made available in this paragraph, $27,200,000 for Depot Maintenance, $70,000,000 for Real Property Maintenance, and $78,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992]: *Provided further,* That none of the funds appropriated in this paragraph may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A-76 until the General Accounting Office completes their audit and validates the decision[: *Provided further,* That of the funds appropriated in this paragraph $296,195,000 shall not be obligated or expended until authorized by law.]

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,646,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; [$17,660,213,000] *$19,242,014,000*[: *Provided,* That of the funds appropriated and made available in this paragraph, $136,000,000 for Depot Maintenance, $150,000,000 for Real Property Maintenance, and $100,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992.]

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[(INCLUDING TRANSFER OF FUNDS)]

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; [$18,599,037,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which] *and* not to exceed $15,743,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; *$8,635,768,000*[: Provided, That of the funds appropriated by this paragraph, $760,535,000 shall be available for the Special Operations Command, of which $76,912,000 shall be transferred to the Operation and Maintenance appropriations of the Reserve Components for execution: *Provided further,* That of the funds appropriated and made available in this paragraph, $102,000,000 for Spares and Repair Parts shall not become available for obligation before September 1, 1992: *Provided further,* That of the funds appropriated in this paragraph, $81,400,000 shall be available only to maintain the operations and personnel levels of a 185-bed facility either at Letterman Hospital or by using contractual services at or near the Presidio, in San Francisco, California]: *Provided, That of the funds appropriated under this heading, $1,000,000 shall be available to the Office of the Secretary of Defense only for the development and establishment of gainsharing projects: Provided further, That of the funds appropriated*

under this heading, $750,000 shall be available only for the conduct and preparation of an inventory of all the real property in the State of Hawaii that is owned or controlled by the United States Department of Defense and its components: Provided further, That of the funds appropriated under this heading, $5,000,000 shall be available only for the establishment and administration of a commission, to be known as the "Defense Conversion Commission": Provided further, That:

(a) Of the funds appropriated under this heading not less than $25,000,000 shall be made available only for the continued implementation of the Legacy Resource Management Program: Provided, That of this amount, not less than $10,000,000 shall be available only for use in implementing cooperative agreements to identify, document, and maintain biological diversity on military installations: Provided further, That funds appropriated for the Legacy Resource Management Program shall be made available for the purposes set forth in section 8120 of Public Law 101-511 and for implementing such cooperative agreements as may be concluded between the Department of Defense and other governmental and nongovernmental organizations or entities: Provided further, That the Deputy Assistant Secretary of Defense for Environment shall provide the Committee with a report on the status of the Legacy program and a five year plan for its development no later than June 30, 1992.

(b) Sections 8120(c) and (d) of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905) are each amended by striking out "Deputy Assistant Secretary of Defense for Environment" and inserting "Deputy Assistant Secretary of Defense (Environment)" in lieu thereof.

(c) Section 8120(d) of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905), as amended by subsection (a), is further amended by—

(1) striking out "seek the participation of" and inserting "involve" in lieu thereof, and

(2) by adding the following new sentences at the end of such section: "He shall also involve State and local agencies and not-for-profit organizations with special expertise in areas related to the purposes of the Legacy Program. Services of State and local agencies and not-for-profit organizations may be obtained by contract, cooperative agreement, or grant to assist the Department of Defense in fulfilling the purposes of the Legacy program."

[: *Provided further*, That of the funds appropriated in this paragraph $8,246,454,000 shall not be obligated or expended until authorized by law] *Provided further, That not less than $2,000,000 shall be made available only for a feasibility study on the use of a rotary reactor thermal destruction technology in the treatment and disposal of waste regulated under the Resource Conservation and Recovery Act of 1976.*

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$995,600,000] *$962,200,000*[: *Provided*, That of the funds appropriated in this paragraph, $49,050,000 shall not be obligated or expended until authorized by law].

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$825,500,000] *$840,600,000*[: *Provided*, That of the funds appropriated in this paragraph, $28,803,000 shall not be obligated or expended until authorized by law.]

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$85,900,000] *$81,700,000*[: *Provided*, That of the funds appropriated in this paragraph, $7,673,000 shall not be obligated or expended until authorized by law.]

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$1,091,200,000] *$1,077,000,000*[: *Provided*, That of the funds appropriated in this paragraph, $23,840,000 shall not be obligated or expended until authorized by law.]

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); [$2,165,600,000] *$2,125,800,000*[: *Provided*, That of the funds appropriated in this paragraph, $68,460,000 shall not be obligated or expended until authorized by law.]

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; [$2,275,700,000] *$2,276,300,000*[: *Provided*, That of the funds appropriated in this paragraph, $32,584,000 shall not be obligated or expended until authorized by law.]

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $5,000,000 of which not to exceed $7,500 shall be available for incidental expenses of the National Board[: *Provided*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law]*: Provided, That the President shall assess the contributions to military readiness provided by the National Board for the Promotion of Rifle Practice, and report to the Congress the anticipated impact of the termination of funding by the Department of Defense for the activities and operations of the National Board not later than March 1, 1992.*

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $5,500,000, and not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; [$2,152,900,000] *$1,183,900,000*, to remain available until transferred*: Provided*, [That of the funds appropriated and made available in this paragraph, $900,000,000 shall not become available for obligation before September 1, 1992: *Provided further*,] That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation[:

Provided further, That of the funds appropriated in this paragraph, $900,000,000 shall not be obligated or expended until authorized by law.]

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; [$15,000,000] *$13,000,000*, to remain available for obligation until September 30, 1993: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives [21] *15* days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress[: *Provided further*, That of the funds appropriated in this paragraph, $2,000,000 shall not be obligated or expended until authorized by law].

WORLD UNIVERSITY GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the World University Games) provided by any component of the Department of Defense to the World University Games; [$3,000,000] *$1,000,000*.

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 games of the XXVI Olympiad; $2,000,000.

REAL PROPERTY MAINTENANCE, DEFENSE

For the maintenance of real property of the Department of Defense, $1,000,000,000 to remain available for obligation until September 30, 1993: Provided, That such funds shall be available only for repairing property which has been defined by the Defense Department as part of a backlog of maintenance and repair projects in the justification material accompanying the President's budget request for fiscal year 1992: Provided further, That such funds shall be allocated by the Comptroller, Department of Defense for the projects determined by the Department of Defense as the highest priority for repair.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,730,787,000] *$1,640,200,000*, to remain available for obligation until September 30, 1994.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,109,595,000] *$1,009,456,000*, to remain available for obligation until September 30, 1994.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,084,813,000] *$1,003,096,000*, to remain available for obligation until September 30, 1994.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,364,859,000] *$1,325,421,000*, to remain available for obligation until September 30, 1994[: *Provided*, That with funds herein appropriated or otherwise available to the Army and the Navy, the services shall jointly evaluate NATO classified NDI plastic ammunition containers as an alternative to current plans for packaging 81mm mortar ammunition and report the results of such evaluation to the Congress by March 1, 1992: *Provided further*, That of the funds appropriated in this paragraph, $98,459,000 shall not be obligated or expended until authorized by law].

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 225 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$3,021,435,000] *$3,013,798,000*, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, NAVY

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$7,683,633,000] *$7,025,920,000*, to remain available for obligation until September 30, 1994: *Provided*, That $851,600,000 of the funds appropriated in the Department of Defense Appropriations Act, 1991 (Public Law 101-511) under the heading "Research, Development, Test and Evaluation, Navy" shall be transferred to "Aircraft Procurement, Navy": *Provided further*, That the funds transferred are to be available for the same time period as the appropriation from which transferred and for the same purposes as the appropriation to which transferred[: *Provided further*, That of the funds appropriated in this paragraph, $174,103,000 shall not be obligated or expended until authorized by law.]

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway[, as follows:

[Ballistic Missile Programs, $1,204,166,000;

[Other Missile Programs, $2,360,879,000;

[Torpedoes and Related Equipment, $689,456,000;

[Other Weapons, $130,123,000;

[Other Ordnance, $234,292,000;

[Other, $107,879,000;

In all: $4,726,795,000]; *$4,611,848,000*, to remain available for obligation until September 30, 1994.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for

vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title[, as follows:

[SSN-21 attack submarine program, $1,903,225,000;

[DDG-51 destroyer program, $3,330,337,000;

[LHD-1 amphibious assault ship program, $972,000,000;

[LSD-41 dock landing ship cargo variant program, $245,134,000;

[MHC coastal mine hunter program, $231,096,000;

[T-AGOS surveillance ship program, $149,000,000;

[AOE combat support ship program, $500,000,000;

[LCAC landing craft air cushion program, $807,102,000;

[Oceanographic ship program, $41,200,000;

[Sealift and Preposition ship program, $1,300,000,000;

[For craft, outfitting, and post delivery, $510,771,000;

[For inflation and Public Law 85-804 settlement, $599,900,000: *Provided*, That up to $75,000,000 shall be available for payments pursuant to settlement of Public Law 85-804 claims for T-AGS 39 and T-AGS 40;

[For first destination transportation, $5,939,000;

In all: $10,595,704,000]; *$7,725,382,000*, to remain available for obligation until September 30, 1996: *Provided*, That additional obligations may be incurred after September 30, 1996, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards[: *Provided further*, That of the funds appropriated in this paragraph, $2,096,504,000 shall not be obligated or expended until authorized by law].

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 651 passenger motor vehicles of which 621 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$6,574,568,000] *$6,306,544,000*, to remain available for obligation until September 30, 1994.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 45 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; [$1,043,218,000] *$1,100,570,000*, to remain available for obligation until September 30, 1994.

AIRCRAFT PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$7,444,121,000] *$10,349,396,000, and in addition, $722,200,000 shall be derived by transfer from "Research, Development, Test and Evaluation, Navy, 1990/1991"*, to remain available for obligation until September 30, 1994: *Provided, That none of the funds provided under this heading shall be available for procurement of the B-2 bomber unless and until a supplemental appropriations Act, providing for the obligation of funds for the B-2, has been enacted into law and until the Secretary of Defense has submitted certification to the congressional defense committees on the performance of the B-2 bomber as required under section 118(c) of S. 1507, the National Defense Authorization Act, as it passed the Senate on August 2, 1991.*

MISSILE PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$5,243,841,000] *$5,332,671,000*, to remain available for obligation until September 30, 1994, *and in addition, $95,500,000 shall be derived by transfer from "Research, Development, Test and Evaluation, Air Force, 1991/1992" to remain available for obligation until September 30, 1992*[: *Provided*, That notwithstanding section 163 of Public Law 101-189 funds may be obligated to undertake full-rate production of the Advanced Medium Range Air-to-Air Missile (AMRAAM) after the Director of Operational Test and Evaluation (pursuant to section 138 of title 10, United States Code) submits the beyond low-rate initial production report required by section 2399(b)(2) of title 10, United States Code, stating that AMRAAM is operationally effective and suitable].

OTHER PROCUREMENT, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 408 passenger motor vehicles of which 285 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; [$8,001,524,000] *$7,859,296,000*, to remain available for obligation until September 30, 1994, *and in addition, $99,323,000 shall be derived by transfer from "Missile Procurement, Air Force, 1991/1993" to remain available for obligation until September 30, 1993.*

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; [$1,292,500,000] *$667,300,000*, to remain available for obligation until September 30, 1994[: *Provided*, That of the funds appropriated in this paragraph, $642,500,000 shall not be obligated or expended until authorized by law].

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 337 passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; [$2,708,446,000] *$2,087,400,000*, to remain available for obligation until September 30, 1994[, of which $972,815,000 shall be available for the Special Operations Command: *Provided*, That of the funds appropriated in this paragraph, $132,096,000 shall not be obligated or expended until authorized by law].

[DEFENSE PRODUCTION ACT PURCHASES

[For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $25,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

[PROCUREMENT OF PREPOSITIONING EQUIPMENT, DEFENSE

[For procurement of missiles, tracked combat vehicles, ammunition, other weapons, communications, and other procurement for the Department of Defense prepositioning program, $995,000,000, to remain available for obligation until September 30, 1994: *Provided*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.]

PROCUREMENT OF SEALIFT AND PREPOSITIONING EQUIPMENT, DEFENSE

For construction and conversion of sealift ships and procurement of missiles, tracked combat vehicles, ammunition, other weapons, communications, and other procurement necessary for the Department of Defense sealift and prepositioning programs, $2,000,000,000, to remain available for obligation until September 30, 1996.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$6,241,621,000] *$6,280,361,000*, to remain available for obligation until September 30, 1993[, of which not less than $6,300,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller upon successful completion of Phase I of this demonstration project]*: Provided, That not more than $25,000,000 shall be available for obligation for the Common Chassis Advanced Technology Transition Demonstration portion of the Armored Systems Modernization program until thirty days after the President has submitted to the Congress a National Intelligence Estimate of potential adversarial armored and antiarmor systems and capabilities: Provided further, That $2,000,000 shall be available only to establish a Center for Prostate Disease Research at the Walter Reed Army Institute of Research.*

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$7,464,910,000] *$7,666,142,000*, to remain available for obligation until September 30, 1993[: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That none of the funds appropriated in this paragraph are available for development of upgrades to the P-3 aircraft that do not include the AN/UYS-2 Enhanced Modular Signal Processor: *Provided further*, That none of the funds appropriated in this paragraph are available for development of upgrades to the Surveillance Towed Array Sensor System that do not include the AN/UYS-2 Enhanced Modular Signal Processor].

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$14,263,941,000] *$14,123,675,000*, to remain available for obligation until September 30, 1993[, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: *Provided*, That not less than $2,500,000 of the funds appropriated in this paragraph are available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels: *Provided further*, That $8,000,000 of the funds appropriated in this paragraph shall be available only for a side-by-side evaluation of the ALR-56M and the ALR-62I radar warning receivers: *Provided further*, That none of the funds appropriated by this paragraph may be used for the B-1B ALQ-161 CORE program or an advanced radar warning receiver, except for costs associated with the side-by-side testing of the ALR-56M and the ALR-62I, until the Air Force submits and Congress approves a plan for correction of B-1B operational shortfalls and the estimated cost of these corrections: *Provided further*, That $5,700,000 is available only for the U.S./U.S.S.R. Joint Seismic Program administered by the Incorporated Research Institutions for Seismology]*: Provided, That of the funds appropriated under this heading, $250,956,000 shall be available only for the Peacekeeper/Rail Garrison program, and of that amount, $15,000,000 shall be available only for the purposes of conducting a flight test of a Peacekeeper missile from a Rail Garrison basing mode train.*

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

[(INCLUDING TRANSFER OF FUNDS)]

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; [$8,979,141,000] *$9,393,542,000*, to remain available for obligation until September 30, 1993[, of which $266,970,000 shall be available for the Special Operations Command: *Provided*, That not less than $171,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT): *Provided further*, That not less than $30,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Veterans Administration and the Department of Defense: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be available only for an Experimental Program to Stimulate Competitive Research (ESPCoR) in the Department of Defense which shall include all States eligible for the National Science Foundation Experimental Program to Stimulate Competitive Research: *Provided further*, That the Secretary of Defense shall transfer $20,000,000 of amounts appropriated for research, development, test and evaluation for Defense Agencies for fiscal year 1991 to the Department of Energy for the Environmental and Molecular Sciences Laboratory: *Provided further*, That none of the funds in this paragraph may be obligated for the development of the Superconducting Magnetic Energy Storage System unless its processes, materials, and components are substantially manufactured in the United States]: *Provided, That of the funds appropriated for fiscal year 1991 under the heading "Research, Development, Test and Evaluation, Defense Agencies", $5,000,000 shall be obligated for the Critical Technologies Institute within 90 days after enactment of this Act: Provided further, That of the funds appropriated for fiscal year 1991 under the heading "Research, Development, Test and Evaluation, Defense Agencies", any unobligated funds provided for the Superconductive Magnetic Energy Storage Program shall be obligated within 120 days after enactment of this Act: Provided further, That the Secretary of Defense shall complete the Phase One contractor down-selection process for the Superconductive Magnetic Energy Storage Program within 60 days after enactment of this Act: Provided further, That of the funds appropriated in Public Law 101-511 for Research, Development, Test and Evaluation, Defense Agencies, $25,000,000 provided for the Strategic Environmental Research Program may only be obligated for the procurement, installation and operation of a supercomputer to support the Arctic Region Supercomputing Center.*

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; [$221,300,000] *$215,764,000*, to remain available for obligation until September 30, 1993.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $14,200,000, to remain available for obligation until September 30, 1993.

TITLE V

DEFENSE BUSINESS OPERATIONS FUND

[There is established on the books of the Treasury a Fund to be known as the "Defense Business Operations Fund" under which the following amounts are appropriated to the Defense Business Operations Fund established by this title:

[Defense Business Operations Fund, Army Stock Fund Division, $827,300,000; and

[Defense Business Operations Fund, Air Force Stock Fund Division, $1,616,800,000:

Provided, That such divisions shall maintain their separate identity and separate manage-

ment structures and shall be reflected on the books of the Treasury as divisions of the Defense Business Operations Fund which shall reflect only the balances of such funds appropriated pursuant to this paragraph separately in accordance with the fund to which they applied prior to the enactment of this title: *Provided further*, That during the current fiscal year no functions, activities, funds or accounts may be assigned, transferred or otherwise added to the existing fund as established in this paragraph: *Provided further*, That funds appropriated herein for such funds shall not be transferred between or among the divisions of such funds: *Provided further*, That of the funds appropriated in this paragraph, $24,000,000 shall not be obligated or expended until authorized by law.]

For the Defense Business Operations Fund; $3,400,200,000.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, [$208,698,000] *$210,900,000*; for Procurement, [$229,202,000] *$250,000,000* to remain available until September 30, 1994; for Research, development, test and evaluation, $13,900,000 to remain available until September 30, 1993; In all: [$451,800,000] *$474,800,000*: *Provided*, That none of the funds in this Act may be obligated or expended for the procurement of equipment for chemical weapon disposal facilities (other than Tooele) until the Secretary of Defense certifies to the Congress that 1) Operational Verification Testing at the Johnston Atoll Chemical Agent Destruction Facility is complete, 2) a report on the results of the tests has been submitted to the Congress, 3) plant design has been verified, and 4) necessary environmental permits have been secured for the sites for which the equipment is to be procured.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; [$1,155,994,000] *$1,117,075,000*: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act[: *Provided further*, That of the funds appropriated by this paragraph, $22,290,000 shall not be obligated or expended until authorized by law].

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, [$121,600,000; for Procurement, $300,000; In all: $121,900,000: *Provided*, That the amount provided for Procurement shall remain available until September 30, 1994] *$116,200,000*[: *Provided further*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law].

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $164,100,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; [$30,719,000] *$28,819,000*.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of the Philippines and foreign national employees of the Department of Defense in the Republic of Turkey: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8005. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 8006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed [$3,000,000,000] *$1,000,000,000* of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 8007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States

Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds and [to the "Foreign Currency Fluctuations, Defense" appropriation account] *the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts* in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8008. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

(b) None of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives: *Provided*, That this limitation shall apply to any authority granted pursuant to section 9008 of the Department of Defense Appropriations Act, 1990.

[(c) None of the funds available to the Department of Defense in this Act shall be used to enter into any agreement or contract to convert any heating facility at military installations in the Kaiserslautern Military Community (KMC) in the Federal Republic of Germany to district heat, direct natural gas, or other sources of fuel, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, and until the Secretary of the Air Force has (1) ensured that the United States coal industry has had the opportunity to provide thermal energy supply to the KMC facilities through participation in a competitive solicitation for proposals for a third-party thermal energy supply, provided such solicitation allows evaluation of innovative technical proposals such as cogeneration to enhance the cost-effectiveness of coal derived thermal energy; (2) thoroughly evaluated the cost-effectiveness of all proposals received; (3) submitted evaluation results to the General Accounting Office for review; and (4) notified the Committees on Appropriations of the Senate and House of Representatives of the evaluation results.]

(c) The Secretary of the Air Force may issue a request for proposal and enter into a contract using funds appropriated by this or any other Act, for heat from the regional district heating authority or authorities for the cities of Kaiserslautern, Landstuhl, and Ramstein-Miesenbach, Federal Republic of Germany, pursuant to a determination under 10 U.S.C. 2690(b): Provided, That (a) the Secretary of the Air Force determines that the cities of Kaiserslautern, Landstuhl, and Ramstein-Miesenbach have enacted district heat statutes in accordance with host nation law which (1) adhere to the principle of "equal treatment for all" and (2) do not single out or target United States Forces in Kaiserslautern, Landstuhl, and Ramstein-Miesenbach; and (b) the proposal will provide cost-effective heat over the life-cycle of the district heating system.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 *calendar days in session* in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1991 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on an analysis similar to that used pursuant to title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent. The Secretary shall solicit public comment prior to promulgating regulations to implement this section.

SEC. 8012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1994.

SEC. 8013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

MK-48 ADCAP Torpedo;
UH-60 Black Hawk Helicopter; and
Army Tactical Missile.

(TRANSFER OF FUNDS)

SEC. 8014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

[SEC. 8015. (a) None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 72,150: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 48,624 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

[(b) None of the funds appropriated by this Act shall be used to include (civilian) military technicians in any administratively imposed freeze on civilian positions.]

SEC. 8015. Notwithstanding any other provision of law, governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of real property recommended for closure in the report of the Defense Secretary's Commission on Base Realignments and Closures, December 1988, the report to the President from the Defense Base Closure and Realignment Commission, July 1991, and Public Law 100-526.

[SEC. 8016. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1992 or with respect to the appropriation of funds for that year.

[(b) During fiscal year 1992, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

[(c) The fiscal year 1993 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1993 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1993.]

SEC. 8016. None of the funds made available in this Act shall be used by the Department of Defense to exceed 1,011,348 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That if the President determines that such action is necessary in the national interest, the use of civilian workyears may exceed 2 percent of the above limitation and the President shall promptly notify the Congress of any increase.

SEC. 8017. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

[SEC. 8018. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.]

SEC. 8018. Notwithstanding any other provision of law, funds made available in fiscal years 1992 and 1993 shall be available to purchase petroleum products in Israel to meet emergency and other military needs of the United States and Israel as agreed to in a Memorandum of Agreement between the United States and Israel, which should be concluded promptly on terms and conditions acceptable to both Nations. In the event of a wartime emergency or a state of heightened military readiness on the part of either Nation, all or part of the stock purchased under this provision may be withdrawn and used by the forces of either Nation (1) with the agreement of the governments of both Nations as provided for in the MOA, and (2) with notification of the Congress in accordance with section 652 of the Foreign Assistance Act of 1961, as amended: Provided, That section 8810 of Public Law 101-511 is hereby repealed.

[SEC. 8019. None of the funds appropriated by this Act or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.]

SEC. 8019. Notwithstanding any other provision of law, the Army Central Hospital Fund, a Non Appropriated Fund Instrumentality, shall be terminated upon enactment of this Act. All residual funds will, on that date, be transferred to an appropriated trust fund established by the Secretary of the Army for the operation and maintenance of "Fisher Houses" located in proximity to Army Medical Treatment Facilities. The Secretary shall promulgate regulations governing the expenditure and accountability of these funds.

SEC. 8020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for [not more than 250] civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8023. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8024. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That no contribution to the Fund pursuant to section 2006(g) shall be made during the current fiscal year that represents liabilities arising from the Department of the Army: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 8025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act or; (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

[SEC. 8027. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).]

SEC. 8027. Notwithstanding any other provision of law, section 8095 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1896) is hereby repealed.

SEC. 8028. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded[: *Provided further*, That none of the funds appropriated or made available by this Act may be used to deploy the Composite Health Care System

beyond the initial alpha and beta test sites until system development is completed].

SEC. 8029. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8030. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8031. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8032. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth[: *Provided*, That none of the funds available shall be used to reduce, revise, or terminate the CHAMPUS Reform Initiative contract before February 1, 1994].

SEC. 8033. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8034. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the country to provide such waiver and so notifies the congressional defense committees in writing.

SEC. 8035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1992, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act: *Provided further, That at the time the President submits his budget for fiscal year 1993, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O-1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1993.*

SEC. 8036. Of the funds appropriated to the Army, $172,072,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended—

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software *unless approved by the Chief of the National Guard Bureau*; and

(8) unless RCAS performs its own classified information processing.

SEC. 8037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further*, That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

[SEC. 8040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.]

SEC. 8040. The Secretary of Defense shall take such action as necessary to assure that a minimum of 75 percent of the petroleum pitch carbon fiber requirement be procured from domestic sources by 1994.

(TRANSFER OF FUNDS)

SEC. 8041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508): *Provided further*, That

the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty [legislative days] *calendar days in session* before any such transfer of funds under this provision.

SEC. 8042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8043. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service in excess of thirty days in any year, in the case of a patient nineteen years of age or older, forty-five days in any year in the case of a patient under nineteen years of age, or one hundred and fifty days in any year in the case of inpatient mental health services provided as residential treatment care, or for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That these limitations do not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care: *Provided further*, That the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this provision or section 1086 of title 10, United States Code. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries: *Provided further*, That except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this provision or section 1086 of title 10, United States Code. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.

SEC. 8044. The designs of the Army LH helicopter, the Navy A-X Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications and must fully comply with all DOD regulations requiring the use of the Ada computer programming language no later than 1998: *Provided*, That effective July 1, 1992 all new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL-STD-881 in those instances where software is considered to be a major category of cost.

SEC. 8045. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

[SEC. 8046. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $300,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1992, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components: *Provided further*, That not more than $1,188,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Defense.]

SEC. 8046. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $202,000,000 to reflect savings from the decreased use of non-Corporate Information Management related automated data processing development and modernization by the Department of Defense. Of this amount, $49,000,000 shall be allocated to the Army, $20,000,000 shall be allocated to the Navy, and $133,000,000 shall be allocated to the Air Force. The respective Service Secretaries shall sub-allocate the amounts reduced in the preceding sentence and not later than March 1, 1992, the Secretary of Defense shall report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services, by appropriation: Provided, That none of this reduction may be applied to the Army's Sustaining Base Information Systems or Reserve Component Automation System programs.

SEC. 8047. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

[SEC. 8048. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $10,800,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

[(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

[(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.]

SEC. 8048. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 175,960 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youth shall not be included in this workyear limitation.

[SEC. 8049. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) to make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center and related missions, functions and commands until sixty days after the Secretary of Defense submits a report, including complete review comments by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from a budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and Naval Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceperson or have an adverse economic impact on a geographic area.]

(TRANSFER OF FUNDS)

SEC. 8049. In addition to the amounts appropriated or otherwise made available in this Act, $716,729,000 is appropriated for the operation, modernization, and expansion of automated data processing systems: Provided, That the Sec-

retary of Defense shall, upon determining that such funds are necessary and further the objectives of the Corporate Information Management initiative, transfer such amounts as necessary to the appropriate Defense Agency appropriation provided in titles II, III, and IV of this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That obligation and expenditure of these funds are subject to the review and approval of the Corporate Information Management Executive Level Group: Provided further, That this transfer authority shall be in addition to any other transfer authority contained in this Act.

SEC. 8050. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 8051. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8052. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8053. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8054. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8055. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 8056. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for the payment of the expenses under the Program for the first $150 of the charges for all types of care authorized under the provisions of section 1079(a) of title 10, United States Code, under plans contracted for under the provisions of section 1079 or section 1086 of title 10, United States Code, and received in an outpatient status after April 1, 1991: *Provided*, That the foregoing limitation shall not exceed the first $300 in the case of a family group of two or more persons covered by section 1079(a) of title 10, United States Code: *Provided further*, That higher deductible amounts, *higher coinsurance payments*, and/or total or partial restrictions on the availability of care (other than emergency care) in facilities of the uniformed services may be prescribed by the Secretary of Defense in the case of beneficiaries eligible for enrollment under health care plans contracted for under section 1097 of title 10, United States Code, who chose not to enroll in such plans: *Provided further*, That the provisions of this section shall not apply in the case of dependents of military members in grades E-1 through E-4.

SEC. 8057. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

SEC. 8058. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.

SEC. 8059. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 8060. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 8061. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8062. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8063. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five year period beginning on October 1, 1991, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

[SEC. 8064. None of the funds appropriated in this Act shall be used to reduce the fiscal year 1992 2.5- or 5-ton truck maintenance workload at Letterkenny Army Depot as a direct result of either the proposed consolidation of truck maintenance or an increase in fiscal year 1992 truck maintenance at any other depot; neither shall funds be available for transfer of towed and self-propelled artillery maintenance from Letterkenny Army Depot.]

SEC. 8064. Section 831(m) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended—

(a) by striking paragraph (2) and inserting:

"(2) The term 'disadvantaged small business concern' means:

"(A) a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(B) a business entity owned and controlled by an Indian tribe as defined by Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13));

"(C) a business entity owned and controlled by a Native Hawaiian Organization as defined by Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(13)); or

"(D) a qualified organization employing the severely disabled.";

(b) by adding the following new paragraphs:

"(6) The term 'qualified organization employing the severely disabled' means a business entity that—

"(A) uses rehabilitative engineering to provide employment opportunities for severely disabled individuals and integrates severely disabled individuals into its workforce;

"(B) employs severely disabled individuals at a rate that averages not less than 20 percent of its total workforce;

"(C) employs each severely disabled individual in its workforce generally on the basis of 40 hours per week; and

"(D) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair

Labor Standards Act (29 U.S.C. 206) to those employees who are severely disabled individuals.

"(7) The term 'severely disabled individual' means an individual who has a physical or mental disability which constitutes a substantial handicap to employment and which, in accordance with criteria prescribed by the Committee for the Purchase From the Blind and Other Severely Handicapped established by section 46 of title 41, United States Code, is of such a nature that the individual is otherwise prevented from engaging in normal competitive employment.".

[SEC. 8065. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further*, That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.]

SEC. 8065. Of the funds appropriated by this Act, no more than $14,000,000 shall be available for the mental health care demonstration project at Fort Bragg, North Carolina: Provided, That adjustments may be made for normal and reasonable price and program growth.

SEC. 8066. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

[SEC. 8067. None of the funds available to the Department of Defense in this Act shall be used to reduce the end strength and force structure of the Reserve Components below the levels funded in this Act or be used to reduce or disestablish the operation of units of the Reserve Components below those in existence on April 15, 1991: *Provided*, That the foregoing limitation shall not apply to the modernization or restructuring of units at the same location or to the establishment of new units.]

SEC. 8067. None of the funds available to the Department of Defense in this Act shall be used to reduce the end strength of the National Guard and Reserve Components below the levels funded in this Act or be used to reduce the force structure allowance for the Army National Guard and Army Reserve below 450,000 and 310,000 respectively, and that of the other National Guard and Reserve Components below the end strength levels funded in this Act: Provided, That no funds may be reduced from title I or title II of this Act to maintain the force structure allowance of the National Guard and Reserve Components, and that only funds provided in title III and title IV of this Act may be reduced or transferred to maintain the force structure allowance for the National Guard and Reserve Components: Provided further, That the Amended Budget Submission for the Department of Defense for fiscal year 1993 may only request funds for National Guard and Reserve force structure in excess of the level assumed in the Budget Request submitted to the Congress for fiscal years 1992 and 1993 if such increases in title I and title II of that request are offset through reductions in title III and title IV of that request.

SEC. 8068. Funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia for the fiscal year ending September 30, 1992, may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8069. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

[SEC. 8070. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.]

SEC. 8070. (a) Of the amounts available to the Department of Defense for fiscal year 1992, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in "Research, Development, Test and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

SEC. 8071. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

[SEC. 8072. None of the funds appropriated in this Act shall be used for the recruitment or enrollment of a new student or class of students at the Uniformed Services University of the Health Sciences after September 30, 1991.]

SEC. 8072. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during fiscal year 1992 may be obligated or expended to finance any grant or contract to conduct research, development, test, and evaluation activities for the development or production of advanced materials.

SEC. 8073. Notwithstanding any other provision of law, after June 1, 1991, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 8074. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 4107(g) of title 38, United States Code, *as in existence on October 1, 1990.*

SEC. 8075. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes: *Provided*, That this training will be performed at Walter Reed Army Medical Center.

[SEC. 8076. None of the funds appropriated by this Act shall be used to reduce the military and civilian work force at any military medical facility or medical support facility below the level maintained or authorized for fiscal year 1990: *Provided*, That the foregoing limitation shall apply to all military medical and medical support facilities.]

SEC. 8076. During the current fiscal year, for the purposes of installing equipment with funds appropriated for that purpose, additional obligations may be incurred in appropriations available to the Department of Defense for the procurement and installation of equipment when obligations were incurred during the period of those appropriations for the procurement of such equipment but obligations for the installation of such equipment were not able to be incurred before the expiration of the period of availability for those appropriations.

[(RESCISSIONS)

[SEC. 8077. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

[Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $10,000,000;

[Procurement of weapons and tracked combat vehicles, Army, 1991/1993, $114,000,000;

[Procurement of ammunition, Army, 1991/1993, $23,700,000;

[Other procurement, Army, 1990/1992, $10,300,000;

[Other procurement, Army, 1991/1993, $26,800,000;

[Aircraft procurement, Navy, 1990/1992, $893,500,000;

[Weapons procurement, Navy, 1991/1993, $300,000,000;

[Other procurement, Navy, 1991/1993, $2,700,000;

[Procurement, Marine Corps, 1991/1993, $2,000,000;

[Guard and Reserve Equipment, 1991/1993, $8,000,000;

[Research, Development, Test and Evaluation, Army, 1991/1992, $85,200,000;

[Research, Development, Test and Evaluation, Navy, 1991/1992, $41,800,000;

[Research, Development, Test and Evaluation, Air Force, 1991/1992, $199,400,000;

[Research, Development, Test and Evaluation, Defense Agencies, 1991/1992, $90,000,000.]

(RESCISSIONS)

SEC. 8077. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Other Procurement, Navy, 1991/1993, $3,500,000;

Research, Development, Test and Evaluation, Army, 1991/1992, $15,375,000;

Research, Development, Test and Evaluation, Air Force, 1991/1992, $9,910,000.

[SEC. 8078. Section 8104 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1898) is amended—

[(1) by amending section 3 by adding the following new sentence at the end thereof: "The Commission is established until 30 days following submission of the final report required by section 6 of this section.";

[(2) by amending section 6 as follows: (i) by amending subsection (b)—

[(A) by striking out "SUBSEQUENT ANNUAL REPORTS" and inserting "FINAL REPORT" in lieu thereof;

[(B) by striking out "an annual report for each of the first five years following the" and inserting "a final report one year following" in lieu thereof in the first sentence; and

[(C) by striking out the second sentence; and

[(ii) by amending subsection (c)—

[(A) by striking out "Each report under this section" and inserting "The report under subsection (b)" in lieu thereof in the first sentence; and

[(B) by striking out "Each such" and inserting "Such" in lieu thereof in the second sentence; and

[(3) by amending section 8(c) to read as follows:

["(c) OBTAINING OFFICIAL DATA.—The Chairman or a designee on behalf of the Chairman may request information necessary to enable the Commission to carry out this Act directly from any department or agency of the United States.".]

SEC. 8078. Of the $627,572,000 made available through the sale of 24 F-15C/D aircraft to Saudi Arabia, funds shall be obligated to procure 12 new production F-15E aircraft and support equipment in addition to the 36 F-15E aircraft provided by the Department of Defense Appropriations Act, 1991: Provided, That aircraft funded under this provision shall be in addition to the 200 F-15E aircraft funded in fiscal year 1991 and previous years: Provided further, That funds for these aircraft shall be obligated immediately upon enactment of this Act.

SEC. 8079. Of the funds made available in this Act, not less than $8,674,000 shall be available for the Civil Air Patrol, of which $4,400,000 shall be available for Operation and Maintenance.

SEC. 8080. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 815th Tactical Airlift Squadron of the Air Force Reserve, if such action would reduce the WC-130 Weather Reconnaissance mission below the levels funded in this Act.

[SEC. 8081. Of the funds available in this Act in the operation and maintenance accounts of the Department of Defense, $10,000,000 shall be available only to transport United States beef for resale in Department of Defense commissaries in foreign countries.]

SEC. 8081. During the current fiscal year, after April 1, 1992, withdrawal credits may be made by the Defense Business Operations Fund to the credit of current applicable appropriations of an activity of the Department of Defense in connection with the acquisition by that activity of supplies that are repairable components which are repairable at a repair depot and that are capitalized into the Defense Business Operations Fund as the result of management changes concerning depot level repairable assets charged to an activity of the Department of Defense which is a customer of the Defense Business Operations Fund that becomes effective on April 1, 1992.

SEC. 8082. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

[SEC. 8083. Of the funds appropriated in this Act for "Drug Interdiction and Counter-Drug Activities, Defense", $40,000,000 shall be available only for the National Drug Intelligence Center.]

SEC. 8083. Of funds available in this Act to carry out intelligence and intelligence-related activities of the United States Government, $32,900,000 shall be made available to begin implementation of the plan developed by the Central Intelligence Agency to consolidate its Washington, D.C., area facilities into permanent additional compounds, including the acquisition of the land necessary for such consolidation. Funds made available under this section shall begin to be expended for this consolidation not later than 60 days after the date of enactment of this Act.

SEC. 8084. Restrictions provided under subsection (b)(2) of section 301d of title 37, United States Code, as authorized by the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510), and hereafter, shall not apply in the case of flag or general officers serving as full-time practicing physicians.

SEC. 8085. Any CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) [medical] *health care* provider may voluntarily waive the patient copayment for medical services provided [to dependents of active duty personnel] from August 2, 1990, until the [return of troops from the Persian Gulf theater] *termination of Operation Desert Shield/Desert Storm for dependents of active duty personnel: Provided,* That the Government's share of medical services is not increased during the specified time period.

[SEC. 8086. Mitchel Field Health Care Facility in the State of New York shall only be funded from the Operation and Maintenance, Navy, appropriation and shall not be funded or included within the congressionally imposed ceiling on the Uniformed Services Treatment Facility account.]

SEC. 8086. For fiscal year 1992, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c), is limited to $189,700,000, of which not more than $170,300,000 may be provided by the funds appropriated by this Act.

SEC. 8087. During the current fiscal year, the Navy may provide notice to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract.

[(TRANSFER OF FUNDS)

[SEC. 8088. During the current fiscal year, there is established an account entitled, "Foreign National Employees Separation Pay Account, Defense": *Provided,* That there shall be deposited to this account: (a) all amounts previously obligated for the separation pay of foreign national employees of the Department of Defense from appropriations which are no longer available for obligation and (b) all amounts obligated for the separation pay of foreign national employees of the Department of Defense from appropriations available for obligation during the current fiscal year: *Provided further,* That amounts deposited to the Account shall remain available until expended.]

SEC. 8088. None of the funds available to the Department of Defense during fiscal year 1992 may be obligated or expended to develop for aircraft or helicopter weapons systems an airborne instrumentation system other than the Common Airborne Instrumentation System under development in the Central Test and Evaluation Investment Development program element funded in the "Development Test and Evaluation, Defense" appropriations account.

SEC. 8089. During the current fiscal year and hereafter, none of the funds appropriated for intelligence programs to the Department of Defense which are transferred to another Federal agency for execution shall be expended by the Department of Defense in any fiscal year in excess of amounts required for expenditure during such fiscal year by the Federal agency to which such funds are transferred.

([INCLUDING] TRANSFER OF FUNDS)

[SEC. 8090. (a) Of the funds appropriated in this Act in title IV, Research, Development, Test and Evaluation, Navy, $625,000,000 shall be available only for the V-22 aircraft program.

[(b) Of the funds appropriated for the V-22 program in fiscal years prior to fiscal year 1992 (1) $200,000,000 shall be subject to the provisions of section 204 of the Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991, (Public Law 102-27), and shall be used to initiate a new Phase II V-22 Full Scale Engineering Development program as further described in subparagraph (c)(2); (2) That of the funds appropriated in the Department of Defense Appropriations Act (Public Law 101-511) for fiscal year 1991 under the heading, "Aircraft Procurement, Navy" for the V-22 Osprey program, $165,000,000 shall be transferred to "Research, Development, Test and Evaluation, Navy, 1992/1993", to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred, subject to the provisions of subparagraph (c).

[(c) Funds described in subparagraphs (a) and (b) of this section shall be obligated as follows:

[(1) Not less than $164,800,000 shall be obligated by October 31, 1991 to continue the existing V-22 Full Scale Engineering Development program;

[(2) Not less than $357,200,000 shall be obligated by November 30, 1991 to fund a Phase II

V-22 Full Scale Engineering Development program to provide ten production representative new aircraft which will successfully demonstrate the full operational requirements of the Joint Services Operational Requirement (JSOR) not later than December 31, 1996: *Provided*, That the ten production representative V-22 aircraft shall be produced on tooling which qualifies production design;

[(3) The remaining funds shall be obligated in accordance with the plan provided for in subparagraph (d).

[(d) The Secretary of Defense shall provide to the Congress, within 60 days of enactment of this Act, the total funding plan and schedule to complete the Phase II V-22 Full Scale Engineering Development program.]

SEC. 8090. Of the funds appropriated for fiscal year 1991 under the heading "Aircraft Procurement, Navy" for the V-22 Osprey program, $165,000,000 shall be transferred to the appropriation "Research, Development, Test and Evaluation, Navy, 1991/1992", to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred.

SEC. 8091. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

[(TRANSFER OF FUNDS)

[SEC. 8092. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided further*, That funds shall be transferred between the following appropriations in the amounts specified:

From:

[Under the heading, "Research, Development, Test and Evaluation, Navy, 1991/1992", $1,400,000;

[Under the heading, "Weapons Procurement, Navy, 1990/1992", $12,800,000;

[Under the heading, "Aircraft Procurement, Navy, 1990/1992", $30,000,000;

[Under the heading, "Aircraft Procurement, Navy, 1991/1993", $15,100,000;

[Under the heading, "Weapons Procurement, Navy, 1991/1993", $24,800,000;

[Under the heading, "Other Procurement, Navy, 1991/1993", $4,200,000;

[Under the heading, "Procurement, Marine Corps, 1991/1993", $29,300,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

[DDG-51 destroyer program, $46,400,000.

[Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

[USCG Patrol Boat Program, $3,600,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

[TRIDENT ballistic missile submarine program, $28,900,000;

[DDG-51 destroyer program, $64,900,000;

[AOE-6 fast combat support ship program, $161,200,000;

To:

[Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

[TRIDENT ballistic missile submarine program, $17,300,000;

[MCM Mine Countermeasures ship program, $7,300,000;

[TAO Fleet Oiler program, $3,500,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

[SSN-688 attack submarine program, $18,900,000;

[MHC coastal mine hunter program, $6,900,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

[TRIDENT ballistic missile submarine program, $9,600,000;

[SSN-688 attack submarine program, $113,600,000;

[DDG-51 destroyer program, $22,100,000;

[TAGOS ocean surveillance ship program, $400,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

[TRIDENT ballistic missile submarine program, $67,200,000;

[SSN-688 attack submarine program, $29,600,000;

[LSD(CV) amphibious dock landing (cargo variant) ship program, $5,700,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

[TRIDENT ballistic missile submarine program, $44,400,000;

[SSN-688 attack submarine program, $15,600,000;

[SSN-21 attack submarine program, $4,500,000;

[MHC coastal minehunter program, $13,900,000;

[TAGOS ocean surveillance ship program, $10,800,000;

[AO auxiliary oiler conversion ship program, $5,500,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

[MCM Mine Countermeasures ship program, $12,300,000;

[AO auxiliary oiler conversion ship program, $4,500,000;

[MTS(C) moored training ship conversion program, $9,000,000.

(TRANSFER OF FUNDS)

SEC. 8092. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes and time period as the appropriation to which transferred: Provided further, That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Research, Development, Test and Evaluation, Navy, 1991/1992", $114,100,000;

Under the heading, "Weapons Procurement, Navy, 1990/1992", $12,800,000;

Under the heading, "Aircraft Procurement, Navy, 1991/1993", $73,600,000;

Under the heading, "Weapons Procurement, Navy, 1991/1993", $24,800,000;

Under the heading, "Other Procurement, Navy, 1991/1993", $12,400,000;

Under the heading, "Procurement, Marine Corps, 1991/1993", $29,300,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

T-AO fleet oiler program, $3,523,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

T-AO fleet oiler program, $6,119,000;

LCAC landing craft air cushion program, $2,225,000;

For outfitting and post delivery, $2,669,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

SSN-688 attack submarine program, $9,656,000;

LSD-41 dock landing ship cargo variant program, $655,000;

MHC coastal minehunter program, $4,509,000;

T-AGOS surveillance ship program, $665,000;

Coast Guard patrol boat program, $4,223,000;

LCAC landing craft air cushion, $2,953,000;

For craft, outfitting, post delivery, and ship special support equipment, $2,653,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

TRIDENT ballistic missile submarine program, $44,687,000;

DDG-51 destroyer program, $64,900,000;

LSD-41 dock landing ship cargo variant program, $1,303,000;

MHC coastal mine hunter program, $3,142,000;

AOE combat support ship program, $161,200,000;

TAGS Oceanographic ship program, $43,100,000;

LCAC landing craft air cushion program, $4,137,000;

For craft, outfitting, and post delivery, $12,391,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

Trident submarine program, $12,318,000;

MCM mine countermeasures ship program, $5,082,000;

T-AO fleet oiler ship program, $27,616,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

SSN-688 attack submarine program, $13,312,000;

LSD-41 landing ship dock program, $1,130,000;

MHC coastal mine hunter program, $9,900,000;

T-AG acoustic research ship program, $4,400,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

TRIDENT ballistic missile submarine program, $9,600,000;

SSN-688 attack submarine program, $75,956,000;

DDG-51 destroyer program, $22,100,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

TRIDENT ballistic missile submarine program, $66,469,000;

SSN-688 attack submarine program, $29,600,000;

LSD-41 cargo variant ship program, $5,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

TRIDENT ballistic missile submarine program, $44,400,000;

SSN-688 attack submarine program, $19,125,000;

SSN-21 attack submarine program, $82,232,000;

MHC coastal mine hunter program, $20,900,000;

AO conversion program, $5,500,000;

T-AGOS surveillance ship program, $15,800,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

Aircraft carrier service life extension program, $42,900,000;

ENTERPRISE refueling/modernization program, $51,000,000;

MCM mine countermeasures program, $4,170,000;

AO conversion program, $4,500,000;

Moored training ship demonstration program, $9,000,000;

Coast Guard icebreaker ship program, $59,000,000.

[SEC. 8093. None of the funds in this Act shall be obligated for the procurement of a Multibeam Sonar Mapping System not manufactured in the United States: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet De-

partment of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.]

SEC. 8093. (a) None of the funds available to the Department of Defense from any source during fiscal year 1992 may be obligated or expended for any activities to support the objective of launching Strategic Target System (STARS) rockets from the Navy Pacific Missile Range Facility, Barking Sands, Kauai, Hawaii.

(b) The restriction in subsection (a) does not apply to any funds required to prepare and issue an environmental impact statement of the Strategic Target System Program, in accordance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and in accordance with any Executive Orders issued, and any regulations promulgated to implement such Act.

(c) The restriction in subsection (a) does not apply to any funds required to maintain the safety, security, and basic condition of the Strategic Target System launch complex at the Pacific Missile Range Facility.

(d) The restriction in subsection (a) does not apply to any funds required to maintain or store Strategic Target System boosters and equipment or to ensure the safety and reliability of such boosters and equipment or to operate the Strategic Target System program office.

(e) The exceptions in subsection (d) shall apply only to activities carried out within the continental United States.

(f) The restrictions under this section shall remain in effect until the date of the issuance of an environmental impact statement and a formal Record of Decision with respect to this environmental impact statement, upon completion of a formal process that complies with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), and the Executive Orders issued, and regulations promulgated to implement such Act.

[SEC. 8094. Using funds available in the National Defense Stockpile Transaction Fund, during the period of fiscal years 1992 through 1994 and using procedures covered by section 3301 of the National Defense Authorization Act, 1991 (Public Law 101-510; 104 Stat. 1844-45), the President may acquire not less than 50,000 kilograms of germanium from current domestic sources to be held in the National Defense Stockpile.]

SEC. 8094. SPECIAL ACCESS PROGRAM OVERSIGHT AND MANAGEMENT IMPROVEMENTS.

(a) MANAGEMENT OF SPECIAL ACCESS PROGRAMS.—(1) Section 132 of title 10, United States Code, is amended by inserting at the end of the following:

"(d)(1) The Deputy Secretary of Defense is the principal civilian adviser to the Secretary of Defense on special access programs and, after the Secretary of Defense, is the principal special access programs official within the senior management of the Department of Defense.

"(2) Subject to the authority, direction, and control of the Secretary of Defense, the Deputy Secretary of Defense shall carry out the responsibilities of the Secretary of Defense relating to special access programs for all such programs, including acquisition special access programs, intelligence special access programs, and operations and support special access programs. The Deputy Secretary shall perform such duties and exercise such powers relating to special access programs as the Secretary may prescribe. Such duties shall include the following:

"(A) Supervising the management of special access programs.

"(B) Prescribing in regulations the policies, standards, and procedures for all special access programs of the military departments and the Defense Agencies.

"(C) Approving the establishment of a special access program or any significant change (as defined in the regulations prescribed pursuant to subparagraph (B)) in the conduct or mission of a special access program.

"(3) The regulations prescribed pursuant to paragraph (2)(B) shall include the following:

"(A) Standards and procedures for the designation of programs as special access programs.

"(B) A requirement for the manager of each special access program to submit to the Secretary of Defense a reclassification schedule when the total cost of such program is expected to exceed $50,000,000.

"(C) Standards and procedures for an annual review of the classification status of each special access program by the Deputy Secretary of Defense.

"(D) Standards and procedures for appropriate exchange of information among technologically related programs.

"(E) Standards and procedures to ensure timely oversight by officials with expertise in (i) cost, schedule, and performance reviews, and (ii) applicable intelligence or operational matters.

"(4)(A) There is for the Deputy Secretary of Defense a Principal Assistant for Special Access Programs.

"(B) The Principal Assistant is appointed by the President, by and with the advice and consent of the Senate, from among the officers of the regular components of the armed forces and serves at the pleasure of the President for a term of two years. The Principal Assistant may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(C) The Principal Assistant performs such duties related to special access programs as may be prescribed by the Secretary of Defense.

"(D) The Principal Assistant, while so serving—

"(i) holds the grade, as designated by the President at the time of appointment, of general or lieutenant general or, in the case of an officer of the Navy, as admiral or vice admiral; and

"(ii) is in addition to the number of officers that would otherwise be permitted for that officer's armed force under section 525 of this title.

"(5) The Deputy Secretary of Defense may delegate the performance of the Deputy Secretary's duties under this subsection only to the Principal Assistant for Special Access Programs.

"(e) The terms 'special access program', 'acquisition special access program', 'intelligence special access program', and 'operations and support special access program' have the meanings given those terms in Department of Defense Directive O-5205.7, dated January 4, 1989.".

(2) The Deputy Secretary of Defense shall prescribe the regulations as required by section 132(d)(2)(B) of title 10, United States Code (as added by this subsection), not later than January 15, 1992.

(b) OVERSIGHT OF SPECIAL ACCESS PROGRAMS.—Section 119 of title 10, United States Code, is amended—

(1) in subsection (e), by striking out "or (c)" and inserting in lieu thereof "(c), or (f)";

(2) in subsection (f)(1), by striking out "are notified of the program; and" and inserting in lieu thereof "receive a notification of the program, including—

"(A) notice of the designation of the program as a special access program;

"(B) the justification for such designation;

"(C) the current estimate of the total program cost for the program; and

"(D) an identification of the existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice; and";

(3) by redesignating subsection (g) as subsection (i);

(4) by inserting after subsection (f) the following new subsections:

"(g) Funds appropriated or otherwise made available to the Department of Defense may not be obligated for any special access program unless the applicable report on such program has been submitted in accordance with subsection (a), (b), (c), (e), or (f).

"(h)(1) The Secretary of Defense shall ensure that access to information relating to special access programs is granted, as provided in paragraphs (2) and (3), upon the request of the chairman or ranking minority member of a defense committee.

"(2)(A) The chairman or ranking minority member of a defense committee may designate one or more members of Congress or one or more congressional employees of such committee to be given access to information referred to in paragraph (1).

"(B) An employee may not be designated under subparagraph (A) unless the employee has a 'top secret, special compartmented information access' security clearance.

"(C) Each designation under this paragraph shall be in writing and shall specify the special access program to which the designation applies. A separate written designation is required for each special access program.

"(3)(A) If the chairman or ranking minority member of a defense committee submits to the Secretary of Defense a request for access to information relating to a special access program for which a Member or employee referred to in paragraph (2)(A) has been designated and the requested access is not granted, then funds may not be obligated for such special access program after the tenth day following the date on which the Secretary receives the request until the date on which the requested access is granted.

"(B) Subparagraph (A) shall not apply in the case of a particular request for access for a congressional employee if the President submits to the chairman of the defense committee concerned a report in writing containing (i) a certification that the provision of the information requested with respect to a particular special access program to that congressional employee would adversely affect the national security, and (ii) a detailed justification for the certification.

"(4) In this section, the term 'congressional employee' has the meaning given such term in section 2107 of title 5."; and

(5) in subsection (i), as redesignated by paragraph (3)—

(A) by striking out "section," and inserting in lieu thereof "section:";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(C) by designating the text beginning with "the term" as paragraph (1) and by capitalizing the initial letter in such paragraph;

(D) by realigning paragraph (1), as so designated, two ems from the left margin and realigning subparagraphs (A) and (B), as redesignated by subparagraph (B), four ems from the left margin; and

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

"(2) The term 'special access program' shall have the meaning referred to for that term in section 132(e) of this title.".

SEC. 8095. None of the funds appropriated in this Act may be used to implement [more than fifteen] *any* catchment area management demonstration [sites: *Provided*, That each demonstration site criteria must be] *projects except those projects* approved by the Assistant Secretary of Defense for Health Affairs before the demonstration begins [and the project]: *Provided, That any approved*

projects must be consistent with the Coordinated Care initiative: [*Provided further*, That additional test sites cannot be initiated under any other program if the test contains catchment area management attributes:] *Provided further*, That this provision does not apply to the Tidewater TRI-CAM demonstration project.

[SEC. 8096. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a medical doctor unless the prospective candidate is a trained professional administrator.]

SEC. 8096. In addition to amounts appropriated elsewhere in this Act, $885,000,000 is appropriated for environmental restoration to remain available for obligation until September 30, 1994: Provided, That such funds shall be available only for the actual reduction and recycling of hazardous waste and cleanup of Department of Defense sites.

[SEC. 8097. Of the funds appropriated by this Act for Operation and Maintenance, Defense Agencies, $20,000,000 shall be available for the Civilian Health and Medical Program of the Uniformed Services for the payment of expenses of former members of the uniformed services who are 100 percent disabled, and the dependents of such members, notwithstanding the coverage by such former members and the dependents of such members of health care insurance benefits under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395 et. seq.): *Provided*, That expenses under this section shall only be covered to the extent that such expenses are not covered and paid for under part A and B of title XVIII of the Social Security Act: *Provided further*, That no reimbursement shall be made for services provided prior to October 1, 1991.]

SEC. 8097. Of the funds appropriated by this Act for Operation and Maintenance, Defense Agencies, $20,000,000 shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay and who becomes eligible for hospital insurance benefits under Part A of Title XVIII of the Social Security Act (42 U.S.C. 1395, et seq.) solely on the grounds of physical disability: Provided, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: Provided further, That no reimbursement shall be made for services provided prior to October 1, 1991.

SEC. 8098. From the amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 1991, (Public Law 101-511), Other Procurement, Air Force, funds may be used to purchase not more than 300 passenger motor vehicles, of which 290 shall be for replacement only.

SEC. 8099. During the current fiscal year, the Secretary of Defense may accept burdensharing contributions in the form of money from the Republic of Korea for the costs of local national employees, supplies, and services of the Department of Defense to be credited to applicable Department of Defense operation and maintenance appropriations available for the salaries and benefits of Korean national employees, supplies, and services to be merged with and to be available for the same purposes and time period as those appropriations to which credited: *Provided*, That not later than 30 days after the end of each quarter of the fiscal year, the Secretary of Defense shall submit to the Congress a report of contributions accepted by the Secretary under this provision during the preceding quarter.

[SEC. 8100. During the current fiscal year, for the purposes of transactions between the stock and industrial funds of the Department of Defense and the United States Coast Guard, the United States Coast Guard shall not be subject to the surcharges assessed against stock and industrial fund customers.]

(TRANSFER OF FUNDS)

SEC. 8100. In addition to amounts appropriated or otherwise made available by this Act, $318,400,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard, of which $77,300,000 shall be available solely for the purposes of "Reserve Training" for fiscal year 1992 and $241,100,000 shall be merged with and be available for the same purposes and same time period as "Operating Expenses": Provided, That the foregoing transfers shall be made immediately upon enactment of this Act.

[SEC. 8101. Section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510, 104 Stat. 1621) is repealed.]

SEC. 8101. None of the funds available during fiscal year 1992 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended for research, development, test, and evaluation for the space-based wide area surveillance projects or activities in the following Air Force program elements: Geophysics; Materials; Aerospace propulsion; Rocket propulsion and astronautics technology; Command, control, communications; and space surveillance technology, and for the Navy's program addressing the same requirements.

SEC. 8102. During the current fiscal year, obligations against the stock funds of the Department of Defense may not be incurred in excess of ~~90~~ *80* percent of sales from such stock funds during the current fiscal year: *Provided*, That in determining the amount of obligations against, and sales from the stock funds, obligations and sales for fuel, subsistence, *commissary items, retail operations, the cost of operations*, and repair of spare parts shall be excluded: *Provided further*, That upon a determination by the Secretary of Defense that such action is critical to the national security of the United States, the Secretary may waive the provisions of this section: *Provided further*, That if the provisions of this section are waived, the Secretary shall immediately notify the Congress of the waiver and the reasons for such a waiver.

[SEC. 8103. None of the funds appropriated by this Act shall be available for the compensation of military and civilian personnel assigned to each of the headquarters of the Naval Sea Systems Command, Naval Air Systems Command, Space and Naval Warfare Systems Command, Naval Supply Systems Command and Naval Facilities Engineering Command in excess of 75 percent of the number of personnel assigned to each such command headquarters as of September 30, 1991.]

SEC. 8103. Of the funds appropriated under the heading "Drug Interdiction, Defense" in Public Law 101-165, $2,500,000 of funds previously transferred to the Department of the Treasury shall, upon enactment of this Act, be transferred to the "Emergency Management Planning and Assistance" appropriation account of the Federal Emergency Management Agency.

[SEC. 8104. (a) None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P-3 squadrons of the Navy Reserve below the levels funded in this Act.

[(b) Notwithstanding any other provision in this or any other Act, the Secretary of the Navy shall obligate and expend funds appropriated for fiscal years 1991 and 1992 for modernization of P-3B aircraft of the Navy Reserve.]

SEC. 8104. None of the funds available to the Department of Defense may be used for research, development, test, evaluation, installation, integration, or procurement of an advanced radar warning receiver for the B-1B aircraft.

[SEC. 8105. Notwithstanding any other provision of law, none of the funds made available to the Department of the Army for fiscal years 1990, 1991, and 1992 for C-23 aircraft which remain available for obligation may be obligated or expended except to maintain commonality with C-23 Sherpa aircraft already in the Army National Guard fleet, and such funds may not be obligated for acquisition of modified commercial aircraft, unless the modifications are performed in the United States under a license agreement with the original manufacturer and are in accordance with the SD3-30 aircraft type specification as modified for Army mission requirements.]

SEC. 8105. In addition to amounts appropriated elsewhere in this Act, $289,000,000 is appropriated for payment of claims to United States military and civilian personnel for damages incurred as a result of the volcanic eruption of Mount Pinatubo in the Philippines.

SEC. 8106. None of the funds appropriated in this Act may be obligated or expended for any contract or grant with a university or other institution of higher learning unless such contract or grant is audited in accordance with the Federal Acquisition Regulation and the Department of Defense Federal Acquisition Regulation Supplement or any other applicable auditing standards and requirements and the institution receiving the contract or grant fully responds to all formal requests for financial information made by responsible Department of Defense officials: *Provided*, That if an institution does not provide an adequate financial response within 12 months, the Secretary of Defense shall terminate that and all other Department of Defense contracts or grants with the institution.

[SEC. 8107. None of the funds appropriated in this Act may be used for costs associated with a federally funded research and development center if a member of the Board of Directors of such a center simultaneously serves on the Board of Directors of a company under contract to the Department of Defense.]

SEC. 8107. None of the funds available to the Department of Defense during fiscal year 1992 may be obligated or expended to finance the activities of Department of Defense federally-funded research and development centers at a total funding level which would exceed an amount which is ten per centum below the total funding level originally appropriated for such centers in the Department of Defense Appropriations Act, 1991 (Public Law 101-511) and its accompanying Conference Report and stipulated in its Joint Explanatory Statement of the Committee of Conference.

[SEC. 8108. Section 361 of Public Law 101-510 is hereby repealed.]

SEC. 8108. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to:

(1) any chemical munition withdrawn from the Federal Republic of Germany under a European retrograde program; or

(2) any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

[SEC. 8109. None of the funds appropriated in this Act may be used to either pay the salaries of more than four Senior Executive Service positions within the Navy Comptroller organization under the Secretary of the Navy or the Chief of Naval Operations, or to compensate individuals in these positions at a rate higher than level three of the Senior Executive Service.]

SEC. 8109. None of the funds available in this or any other Act shall be available for the preparation of further studies on the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States. This prohibition does not apply to studies needed for environmental analyses required by the National Environmental Policy Act.

[SEC. 8110. None of the funds appropriated in this Act may be used to pay the salaries of debarment/suspension officials unless such personnel are assigned to a consolidated office of Debarment and Suspension within the Office of the Inspector General.]

SEC. 8110. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1992 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

[SEC. 8111. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.]

SEC. 8111. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 8112. (a) During the current fiscal year, funds appropriated to the Department of Defense in accordance with section 822(a) of the National Defense Authorization Act, 1991, shall be made available to establish an Executive Committee under the auspices of the Critical Technologies Institute, comprised of the Secretaries of the Departments of Defense, Commerce, Labor, and Energy along with two individuals appointed by each of the above mentioned Secretaries. The Secretaries of Defense and Commerce shall serve as co-chairmen of the committee whose sole function shall be to fulfill the requirements of this section at which time the Executive Committee shall cease to exist. For the purposes of this section—

[(1) "critical technology" means the act of a domestic industry in producing a product without which machine tools necessary to support the national defense could not be produced;

[(2) "domestic producer" means those producers, situated within the United States, or its territories, wherein over 50 percent of the total voting stock of such producer is owned and controlled by citizens of the United States; and

[(3) "national security" means the interest of the United States Government to preserve those basic conditions necessary to a domestic producer, using a critical technology, that are adequate to permit capital investment for needed improvements in technology that will enable the overall domestic industry to remain competitive.

[(b) No later than one calendar year from the date of enactment of this Act the Executive Committee shall prepare and deliver to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate, the Ways and Means Committee of the House of Representatives, and the Finance Committee of the Senate a report providing—

[(1) a listing and detailing of those products determined to be within the definition of critical technology;

[(2) a summary of the general economic condition of domestic industries producing a product used in a critical technology in the United States (including, but not limited to, productivity, exportation of products, capacity, and profitability);

[(3) a summary of—

[(A) current and prospective trends in the ability to compete by such industries; and

[(B) the effect of such trends on employment and unemployment, individual and corporate income levels, private capital accumulation and investment, the balance of payments, revenues and expenditures of the Federal Government, and other relevant indicators of the economic health of such industries;

[(4) a detailed review of policies, programs, and activities of the Federal Government, State and local governments, and nongovernmental entities that adversely affect the economic health (and ability to produce) of domestic industries using a critical technology;

[(5) recommendations to—

[(A) minimize or eliminate the adverse effects of Federal policies, programs, and activities affecting such industries; and

[(B) encourage State and local governments and nongovernmental entities to minimize or eliminate the adverse effects of their policies, programs, and activities affecting such domestic industries;

[(6) a detailed review of policies, programs, and activities of foreign governments, particularly major trading partners of the United States, that adversely affect domestic industries using a critical technology in the United States and in the international marketplace, and such policies or activities that would act to impair or threaten to impair our national security; and

[(7) recommendations to encourage foreign governments to modify or eliminate policies, programs, and activities that adversely affect such industries.]

SEC. 8112. (a) Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d)(4)(B), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

(b) Section 8077(d) of Public Law 101-511 (104 Stat. 1892) is amended by striking out "1991" and inserting in lieu thereof "1993".

[SEC. 8113. (1) Notwithstanding any other provision of law, none of the funds available to the Secretary of Defense shall be used to purchase bridge or machinery control systems, or interior communications equipment, for the Sealift Program unless, in each case—

[(A) the system or equipment is manufactured in the United States; or

[(B) more than half of the value in terms of costs has been added in the United States by a United States company under license from a foreign company.

[(2) The Secretary may waive the requirement of subsection (1) of this section if, in each case—

[(A) the system or equipment described in subsection (1) is not available; or

[(B) the cost of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.]

SEC. 8113. (a) Of the funds available to the Department of Defense during fiscal year 1992, not more than $75,000,000 may be obligated or expended for research, development, test and evaluation activities undertaken pursuant to 10 U.S.C. 2371.

(b) The funds referred to in subsection (a) above may only be obligated or expended for cooperative arrangements entered into by the Defense Advanced Research Projects Agency.

(c) None of the funds referred to in subsection (a) above may be obligated or expended for any cooperative arrangement entered into by any of the Military Departments or Defense Agencies other than the Defense Advanced Research Projects Agency.

(TRANSFER OF FUNDS)

SEC. 8114. Of the funds appropriated in this Act for "Operation and Maintenance, De-

fense Agencies", [$5,000,000] *$15,000,000* shall be transferred to the "Radiation Exposure Compensation Trust Fund" established by section 3 of the Radiation Exposure Compensation Act (Public Law 101-426; 104 Stat. 920) to be available for the same purpose and same time period as that Fund[: *Provided*, That funds transferred pursuant to this section shall be identified separately within the foregoing Trust Fund and, notwithstanding the provisions of section 9 of such Act or any contract, no part of the funds transferred pursuant to this section shall be available to pay the representative of an individual for services rendered in connection with the claim of an individual under such Act: *Provided further*, That any representative of an individual who receives such a payment shall be subject to the penalty prescribed by the second sentence of section 9 of such Act].

[SEC. 8115. Notwithstanding section 2805 of title 10, of the funds appropriated in this Act for "Operation and Maintenance, Navy", $2,100,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington: *Provided*, That these funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project.]

SEC. 8115. The Department of Defense and the Military Services may take no action to prohibit, impede or otherwise interfere with construction of conventionally powered submarines by nonpublic owned and operated ship construction and repair entities in the United States for sale to nations with which the United States maintains bilateral or multilateral mutual security agreements, or nations which currently receive foreign military sales credits or economic support funds from the United States.

[SEC. 8116. None of the funds appropriated in this Act may be used to procure SQQ-89 systems which do not have the enhanced modular signal processor (EMSP) as the processor.]

SEC. 8116. For the purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services, the Committees on Appropriations, and the Committees on Appropriations, subcommittees on Defense of the Senate and the House of Representatives.

[SEC. 8117. None of the funds provided in title III, Procurement, for Shipbuilding and Conversion, Navy, for fiscal years 1990, 1991, and 1992 may be used to procure vessels which were constructed in foreign shipyards.]

SEC. 8117. None of the funds made available by this Act shall be available for any Military Department of the United States to conduct bombing training, gunnery training, or similar munitions delivery training on the parcel of land known as Kahoolawe Island, Hawaii.

[SEC. 8118. None of the funds provided in this Act or any other Act may be used by the Department of the Army to acquire four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which any provisions including price differential provisions of the Buy America Act of 1933, as amended, or any other Federal buy national law was waived.]

SEC. 8118. (a) Funds shall be made available to the Secretary of Defense for the study of:

(1) Israeli aerospace and avionics technology and its potential applications to ATF, NATF, CAS and LH aircraft programs, as well as other anticipated aircraft programs;

(2) Potential areas of joint United States-Israel collaboration in technology research and development projects including, but not limited to, tactical directed energy weapons; camouflage, concealment, deception and stealth measures; aerial and wide-area munitions; fiber optic guided missiles (FOG-M); and the adaption of the HAVE NAP to the B-1 and B-2 bombers;

(3) The features and possible contributions of Israeli space technology to Department of Defense programs including, but not limited to, Israeli launchers, and including, but not limited to, cost-effectiveness in design and production of such technologies and systems;

(4) Israeli antiterrorism technologies, and their potential applications to Department of Defense programs and operations, including, but not limited to, remote-controlled robots, security fences of all types, specialized x-ray and detection machines, and fast patrol boats. The Secretary of Defense shall work with the Office of Technology Assessment in conducting an examination of these subjects;

(5) Possible applications of Israeli interdiction technologies to American efforts at drug interdiction, including, but not limited to, unmanned aerial vehicles, fast patrol boats, state-of-the-art ship and coastal radars, integrated command and control systems, and land interdiction systems such as visual and infra-red cameras, motion sensors and electronic fences;

(6) Applications of environmental technologies and manufacturing capabilities to include, but not limited to, energy storage, energy conversion and renewable energy technologies;

(7) Applications of critical technologies and manufacturing capabilities as defined by the Department of Defense's Critical Technologies Plan.

(b) The Secretary of Defense shall submit a final report with concrete recommendations and plans for implementation as appropriate to the Committees on Appropriations of the Senate and the House no later than August 1, 1992.

SEC. 8119. None of the funds appropriated or made available in this Act or any prior Acts shall be obligated or expended to implement the United States Army Corps of Engineers Reorganization Study until such reorganization proposed is specifically authorized by law after the date of enactment of this Act.

SEC. 8120. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

[SEC. 8121. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.]

SEC. 8121. (a) There is established on the books of the Treasury a fund entitled the "Defense Business Operations Fund" (hereinafter referred to as the "Fund") to be operated as a working capital fund under the provisions of section 2208 of title 10, United States Code. Existing organizations which shall operate as part of the Fund shall include, but not be limited to, (1) The Defense Finance and Accounting Service; (2) The Defense Commissary Agency; (3) The Defense Technical Information Center; (4) The Defense Reutilization and Marketing Service; and (5) The Defense Industrial Plant Equipment Service.

(b) Upon the enactment of this Act, there shall be transferred to the Fund all assets and balances of working capital funds heretofore established under the provisions of section 2208 of title 10, United States Code.

(c) Amounts charged for supplies and services provided by the Fund shall include capital asset charges which shall be calculated so that the total amount of the charges assessed during any fiscal year shall equal the total of amount of (1) the costs of equipment purchased during that fiscal year by the Fund for the purpose of providing supplies and services by the Fund and (2) the costs, other than costs of military construction, of capital improvements made for the purpose of providing services by the Fund.

(d) Capital asset charges collected pursuant to the provisions of subsection (c) shall be credited to a subaccount of the Fund which shall be available only for the payment of: (1) the costs of equipment purchased by the Fund for the purpose of providing supplies and services by the Fund and (2) the costs other than costs of military construction, of capital improvements made for the purposes of providing services by the Fund.

[SEC. 8122. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: *Provided*, That a firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

[(b) A contract awarded during fiscal year 1992, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

[(c)(1) Not later than June 1, 1992, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

[(2) The report shall include the following:

[(A) a description of the categories of work performed under that program and the costs associated with those categories of work;

[(B) a description of the capabilities of facilities that United States firms have established in Europe to perform work under that program;

[(C) a description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States;

[(D) a description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States;

[(E) a description of the Air Force plans to expand the Overseas Workload Program to other depot maintenance activities including: prime weapon systems, aircraft, exchangeables, engine overhaul and repair, engine exchangeables and other major end items.

[(d) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eli-

gible for non-restrictive, non-discriminatory contract competition under the Overseas Workload Program.

[(e) The Secretary of Defense shall work with Israel to identify new specialized capabilities in depot maintenance and repair for which it is uniquely suited: *Provided*, That the Secretary of Defense shall report to the Committees on Appropriations of the House and Senate, not later than June 1, 1992, on its findings.

[(f) No funds appropriated for the Overseas Workload Program for fiscal year 1992 shall be used for contracts awarded in fiscal year 1992 which have not been opened for competition in a manner consistent with this provision.]

SEC. 8122. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: Provided, That a firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) A contract awarded during fiscal year 1992, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eligible for nonrestrictive, nondiscriminatory contract competition under the Overseas Workload Program.

(d) No funds appropriated for the Overseas Workload Program for fiscal year 1992 or thereafter shall be used for contracts awarded in fiscal year 1992 or thereafter which have not been opened for competition in a manner consistent with this provision.

[SEC. 8123. None of the funds appropriated or made available in this Act shall be used to purchase or acquire items from a foreign country if the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to a reciprocal trade agreement has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement: *Provided*, That a reciprocal trade agreement is any agreement between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived title III of the Act of March 3, 1933 (43 Stat. 1520; 41 U.S.C. 10a–10c) as amended by the Buy American Act of 1988 (Public Law 100–418; 102 Stat. 1545): *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis or the cost of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.]

SEC. 8123. (a) The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 2521 of the One Hundred Second Congress and transmitted to the President shall have the force and effect of law as if enacted into law.

(b) The amounts specified in the Classified Annex are not in addition to the amounts appropriated by other provisions of this Act.

(c) The President shall provide for appropriate distribution of the Classified Annex or of appropriate portions of the Annex, within the executive branch of the Government.

[SEC. 8124. Notwithstanding any other provision of this Act, the Department of Defense shall not expend more than $1,000,000,000 for the use of consulting services.]

SEC. 8124. (a) Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense Agencies" in Title IV of this Act, not less than $27,000,000 shall be available only for the Flexible Computer Integrated Manufacturing (FCIM) Systems Programs.

(b) Of the amount made available by subsection (a) above, not less than $4,000,000 shall be made available only as a grant to the Institute for Advanced Flexible Manufacturing Systems.

(c) The grant made available by subsection (b) above shall be administered by the Defense Advanced Research Projects Agency through the National Center for Manufacturing Sciences.

(d) Of the amount made available by subsection (a) above, not less than $11,500,000 shall be made available to the Secretary of the Navy only for the continuation of the Rapid Acquisition of Manufactured Parts program (RAMP) and for establishing a RAMP–FCIM Center for Manufacturing Excellence.

(e) Of the amount made available by subsection (a) above, not less than $11,500,000 shall be made available to the Secretary of the Army only for application of RAMP–FCIM technology to selected Army depots.

SEC. 8125. CONVEYANCE OF CLOSED BASES TO NEIGHBORING COMMUNITIES.

(a) FINDINGS AND PURPOSES.—

(1) The Congress finds that—

(A) The Department of Defense has been directed to reduce the size and cost of the military and this can only be accomplished by closing military installations;

(B) A military installation is a part of the infrastructure of the community in which it is located and there is a long standing symbiotic relationship between a military installation and the community;

(C) The people in an impacted community have made substantial, long term investments of time, training, and wealth to support the military installations;

(D) The loss to an impacted community when a military installation is closed may be substantial and in such cases the Congress wishes to mitigate the damage to the impacted community;

(E) An impacted community knows best the needs of the community and the best way to use available resources to meet these needs consistent with existing national priorities; and

(F) Unfettered ownership of the real property associated with a closed military installation at the earliest possible time can partially offset the loss to a community which results when a military installation is closed.

(2) Purpose of the section—

(A) To benefit communities impacted significantly when a military installation located in such communities is closed by authorizing the real and excess related personal property, on which the military installations are located, to be conveyed to the impacted community as soon as possible after a decision to close the military installation is made but no later than 180 days after closure; and

(B) To provide significantly impacted communities a resource which will aid in mitigating the loss incurred by the community following a decision to close a military installation and which may be used by the impacted comunity, as the community deems appropriate, for industrial, commercial, residential, recreational, or public uses.

(b) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense shall convey to an eligible political subdivision or subdivisions or State all right, title, and interest of the United States in the military installation closed pursuant to a base closure law in accordance with this section and the Comprehensive Environmental Response, Compensation, and Liability Act and the Solid Waste Disposal Act as determined by the Administrator of the Environmental Protection Agency.

(2) Even if the conditions set forth in paragraph (1) have been satisfied, the Secretary shall not convey such installation if the Secretary determines that the community or communities in the area of the real property to be conveyed are not experiencing or will not experience a significant adverse economic impact as a result of the closure of that military installation.

(c) DETERMINATIONS.—(1) The Secretary must make the determination referred to in subsection (b) in the case of a military installation as soon as practicable after the installation has been identified for closure, but in any event not later than the date on which the installation is closed.

(2) In determining whether a community is experiencing or will experience a significant adverse economic impact as a result of the closure of a military installation, the Secretary shall consider such objective evidence as the following:

(A) Declining real estate values.

(B) Increasing unemployment.

(C) Loss of revenue to the State and the community.

(D) Increasing rate of business failures.

(E) Significant decreases in total personal income.

(d) ADVANCE NOTICE TO ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—As soon as practicable after a military installation has been identified for closure, but in any event not later than the date on which the installation is closed, the Secretary shall transmit to the appropriate political subdivision, communities, counties and State to which property at such installation may be conveyed pursuant to this section advance notification of the Secretary's intention to make a conveyance of that property.

(e) ELIGIBLE STATES AND POLITICAL SUBDIVISIONS.—Property at a military installation that is to be conveyed pursuant to the requirement in subsection (b) shall be conveyed to a political subdivision or subdivisions or State in the following order of priority:

(1) To a political subdivision of a State that is designated in State law to receive the conveyance of such property and accepts the conveyance.

(2) If there is no political subdivision that satisfies the criteria in paragraph (1), then to the State in which the property is located if the law of that State designates the State to receive the conveyance of such property and the State accepts the conveyance.

(3) In the case of any real property for which neither a State nor a political subdivision of a State satisfies the criteria in paragraph (1) or (2), then to one or more political subdivisions of a State which the Secretary determines, after consultation with appropriate local officials, would best serve the interests of the residents of such subdivision or subdivisions and of the State in which the property is located, providing such subdivision or subdivisions accept such conveyance.

(4) In the case of any real property for which no subdivision or subdivisions or State accept such conveyance, then the Secretary shall offer

the property to other departments and agencies of the Federal Government.

(f) PROPERTY TO BE CONVEYED.—In addition to the conveyance of real property to a community or State pursuant to this section, the Secretary shall convey any related personal property that the Secretary determines is appropriate for use by the recipient in connection with the recipient's use of the real property.

(g) CONVEYANCE DEADLINE.—Except as provided in subsection (h), all property to be conveyed pursuant to this section in connection with the closure of a military installation shall be conveyed within 180 days after the date on which the installation is closed.

(h) PROPERTY NOT SUITABLE FOR CONVEYANCE.—The Secretary shall sever from the real property of a closed military installation to be conveyed pursuant to subsection (b) that real property which is not suitable for conveyance and make such transfers over a period longer than that which would otherwise be permitted under subsection (g). Property is not suitable for conveyance under the following conditions:

(1) When the political subdivision or State will not accept conveyance of a part of the real property of a closed military installation; or

(2) If the Administrator of the Environmental Protection Agency determines that such conveyance does not comply with the requirements of either the Comprehensive Environmental Response Compensation and Liability Act of 1980 or the Solid Waste Disposal Act; or

(3) When necessary to ensure completion of environmental restoration and mitigation projects.

(i) CONSIDERATION NOT TO BE REQUIRED.—No consideration may be required for a conveyance of property pursuant to this section.

(j) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the President may waive in whole or in part the requirement to convey property at a military installation under subsection (b) if the President—

(A) determines that the continuation of the United States interest in such property—

(i) is vital to national security interests; or

(ii) the value of the base is so high that a conveyance to the political subdivision or State would constitute an undue windfall to the community and would not be necessary for the economic recovery of the region: Provided, That the number of waivers exercised under this Act do not exceed a cumulative total of five military installations for each package of closures approved by a commission under the Base Closure Law: Provided further, That a waiver in part shall not count against this limit if the value of the property reserved does not exceed 25 percent of the total value of such installation or if the appropriate political subdivision or State agrees with the reservation; and

(B) transmits to the Committees on Armed Services of the Senate and the House of Representatives a certification of such determinations together with the reasons for such determinations.

(2) A determination and certification in the case of the closure of any military installation shall be effective only if made before the earlier of—

(A) the date on which the installation is closed; or

(B) December 31 of the year following the year in which the closure of that installation is approved by the President.

(3) The President may extend the deadline for making a determination and certification under paragraph (2) for not more than two successive periods of 90 days by transmitting to the congressional defense committees a notification of the extension before the end of the deadline or extended deadline, as the case may be.

(4) The President may withdraw a waiver under paragraph (1) in the case of any military installation. Not later than 180 days after the withdrawal of the waiver, the Secretary of Defense shall make the conveyance required by subsection (a) in accordance with this section.

(k) CONTINUING RESPONSIBILITY OF THE DEPARTMENT OF DEFENSE.—Prior to and after any conveyance of real property of a closed military installation pursuant to this section, the Secretary of Defense in consultation with the political subdivision or State shall be responsible for the following matters:

(1) To provide economic adjustment and community planning assistance including assistance in conducting public hearings to decide the appropriate use of a closed military installation to communities near the closed military installation until such time as the economic stability of such communities is achieved, as determined by the Secretary.

(2) To comply with the Comprehensive Environmental Restoration Compensation Liability Act of 1980 and the Solid Waste Disposal Act in consultation with the Administrator of the Environmental Protection Agency.

(3) To continue to carry out environmental restoration and mitigation activities relating to uses made of such installation before closure.

(l) SOURCES OF FUNDING.—The Secretary may expend any funds in the Base Closure Account to carry out the responsibilities referred to in subsection (k) and the Secretary shall notify the congressional defense committees in advance of the obligation of funds for such purpose.

(m) IMPROVEMENT OF PROPERTY PENDING CONVEYANCE.—(1) Notwithstanding any other provision of law, the Secretary of Defense and the head of any other department or agency of the Federal Government may continue, on and after the applicable date referred to in paragraph (2), to obligate funds (to the extent available) for making improvements to the property that has not been conveyed that will facilitate the conveyance of the property and are consistent with the use to be made of the property by the recipient of the conveyance.

(2) Paragraph (1) applies in the case of property at a military installation on and after the date on which the closure of that installation is approved by the President.

(n) DEFINITIONS.—In this section:

(1) The term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

(2) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1808; 10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Relignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(3) The term "base closure account" means the following:

(A) The Department of Defense Base Closure Account established by section 207(a) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102-510; 104 Stat. 1815; 10 U.S.C. 2687 note).

SEC. 8126. Pursuant to section 8133 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511) and other applicable law, an account consistent with the provisions of section 12(b)(7)(iv) of the Act of January 2, 1976, as amended (Public Law 94-204) (43 U.S.C. 1611 note) shall be established for Calista Corporation, an Alaska Native corporation, except that references to the document referred to in subsection (b) are inapplicable. The account may be used to acquire properties consistent with section 12(b)(7) (v), (vi), and (vii) therein. The account shall be established with a minimum value per acre of not less than $300 per acre upon conveyance or relinquishment to the Secretary of the Interior of the approximately 165,000 acres of lands and interests in lands identified in the "Calista conveyance and Relinquishment Agreement" dated September 1991; Provided, That the final value of the account will be established by the Secretary following a determination of the public interest values as well as the fair market value of the lands and interest being provided to the United States.

SEC. 8127. None of the funds appropriated or made available in this Act or any Act making appropriations for the Department of Defense for fiscal year 1992 may be obligated for procurement of ball bearings or roller bearings other than in accordance with the provisions of subpart 208.79 of the Defense Federal Acquisition Regulation Supplement (DFARS) as promulgated effective on July 11, 1989.

SEC. 8128. Notwithstanding Section 203 of Public Law 102-27, immediately upon enactment of this Act the Secretary of Defense shall transfer $105,000,000 from funds appropriated for "Aircraft Carrier Service Life Extension Program" under the heading "Shipbuilding and Conversion, Navy 1991/1995" to "Other Procurement, Navy 1991/1993": Provided, That the transferred funds shall be obligated within 60 days of enactment of this act for purchase of items to be used for a 24 month complex overhaul of the USS KENNEDY at the Philadelphia Navy Yard: Provided further, That this overhaul shall include replacement of the engines, and replacement or overhaul of any other major ship component or system necessary for the USS KENNEDY to maintain a normal operational schedule through the year 2010.

SEC. 8129. None of the funds appropriated or otherwise made available by this Act may be used to carry out the Department of Defense policy set out in the memorandum of the Assistant Secretary of Defense, Health Affairs, dated June 21, 1988 (Subject: DoD Policy Regarding Providing Non-Funded Abortions in Outside the Continental United States Military Medical Treatment Facilities) or to promulgate or carry out any other policy having the same substance, consistent with existing laws and policies governing military medical care for a member of the Uniformed Services and any dependent of the member.

This Act may be cited as the "Department of Defense Appropriations Act, 1992".

PRIVILEGES OF THE FLOOR

Mr. INOUYE. Mr. President, before proceeding with my opening statement, may I ask unanimous consent that the following be given floor privileges during the consideration of this measure: Charles E. Cook III, Stacy McCarthy, John J. Young, Jr., and Jo Ellen de Berg.

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

Mr. INOUYE. Mr. President, on behalf of the Committee on Appropriations, I am pleased to present to the Senate our recommendations for fiscal year 1992 funding of the programs and activities of our Government in support of our Nation's defense and security.

The bill before the Senate provides $270.4 billion in budget authority and $275.4 billion in outlays for fiscal year 1992 defense spending. These amounts

are very, very close to the committee 602(b) allocations of budget authority and outlays to the Subcommittee on Defense Appropriations. We are within $1 million of our budget authority total and $5 million of the allowance for outlays. So we are rather close to 602(b) that we have been allotted.

The bill which is before the Senate also is in accord with the authorization ceilings for each of the multiple accounts in each title of the bill. Here, again, we are very, very close to the ceilings in the Senate passed authorization bill. In numerous instances the committee filled the authorized amounts by responding to requests that members made for added funding. In most accounts we are now at the ceiling; in others we have very little headroom remaining. In point of fact, in constructing the bill for committee consideration Senator STEVENS and I tried to respond to members' requests in a very balanced, nonpartisan way and, wherever possible, we have met the requests of all Senators.

This bill does a lot for America. At a time of uncertainty, when the Soviet threat appears to be receding, we make appropriate adjustments. At a time when it is difficult to be certain that threats have, indeed, been removed, we fund the basic elements of our national strength and we preserve the vitality of our Nation's Armed Forces. And, as we look to a future where America will undoubtedly turn inward and reduce spending for military programs, we finance investments in research and developments and, we fund procurement of systems which will preserve our Nation's strength with a smaller Army, a smaller Air Force, and a smaller Navy and Marine Corps.

Mr. President, we will not leave America unprotected. We will not repeat the mistakes of the past. In the euphoria of victory, we will not cut the sinews and muscle of our Armed Forces, only to leave them on some future battlefield ill-trained, ill-equipped, and unprepared.

TITLE I: MILITARY PERSONNEL

The bill before the Senate fully funds the President's request for military personnel. The recommendation fully funds active duty personnel end strength at the budgeted and authorized level, which means, Mr. President, a reduction of 106,358 men and women from fiscal year 1991. We are not increasing manpower. We are decreasing it by 106,358. For the Guard and Reserve, we add back 72,360 from the budgeted reduction. The President had proposed the reduction of 107,526 in National Guard and Reserve end strength. Our reduction is not that severe. It is 35,166.

We also protect the Guard and Reserve force structure. Section 8067, a general provision of this measure, prohibits any reduction in the force structure allowance of the Army Guard and Reserve below 450,000 and 310,000 respectively.

But, Mr. President, I'm certain all of us realize that this will cost money. But we think it is right to protect the Guard and Reserve from precipitous reductions. However, Senator STEVENS and I are both concerned that as we protect the Guard and Reserve, we do not force sharp reductions in active duty personnel. Because of our concern, we have included a provision which would require that measures to protect the Guard and Reserve in the next fiscal year will have to be funded by offsetting reductions in procurement and research and development funding and not by reductions in active duty personnel funding.

Mr. President, the bill before the Senate full funds military personnel in the active duty components. Indeed, we have fully funded them and we have fully funded the requested 4.2 percent pay raise for military personnel. In addition, we have fully funded the Civilian Health and Medical Program [CHAMPUS] account.

TITLE II: OPERATION AND MAINTENANCE

For the operation and maintenance title, various pricing and fact-of-life adjustments enabled us to take $1.9 billion out of the request. But we have put this money to good use.

For example, we have increased Army training funds by $150 million; we have enhanced readiness by providing an increase of $250 million for depot maintenance—that is repair and maintenance of equipment; we have provided $78 million to improve and upgrade shipyard repair facilities; and we have provided a $1 billion fund to meet the requirements for facilities management at Army, Navy, and Air Force installations.

Under the O&M title, we have also provided funds to really begin the environmental cleanup of our Nation's defense installations—we provide $1.2 billion, not just for studies and research but for turning the Earth and cleaning up the mess left behind by a century of neglect. The Defense Department can become the model for responsible government in the field of environmental concerns. In this regard, we provide $105 million in Navy O&M funding to support Navy operations and to help clean up environmental pollution in Antarctica. As an aside, I would note that we also address natural disasters—we provide a reserve of $289 million to meet the claims of United States personnel forced to evacuate the Philippines as a result of the eruption of Mount Pinatubo.

The bill also addresses Coast Guard operations. We provide $376 million in support of Coast Guard drug interdiction and Defense related operations.

Finally, though the amount is small, we also address the need to help our defense industries and workers in defense industries adjust to the decline in defense spending. It may be noted at this juncture that the Secretary of Defense, in compliance with the mandate of the Congress, has already terminated 80 procurement programs. That would mean many defense industries and workers in distress.

So we provide funding for a defense conversion commission to study and make recommendations for coping with the economic and social changes which will inevitably follow the decline of the defense budget.

TITLE III: PROCUREMENT

Mr. President, the bill which the committee has recommended makes a prudent investment in the military hardware and related equipment necessary to preserve a strong defense establishment.

NAVY

For the Navy, we provide funds for 1 SSN-21 Seawolf attack submarine, 5 DDG-51 Aegis destroyers, 3 MHC minehunters, and 12 of the LCAC landing craft.

Mr. President, it is clear that our Nation needs to revitalize its fleet of attack submarines. The committee is concerned, however, that the Seawolf—the SSN-21 class—may be too expensive. Under current plans, only one per year is to be constructed. At 1 submarine per year, we can never sustain our goal of 60 or 70 submarines.

It might be well at this juncture to note that as we fund for 1 submarine, the Soviets at this moment are constructing 10. Last year we funded for one submarine and the Soviets constructed nine submarines. This is while they are facing an economic disaster. Therefore, the Navy is now starting to look at a follow-on to the SNN-21, the so-called Centurion. The committee has provided advance procurement funds for submarine construction, but has withheld the obligation of these funds until the Secretary of the Navy reports on his review of the submarine program and his determination as to where the future lies—with the Centurion, or some other submarine.

We address the problems of Navy air by funding procurement of 39 F/A-18 aircraft. We also provide substantial amounts of R&D funding for an advanced version of the F/A 18, the E/F version.

ARMY

For the Army, we are recommending the procurement of a new training helicopter—it will save money to buy rather than lease a new training helicopter; and we recommend procurement of 47 additional UH-60 Blackhawk utility helicopters. We do not fund Ahip helicopters, because none were authorized.

We also do not fund procurement of any Patriot missiles because none were requested and none were authorized. Senators will recall that we did provide $281.2 million for 283 Patriot missiles in the Desert Storm supplemental. I

should also point out, however, that the producer of Patriot missiles has had some difficulty generating expected foreign sales and it may be necessary for us to reexamine the requirement for procurement of additional Patriot missiles in the context of the fiscal year 1993 bill.

A number of Members have expressed an interest in the multiple-launch rocket. We recommend funding of 24,000 rockets and 44 launchers. This year, in addition to procurement for the Regular Army, we are recommending the appropriation of $110 million for procurement of MLRS for the National Guard.

We provide additional funding to meet the increased cost of procurement of the 60 M1A2 tanks funded in fiscal year 1991 and we provide funding to upgrade the M1 tank to the M1A1 tank. This, as you know, is the tank which did so well in Desert Storm. It outgunned the Russian T-72 tank and out maneuvered it as well. In fact, the M1A1 outmaneuvered its own support vehicles, so, in R&D, we provide funds for support vehicles in the armored systems modernization program, while deferring development of the so-called Block III tank.

AIR FORCE

For the Air Force, we use prior year funds from the Navy's canceled A-12 program to fund F-15 support equipment. And, we make available for procurement of 12 new production F-15E aircraft the funds derived from the sale of F-15 C/D aircraft to Saudi Arabia. These 12 new production F-15E's are in addition to the 36 F-15E aircraft provided in the fiscal year 1991 appropriations act.

Because the Senate authorization bill terminated the F-16 fighter program, we do not provide funding for F-16 procurement. However, we do provide funding for 24 additional F-117 aircraft, the stealthy, wonderful plane of Desert Storm.

Mr. President, we begin to meet the requirements for airlift by funding four C-17 air transport aircraft. The budget had requested funding for six, but the contractor has experienced delays and we believe $1.4 billion is sufficient to meet production requirements for the four aircraft.

Mr. President, I am well aware that all Senators are interested in what we are proposing for the B-2. We propose to provide full funding for procurement, that is, $3.2 billion, and research and development at 1.6 billion. I do not believe there is any doubt that more Senators support completion of the research and development phase of the B-2 program, so we have not placed restrictions on R&D funds. We will, however, build a big, tall fence around the procurement funds.

In recent days, both the Senate Appropriations Committee and the Senate Armed Services Committee have had several briefings on the B-2 program and the latest test results which have been reported in the press. These briefings were open to all Senators, and we do not find cause to disrupt the program. We do not find any fatal flaws in the B-2. Nonetheless, we recognize that several Senators are opposed to continued funding of procurement and many Senators are concerned about the program, particularly the low observability characteristics of the B-2.

Mr. President, some Senators are concerned, because of press reports, that the Secretary of Defense no longer has confidence in the program or that he no longer fully supports the B-2. I believe I can put those concerns to rest.

On Thursday of last week, Secretary Cheney again gave his unqualified endorsement of the B-2 program. After detailing the results of the current testing regime, the Secretary assured us that he continues to support the B-2 and that the B-2 is the stealthy aircraft it was intended to be.

Nonetheless, I understand that some members find it difficult to support the B-2, particularly at this time of uncertainty in the international arena and when there are questions about the aircraft's performance.

Accordingly, Mr. President, here is what we propose: We will provide the requested procurement funds for the B-2 under the aircraft procurement Air Force account, but will not make them available for obligation until the conditions set forth in the recently passed authorization bill are met and they will not become available until the Congress passes a supplemental appropriations bill making the funds available for obligation.

In this way, Mr. President, supporters of the B-2 will be assured that funding will not be wiped away because of controversy generated in the press and opponents will be assured a second vote on the B-2 before additional procurement funds are provided.

Mr. President, as chairman of the Subcommittee on Defense Appropriations, I know of no better way to meet my responsibilities to all Senators.

TITLE IV: RESEARCH AND DEVELOPMENT

In the research and development accounts, we provide funding for investment in the future of America's armed forces. Mr. President, we are not unaware that defense budgets will decline, and decline sharply in the next 3 years. Accordingly, we have been careful to avoid initiation of R&D programs which are unaffordable in the future.

NAVY

We do provide ample resources to those R&D programs which have been identified as required investments. For example, we provide $250 million for the Navy's F/A 18 E/F program. This aircraft will provide the solution to the Navy's midterm problems in the area of attack aircraft. As you are well aware, Mr. President, the termination of the A-12 program left a large hole in the Navy's plans for a follow-on to the aging A-6 aircraft.

Mr. President, we also provide $50 million for research on the new attack submarine, the Centurion, which must be developed as a replacement for the very costly SSN-21 Sea Wolf.

ARMY

Under Army R&D, the largest expenditure will be for the armored systems modernization. This is the program which will develop a common chassis for: First, the next generation heavy tank; second, a follow-on to the Bradley fighting vehicle; third, a much needed replacement to our long-range artillery; and fourth, other armored vehicles. Because of the committee's concern with the need to get on with the development of new artillery, a need which was underscored in Desert Storm, where Iraqi artillery had greater range than anything we had in the field, we have provided funds to accelerate development of the new howitzer while slowing the development of the Block III tank.

It may be noted, Mr. President, at this juncture that while we are debating the necessity of funding programs for new artillery and new chassis, the assembly lines in the Soviet Union on the construction of artillery pieces and tanks continues unabated, notwithstanding the turmoil in Moscow, notwithstanding the problems they are having in the provinces. It is strange, but true, Mr. President.

AIR FORCE

The R&D programs in the Air Force are numerous, Mr. President, and costly. Nonetheless, we support them because we believe air superiority and the importance of strategic and tactical bombing was unquestionably demonstrated in the gulf war. That made the difference. Communications, intelligence, and control of the air over the battlefield are vital to the success of our Armed Forces.

And so for the Air Force, we provide $900 million for Milstar satellite communications; and $377 million for the C-17 transport aircraft.

Mr. President, this is particularly important. We must meet the need for new air transport. We will not always have U.S.-designed and U.S.-built runways and airfields waiting at the other end when we deploy our forces in response to conflict. Mr. President, Desert Storm was the exception. The airfields were built to our specs. As a result, I believe we need airplanes which can carry heavy loads over long distances and land on short runways. The C-17 is, in the committee's judgment, that airplane.

Mr. President, we also provide: $605 million for ICBM modernization; $193 million for Titan space launch vehi-

cles; and $1,563 million for continued R&D on the B–2 bomber.

Mr. President, it is rather strange that while we were debating whether to carry out a program on mobile missiles, while we were debating, the Soviets were putting into operation over 250 of them.

DEFENSE AGENCIES

It is under defense agencies that we find the largest of the R&D programs, the strategic defense initiative. As you know, the recently passed defense authorization bill restructures this program and provides increased emphasis on a ground-based system.

Mr. President, when we were in Israel to observe the Patriot missile batteries which were deployed to Israel during Desert Storm, Senator STEVENS and I came under a Scud attack. That had the effect of sharply improving our concentration and our appreciation of the need for ballistic missile defenses. We support the SDI Program.

I also mention that, in keeping with the request General Schwarzkopf made of us, we are providing increased funding for the development of a battlefield IFF [identification friend or foe] system to enable our gunners and tank captains to recognize their friends at a distance.

CONCLUSION

Mr. President, those are the principal recommendations for funding.

As you are well aware, the Defense appropriations bill carries a large number of general provisions—in this case over 100, which cover a variety of subjects. I will not review all of them. Most have been carried in our bill for a number of years.

I also wish to call to the attention of all Senators the committee's recommendations for classified programs. The classified annex to the committee bill and report are available for review in the offices of the Office of Senate Security, which is just outside of S–407, and I would recommend that all Senators study the classified next.

Mr. President, there is one matter which I should discuss before concluding. Later today, or perhaps tomorrow, we expect the chairman of the Budget Committee and other Senators to propose an amendment striking certain funds for weapons procurement from the bill. In one stroke, the amendment would seek to overturn major recommendations which the Subcommittee on Defense Appropriations; has made after conducting a thorough review of the President's budget request. The amendment, I believe, is contrary to my judgment as chairman of the Subcommittee on Defense Appropriations; it is also contrary to the judgment of the Secretary of Defense, and it is contrary to the judgment of the Chairman of the Joint Chiefs of Staff.

Mr. President, in a recent, special briefing before the Appropriations Committee, Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff, spoke frankly and candidly about his fears for the future of America's Armed Forces.

He expressed his concern that measures to keep the Guard and Reserve at current levels, or to prohibit the managed reduction of the regular force, will lead to a top heavy structure of aging military personnel.

General Powell expressed his concern that reductions in procurement and research and development could erode the qualitative edge our service men and women have on the battlefield. A qualitative edge which will grow ever more important as we reduce the number of men and women under arms.

The general expressed his concern that we would build a hollow force with outmoded equipment and overage soldiers.

Mr. President, we must not allow that to happen. We must manage reductions in force levels and defense spending. We all know these reductions will come over the next several years. We, on the Defense Appropriations Subcommittee, have begun to make them.

But, Mr. President, I implore the Senate to choose the course of patience and wisdom. We have seen what happens when America is unprepared. I hope, as we approach the eve of the 50th anniversary, we will remember Pearl Harbor and, I believe, Mr. President, we should remember the cooks, clerks, and stevedores which comprised our forces at the Pusan perimeter in Korea. In 1949 it was the judgment of this Congress to cut down a military that was 12½ million in the height of World War II down to less than 500,000. A year later the North Koreans decided to move, assuming that the United States had no stomach for war again. That was a fatal assumption on their part. But, nevertheless, they crossed the line, and the only way we were able to counter this was with cooks, clerks, and stevedores, and this is no exaggeration, Mr. President.

Experts have told us time and again that the first 10,000 casualties in the Korean war would and should have been avoided. But we were not prepared. They were not ready and they were not trained.

So, Mr. President, let us resist the temptation to solve our fiscal woes by a single stroke of a budget razor which would slash funding for our national security requirements.

Mr. President, that concludes my remarks. I am extremely pleased to yield the floor to my very distinguished colleague and a dear friend whose sage counsel and good humor have made my life much easier and my work much more productive, and that gentleman is the senior Senator from the State of Alaska, TED STEVENS, the ranking minority member of the Subcommittee on Defense Appropriations.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I thank the Senator from Hawaii, the chairman of our subcommittee for his kind remarks and I am grateful for the opportunity to join him in presenting our subcommittee's report and now the full committee's report on appropriations for the Department of Defense for 1991.

The chairman has summarized the contents of the bill, and I will try not to duplicate his comments. I want to take the Senate's time to reflect for a few minutes on how this bill is different from the many Defense appropriations bills I have helped manage here on the floor for at least 10 years and for 10 years prior to that to participate in as a member of the subcommittee.

This bill reduces the funding available to the Department of Defense by $4½ billion, compared to the current year we are in right now, 1991. It adheres to the limits set for defense spending during the budget summit last October. I know we are going to be pursuing the future implications of defense funding as we discuss this bill. But I would like to raise the Senate's awareness of just how much has been cut from defense and how much more it will be reduced over a period of years.

So, I have borrowed some charts from both the Secretary of Defense and of the Chairman of the Joint Chiefs of Staff in the briefing Senator INOUYE has mentioned that we already have received.

This first chart that I have before the Senate shows that defense spending has dropped substantially from its peak days of 1985 on the left and will continue to drop through 1995 on the right-hand side of the chart.

For the 6-year defense plan submitted by the current Secretary of Defense, the reduction will stay on course and it will average about 3 percent in terms of real reductions a year but it will be even more drastic this year. On this chart, it will decline a real 34 percent. They are not phony numbers nor are they based on phony estimates. These are real cuts, cuts in real people, in procurement, in research and in the total defense infrastructure of the United States.

Now, the chart is a little busy. But let me say we are on an actual decline of an average of 3 percent.

But this year the bottom line—which appears in green on the chart for those who can see the colors—the actual reduction is minus 11.3 percent.

In terms of this chart, I think it is important to realize that these are constant dollars. These are really real dollars.

This Senator believes—and I hope that many of the Senators present will suggest later in the debate on this bill

the same thing—defense spending must be assessed in the context of our overall Nation's economy and Federal activities with taxpayers' money.

These next two charts I think depict with considerable starkness the current and planned state of defense spending. The first is defense as a share of Federal outlays from 1950 through the 6-year plan of the Secretary of Defense. It has come down from 57 percent of all Federal outlays to 43 percent, in 1965. It went back up to 27 percent in 1985 during the Reagan years. In this fiscal year we are considering 19.6 percent. By the end of the 6-year plan it will be 18 percent. It will be at its lowest share of Federal expenditures in 50 years at that point. It is already at its lowest level since the Korean war.

Clearly evident in this graph are the peaks that I mentioned, but even during the trough years of defense spending in the late 1970's the Department consumed some one-quarter, roughly, of the Federal budget.

The year we are considering drops below 20 percent—as I said—it will be at 18 percent or lower by 1986.

This is not a plan that has been conceived up here in the Congress. This is before the cuts of the Congress. This is before the cuts that even some of this bill suggests. This is based upon the projection of the administration, projection of the Secretary of Defense, and the projection of the Chairman of the Joint Chiefs of Staff.

I think that it is well to remember, for those people who say let us cut defense, that we have been constantly reducing defense as a percentage of Federal taxpayers' expenditures.

Let me turn to the next chart now. This is defense outlays as a percentage of the gross national product during the same period, from a high of 11.9 percent to 3.6 percent of the total GNP of this country by 1996. In the bill before the Congress—this is the administration's bill now, again before it is cut—it is at 4.7 percent.

This means that between this year which we are considering now and 1996 defense spending will decline by 20 percent of the gross national product, from 4.7 percent to 3.6 percent.

We are roughly the same share of the gross national product at this point as we were in 1978. And I need not remind the Senate of what happened in 1978. We had battleships that could not leave the dock, we had planes that could not fly because we did not have spare parts, and we had a shortage of moneys for readiness, for steaming hours, for flying hours. We were forced to increase the level of defense.

I want to set this before the Senate because I would like to make my point as clearly as I can. Our budget woes and our crisis, as some Senators will state it, is because we are spending too much on defense. By every measure, I think defense is costing less and less of our taxpayers' money, and of our gross national product.

The Defense Department has indicated its willingness to make these reductions, and to comply with the summit agreement. The problem is, now, that defense is the only portion of our national budget that has been and will continue to be reduced. We are not spending too much on defense, if we look at the world. I will be saying more about that as we continue to debate this bill in later days.

But instead of looking to one center in the Soviet Union to control the massive amount of their nuclear weapons and missiles, we will now be dealing, it appears, with some 15 separate centers. The nuclear-powered world is becoming more complex as the days go on, as we are learning even right now in Iraq.

I believe that those of us who are supporters of defense and readiness—and I think every Senator should be if he is familiar with the Constitution because it is our first call under the Constitution to provide for the common defense.

We believe that we entered into an agreement last year in good faith in an attempt to constrain the growth in the deficit. So far as defense is concerned, this bill complies with that agreement not only in intent but in fact. I congratulate my good friend from Hawaii for his absolute adherence to that agreement.

The bill before the Senate is below the 602(b) allocation level. It is consistent with the budget agreement entirely. We have done our work in conjunction with the Department of Defense, not entirely rubberstamping their request. But we have presented what we believe to be a program for maintaining the integrity of our defenses, and maintaining our position as the only superpower left in the world. We are the only power on Earth that can make the United Nations resolutions meaningful.

The question is, will we continue to maintain the integrity of the defense portion of the summit agreement or will that be changed? The portion that causes the greatest concern for me is in the area of personnel and force structure. This is one of the charts that was used by Gen. Colin Powell as he presented the force structure analysis to our Defense Appropriations Subcommittee.

I think it is well to review it because this is our Nation's most distinguished commander of all the forces directly under the Commander in Chief, subject of course to the guidance of the Secretary of Defense.

He devised this in carrying out his obligations to comply with the summit agreement. He projects that we will have to reduce the Army divisions from 26, of which there are 16 active components, to 18, of which 12 will be active by 1995, plus 2 cadres that will be ready for expansion, if necessary.

You can see the various other items on the chart. The Marines, of course, are not substantially reduced. They still are in force for ready response. Aircraft carriers are down from 15 to 12. Carrier air wings, 15 down to 13, which 11 active. Ships down from 536 to 448.

This is, in this one time period, knowingly, that the line continues going down from there. I think that it is important for us to follow through on this chart to realize what this means. No portion of the department will escape cuts. The reductions are tailored to provide a total force capability, as General Powell so forcefully presented to us. This is not just equal distribution, cutting across the line. It is a force structure to carry out the total responsibilities of our Government.

We have tried to keep the part of the bargain that we made to hold down the deficit, to live within our means. I do believe that there are initiatives in this bill that should be discussed, and I want to name one in particular. That is, that the bill fully funds the authorized level of active component and National Guard and Reserve personnel in the Armed Forces.

What it means is that we have tried to avoid that hallowed army, hollowed military, as Chairman INOUYE has mentioned, and that General Powell mentioned. It provides that funds to maintain both the military and civilian personnel, to keep the faith with the people that constitute the military services and civilian infrastructure of the Department of Defense.

The bill does also sustain the President's top strategic priorities in the B-2 bomber and SDI. I have explained to the chairman that I am a little concerned about the prospects for a second vote coming on a supplemental next year, but I do commend Senator INOUYE for bringing the program forward in this bill, and I hope to work with him to sustain the B-2 during the floor consideration on the bill.

On SDI, this bill is at the authorized level that the Senate has already passed this year at $4.6 billion. Events in the Middle East and in the Soviet Union, as I have mentioned, continue to keep development of this defense system, a nonnuclear response to the potential of nuclear attack on our country, as one of the top priorities.

I, for one, would really like to see the Senate and Congress go on record to abandon the concept of mutual assured destruction and, instead, give us the capability for defending this country, as we had the capability of defending Saudi Arabia and Israel by destroying the Scuds as they were launched against those two countries.

Senator INOUYE and I did have the dubious honor of being present in Israel

at the time of one of the Scud attacks, and we went out to look at the damage the next morning.

I think that it is really sobering to realize that we have no defense at all against an unauthorized launch of a missile from another nation, from an accidental launch or a terrorist launch of nuclear missiles coming through the atmosphere toward our country. SDI becomes, as far as this Senator is concerned, even more important for the next generation of systems.

We are shrinking our military forces in size, and as we do, their readiness and the quality of their equipment becomes paramount. We have, in this bill, sustained that next generation of systems, and the design to give the next generation of those who are on the battlefield, God forbid, from this country, the same kind of superiority that the United States forces just had in the gulf against the forces of Iraq.

The adjustments did reflect changes in the world. I particularly take note of the armored systems modernization program, which the committee report addresses in detail. I support that modernization program, but I do believe it must be consistent with our best assessment of future threats and requirements.

I am hopeful that the Senate will allow us to move this bill quickly to conference, even on the systems that are substantially in question here, the B-2 and SDI. They will be even more so in the conference.

This bill adheres to the priorities, as I have said, set by the Senate during our recent consideration of the authorization bill. This time, we have worked consistently with our colleagues, particularly the chairman, the Senator from Georgia [Mr. NUNN], and the ranking member, the Senator from Virginia [Mr. WARNER], to make certain that we will reduce the number of conflicts between those of us who manage defense-related bills on the floor.

I believe this is a good bill, and I believe that the Senate should authorize us to go to conference as quickly as possible, as I have said, so that we may try to present the Department of Defense with their full authorization and appropriations bill before the end of the fiscal year.

I thank you, Mr. President, and I yield the floor.

• Mr. D'AMATO. Mr. President, I want to take this opportunity to thank the chairman, Senator INOUYE, the ranking member, Senator STEVENS, and their staffs for the fine work they have done in putting together the Defense appropriations bill before us now.

Many of my colleagues probably fail to realize that this year represents the seventh year of decline in defense spending in real terms. The days of consolidations, of recorganizations, and of restructurings are over. Companies are going to die, and jobs will be permanently abolished. Bases will continue to close. Units will disband, ships will be tied up, planes sent to the boneyard, and service men and women will be involuntarily separated, many after serving bravely in the Persian Gulf.

I can only hope that my colleagues will be as skillful in compensating for these reductions as the chairman and ranking member were in making the cuts.

My State, long a major player in defense, was treated with extraordinary evenhandedness by the subcommittee. With the exception of the F-14 Tomcat, which, as everyone knows, thrives best in the rarified air of conference, New York's defense interests could not have been more fairly handled. We had our losses, but core programs and facilities have been sustained.

This is a good mark. I urge my colleagues fullest support, and I look forward to defending the interests of the Senate in conference.•

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, before I send to the desk a series of amendments, I would like to thank my colleague from Alaska for his words of support.

If I may, I will spend just a few moments touching upon aspects of this measure that may not be well known to the people of the United States.

In recent days, the phrase "peace dividends" is heard quite often, because people anticipate that with the cuts we are making—a reduction of 106,000-plus men and women from the Armed Forces; closing up of over 80 procurement programs; closing up over 100 bases and installations in the United States; and over 300 bases and installations abroad—one can see savings coming out of this.

I would like to point out to you, Mr. President, the dark side of the savings. Of the 106,000-plus men and women who will be receiving the pink slips from the U.S. Government, very few have jobs waiting for them as they step out of uniform. Keep in mind that there were those who fought in Desert Storm and, within a week of their return, received their pink slips because it was part of our program. So what does that mean? Unemployment compensation; it does not show up in this bill; it shows up in some other account. But that account is paid for by American taxpayers. Welfare payments; that does not show up in this account; it shows up in another account.

Mr. President, you know as well as any one of us here that there is a sad correlation between unemployment and crime. So one can anticipate the rise in crime statistics, and that will be costly, Mr. President.

When we terminate 80-plus procurement projects in one factory—5,000 men and women fired overnight—we in the Senate may not sense it, but for the 5,000 families, it means mortgage payments not being kept up. Something is going to happen if you do not pay mortgages. They are not able to send children to the schools that they had planned for; they are not able to purchase from the supporting facilities in the shopping mall.

It has an effect like a tidal wave. It is just not one person. And multiply that by 80 procurement projects. We are taking painful steps, Mr. President. And when we close up over 100 bases, I am certain all of us know of someone who worked at one of the bases or installations. Suddenly, no work.

We are not saving money, Mr. President. We are saving it from this bill, but somewhere else we taxpayers of the United States will have to pick up the tab. And that is why the leadership of the Appropriations Committee has been counseling to one and all that we do this with prudence, with good management style, and with patience.

Mr. President, history shows us that the temptation is so great that we have precipitately cut at the end of each war. We happen to have done some research on our first major war, the Revolutionary War. And in that war, our great President, Gen. George Washington, was in command of a force of 30,000 men. That is right. The Continental Army was made up of 30,000 men. Within a year after the end of that war, we cut our forces—the Congress of the United States, our predecessors, said the millennium has arrived. Our forces were cut from 30,000 to 80; 55 at West Point, 25 at Pittsburgh.

A few months later the British looked upon this and said, "These colonists have no stomach for war." And what was the result? They burned this building and the White House.

As I indicated, at the end of World War II, a force of 12.5 million was cut to about one-half million, and the North Koreans took that as a signal. It was a bloody and costly war.

At the end of World War I, we became neutralists. Imagine Gen. George C. Marshall, who was then a lesser general, going to Leavenworth, taking over a command of the whole camp, a grand army of less than 200 cooks and clerks. That was his army. General Patton, the great tank commander, went to Fort Benning. He took over command of the tank forces of the United States. We had 325 of them, but most of them were not operational because they were missing nuts and bolts. He submitted, as all officers would, a request for nuts and bolts for the 325 tanks. The Army said, "We don't have any nuts and bolts." Gen. George Patton had to go to Sears Roebuck to pick up those nuts and bolts.

I was in World War II, Mr. President, and I remember going into maneuvers with jeeps with cardboard sides—tanks; that was a tank. Some of the men did

not have rifles. We had wooden rifles, the kind that we had when we were little children. Many times you wonder how we won the war, but we did. We do not want to repeat it.

AMENDMENT NO. 1184

Mr. INOUYE. Mr. President, I send to the desk a series of amendments making technical corrections to the bill as reported by the committee, and I ask unanimous consent that they be considered and adopted en bloc.

Mr. President, this matter has been cleared on both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. They will be considered en bloc.

Without objection, the pending amendment will be set aside, and the amendments are agreed to en bloc.

The amendment (No. 1184) was agreed to as follows:

On page 11, line 21 strike "*Provided further,*".

On page 43, line 2, strike the "," following "1993".

On page 57, line 3, after "30," insert "days" and line type.

Mr. STEVENS. Mr. President, if my colleague will yield, I am reminded that we are coming very close to the 50th anniversary of the attack on his State on December 7, 1941, in a war that later led to the invasion and occupation of two of the islands in my State. I was just thinking a little bit about the strange course of fate and history that the two of us stand here today, both veterans of World War II. The Senator from Hawaii paid much more dearly for his participation in that war than I. I saw service in China as a pilot, and he saw service in Europe.

But we are asking the Senate not to let history repeat itself. We have just come through a very successful engagement, and we have, in effect, disclosed a great many of our Nation's secrets in order to win that war. Many of the items that are described in the classified indexes we have invited Senators to peruse will demonstrate that our projection of needs is even more complicated for the future. This is not a time when we can simulate a B-2. We could not fly an old P-40 through and put a sign on it that says, "This is a stealthy airplane." We cannot imitate the past in order to meet the challenges of the future in protecting this country, in our opinion.

We have joined together, a Democrat and a Republican. We have no arguments in this bill. I do not think we are entirely satisfied with everything in it, but it is the best bill that we could bring to the floor to meet the needs as we perceive them. I am hopeful that it will be viewed from that point of view by the Members of the Senate.

I particularly share the comment of the Senator from Hawaii about the peace dividend. In the first instance, the dividend is peace. We have witnessed the disintegration of the forces of communism. We have shown and demonstrated the will of the United States to be capable of defending our country against any type of system they could devise.

And now, as I said before, the question is how many small Hitlers are there out in the world of the next century. This bill will fund systems that will not fly or float or be fired during either of our lifetimes. They pertain to systems that now take 4 and 5 years to come through research and development, and after that, years to production. We are funding the follow-on to the marvelous systems that we have just used in the Persian Gulf war.

I think properly viewed by the country, the judgment of our President, who similarly is a veteran of World War II, a man with unique experience in terms of his lifetime, in terms of his service in the CIA, as an ambassador, and as our ambassador to the United Nations—I think my point is we would hope that the country will realize that these systems are our insurance policy for the future. And I for one hope they survive.

I thank my good friend for what he has done today.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I believe the previous order would prohibit any votes being taken this day. The Appropriations Committee has made its opening remarks. The bill is laid down for consideration.

I feel it is now up to the majority leader to schedule us, but I have been advised that it will very likely be sometime Wednesday morning when we will resume consideration of this measure. So, if there are none others wishing to speak, 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. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. INOUYE. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on September 20, 1991, during the recess of the Senate, received a message from the President of the United States submitting a nomination; which was referred to the Committee on the Judiciary.

(The nomination received on September 20, 1991 is printed in today's RECORD at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1937. A communication from the Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the report on Arms Control and Disarmament Studies; to the Committee on Foreign Relations.

EC-1938. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on Budget Rescissions and Deferrals dated September 1, 1991, pursuant to order of January 1, 1975, as modified by order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources, jointly, without amendment:

S. 1563. A bill to authorize appropriations to carry out the National Sea Grant College Program Act, and for other purposes (Rept. No. 102-155).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 646) to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges (Rept. No. 102-156).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (by request):

S. 1739. A bill to authorize the Secretary of the Interior to permit the use of lands within the Colonial National Historical Park in the Commonwealth of Virginia to enable natural gas service to be provided to the Coast Guard Reserve Training Center; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 1740. A bill to amend the Older Americans Act of 1965 to improve the interstate funding formula for State and community programs on aging, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. STEVENS (for himself and Mr. D'AMATO):

S.J. Res. 201. Joint resolution designating the week beginning on October 6, 1991, as "American Magazine Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE (for Mr. CRANSTON):

S. Con. Res. 63. Concurrent resolution directing the Secretary of the Senate to make technical corrections in the enrollment of the bill S. 868; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON (by request):

S. 1739. A bill to authorize the Secretary of the Interior to permit the use of lands within the Colonial National Historical Park in the Commonwealth of Virginia to enable natural gas service to be provided to the Coast Guard Reserve Training Center; to the Committee on Energy and Natural Resources.

USE OF CERTAIN LANDS WITHIN COLONIAL NATIONAL HISTORICAL PARK

Mr. JOHNSTON. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Secretary of Transportation, I send to the desk a bill to authorize the Secretary of the Interior to permit the use of lands within the Colonial National Historical Park in the Commonwealth of Virginia to enable natural gas service to be provided to the Coast Guard Reserve Training Center.

Mr. President, this draft legislation was submitted and recommended by the Secretary of Transportation, and I ask unanimous consent that the bill, the executive communication and analysis which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereafter referred to as the Secretary) is authorized, under regulations generally applicable to utility rights-of-way in the National Park System, to issue a right-of-way permit to the Virginia Natural Gas Company granting an underground easement for the construction, operation, and maintenance of one natural gas distribution pipeline under and across the Colonial National Historical Park in the Commonwealth of Virginia in order to provide natural gas service to the United States Coast Guard Reserve Training Center at Yorktown, Virginia. The natural gas pipeline shall be located from the southeast corner of Main Street and Bacon Street in Yorktown to the Coast Guard Reserve Training Center entrance, along a route to be approved by the Secretary.

ANALYSIS

The Federal Energy Management Improvement Act of 1988 (Public Law 100-615, November 5, 1988) requires the Coast Guard, by Fiscal Year 1995, to reduce energy consumption in its buildings by 10% per gross square foot, from a Fiscal Year 1985 base. The Coast Guard has determined that natural gas would be a superior alternative energy source at its Reserve Training Center at Yorktown, Virginia, and has decided to convert from electric and oil-fired energy sources to natural gas at that facility. The use of natural gas, as compared to other energy sources, will greatly help the Reserve Training Center meet the 10% reduction goal. Analysis of associated costs has led to the conclusion that conversion to natural gas would be more economical than continued use of either oil or electric energy at the Coast Guard Reserve Training Center. This proposed legislation would authorize the Secretary of the Interior to issue a permit to the Virginia Natural Gas Company granting an underground easement for the construction, operation, and maintenance of a natural gas distribution pipeline within the Colonial National Historical Park (Yorktown Battlefield) in order to provide natural gas service to the Coast Guard's Reserve Training Center.

The underlying rationale supporting the decision to convert to natural gas is a combination of factors, including environmental protection, energy conservation, and budgetary considerations. That decision was made in response to Congressional mandates for greater energy conservation, no-growth operating budget restrictions, Environmental Protection Agency regulations concerning upgrading and monitoring underground storage tanks, and an increased concern for air quality. In order for the conversion to natural gas to be accomplished, however, it will be necessary to connect the Training Center to an existing natural gas main in the town of Yorktown by having a natural gas distribution pipeline installed across the Yorktown Battlefield by the Virginia Natural Gas Company. Congressional authorization, similar to that contained in Public Law 101-573 (November 15, 1990), is necessary to enable the National Park Service to issue a right-of-way permit for a natural gas distribution pipeline to be constructed across the Yorktown Battlefield.

When comparing the two energy sources of electricity and natural gas, for example, electricity energy values include power plant production and transmission line losses, while natural gas has no such losses. The savings resulting from the elimination of those distribution losses can be as high as 70% when compared to natural gas. The proposed conversion will also reduce the Training Center's total energy costs by reducing its electrical peak demand. The cost of electricity consists of usage and demand charges. The demand charge represents about 60% of the total cost to the customer. Converting cooking equipment in the Training Center's three large kitchens to natural gas, for example, would lower the electrical peak demand and, therefore, considerably reduce that portion of the total bill.

Moreover, Environmental Protection Agency requirements, contained in 40 C.F.R. Part 280, have greatly increased the costs associated with maintaining underground storage tanks for fuel oil. These regulations mandate inventory control, annual testing, automatic tank gauging, vapor monitoring, interstitial monitoring, etc. As a result of the EPA regulations, the 29 existing underground fuel storage tanks at the Reserve Training Center would have to be replaced, at considerable expense, with double-wall tanks equipped with monitoring systems. Conversion to natural gas would eliminate the need to replace the existing underground fuel storage tanks with new underground tanks, although the existing tanks would still be removed. Moreover, a cleaner, environmentally safe form of heating will be provided.

The Training Center presently has three new buildings in the planning stage for construction. The design for the first of these projects began in January 1991. The Training Center intends to design the new facilities for natural gas use and to begin the process of overall conversion to natural gas in September 1991. Therefore, appropriate legislative authority for pipeline construction across the Yorktown Battlefield is necessary at the earliest practicable time in order to meet that schedule. Delays in the availability of natural gas past that date also will result in the Training Center starting to replace existing underground fuel tanks in order to meet various EPA deadlines, based on the characteristics of each individual tank.

Environmental, cultural, and fiscal assessments currently are being prepared by the Virginia Natural Gas Company in anticipation of the permit application process. They are expected to conclude that the proposed pipeline, if authorized, would not adversely impact upon the Yorktown Battlefield; that there are no practical alternatives to the proposed route across the Park; and that mitigation actions will be taken. The Superintendent of the Colonial National Historical Park has informed the Coast Guard that, "given the information presently available, we believe the proposed pipeline will not compromise park resources or park values. Also, it appears that the assessment of other alternative locations for the pipeline . . . will show that there are no other practical alternatives. For these reasons, we will support the proposed legislation . . . ."

The Yorktown Battlefield would directly benefit from the proposed conversion to natural gas, even with the temporary, minimal disruption along an existing road for installation of a relatively small, four-inch distribution pipeline. The transport of oil products by tank trucks through the Park would be eliminated, improving both the safety and aesthetics of Park roads. The removal of fuel storage tanks from the Training Center also would achieve the benefit of eliminating possible sources of pollution of the water table beneath the Park, which virtually surrounds the Training Center. Most significantly, the authorization for a permit to be granted in this case would provide a fair balance be-

tween the significant Federal goals of energy conservation, environmental protection, and fiscal responsibility on the one hand, while safeguarding the competing interest in protecting National Park lands by requiring full compliance with the very rigid requirements of the permit process authorized by this legislation.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 4, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: This letter transmits proposed legislation "To authorize the Secretary of the Interior to permit the use of lands within the Colonial National Historical Park in the Commonwealth of Virginia to enable natural gas service to be provided to the Coast Guard Reserve Training Center."

The Coast Guard Reserve Training Center at Yorktown, Virginia, presently uses electric and oil-fired energy sources. The Coast Guard has determined that natural gas would be a superior alternative energy source at that facility. That determination was made in response to Congressional mandates for greater energy conservation, no-growth operating budget restrictions, Environmental Protection Agency regulations concerning upgrading and monitoring underground storage tanks, and an increased concern for air quality. Connecting the Training Center to an existing natural gas transmission line in the town of Yorktown can be accomplished most practically by traversing an already disturbed area along the shoulder of an existing road within the boundaries of the Colonial National Historical Park (Yorktown Battlefield).

This proposed legislation would authorize the Secretary of the Interior to issue a permit to the Virginia Natural Gas Company granting an underground easement for the construction, operation, and maintenance of a natural gas transmission pipeline within the Yorktown Battlefield in order to provide natural gas service to the Coast Guard's Reserve Training Center. Precedent for this proposal may be found in Public Law 101-573 (November 15, 1990).

There are no personnel or budgetary increases associated with this proposal. In fact, this authorization will enable the Coast Guard to reduce energy costs in compliance with applicable provisions of the Federal Energy Management Improvement Act of 1988.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to Congress.

It is recommended that the proposed legislation be enacted by Congress.

Sincerely,

Samuel K. Skinner.

By Mr. PRYOR:

S. 1740. A bill to amend the Older Americans Act of 1965 to improve the interstate funding formula for State and community programs on aging, and for other purposes; to the Committee on Labor and Human Resources.

INTERSTATE FUNDING FORMULA EQUITY ACT

• Mr. PRYOR. Mr. President, for the past 25 years, the Older Americans Act has improved the lives of our Nation's elderly and their caregivers. The act has authorized a great number of diverse and important social services, ranging from neighborhood senior centers and meals on wheels programs to long-term care ombudsman and legal assistance services. As chairman of the Special Committee on Aging, I have carefully examined the effectiveness of the act and I am deeply committed to preserving and enhancing its ability to assist older Americans in maintaining their independence and dignity.

Last year, the Special Committee on Aging convened a series of informal workshops that brought together Federal, State, and local government officials, social service providers, volunteer caregivers, academics, and elderly persons who utilize social services. Workshop participants took a fresh look at the act, asked hard questions about its effectiveness, debated tough issues about its future direction, and explored a range of legislative improvements that might be necessary or desirable. While many significant policy changes were suggested during the course of the workshops, their central finding was that the OAA has been tremendously successful in serving our Nation's elderly citizens and their caregivers.

One reason the OAA has enjoyed such broad-based support over the past 25 years is its declared objective to serve all individuals 60 years and older, regardless of income. While adhering to this goal, the act has also recognized the need to focus limited resources on those in the greatest social and economic need.

Indeed, the first in the Committee on Aging's series of workshops addressed the issue of targeting. While no consensus was forged regarding how best to target OAA services, a number of interesting observations emerged, including the fact that the interstate funding formula fails to take into account the economic disparity that exists among the States.

Currently, the OAA distributes money to individual States based on the number of persons aged 60 years and over. States with a smaller 60 plus population are provided with less money without consideration of the economic status of their elderly residents. Today, I am introducing a bill which will alleviate the tremendous burden placed on those States with a disproportionate number of elderly persons with incomes below poverty.

While current budget constraints are stretching all States' ability to serve a burgeoning elderly population, States with a disproportionate number of needy elderly are especially hard hit. Thus the legislation I introduce today proposes to distribute dollars based upon States' low-income elderly population. No State will receive fewer OAA dollars as a result of my proposal.

The OAA already requires that States target services to those in greatest social and economic need. My legislation merely recognizes the economic disparity that exists among the States when funds are allocated at the Federal level. I believe this will be a first step toward providing services to some of the most needy and vulnerable of our Nation's elderly population.•

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 282

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 282, a bill to direct the Director of the General Services Administration to make paper with recycled content available to the Secretary of Agriculture and for the Secretary of Agriculture to establish a pilot program within the Forest Service for the use of paper with recycled content.

S. 359

At the request of Mr. DANFORTH, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 601

At the request of Mr. ADAMS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 601, a bill to withhold United States military assistance for El Salvador, subject to certain conditions.

S. 893

At the request of Mr. HATCH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 893, a bill to amend title 18, United States Code, to impose criminal sanctions for violation of software copyright.

S. 1087

At the request of Mr. HARKIN, the names of the Senator from Missouri [Mr. BOND], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag.

S. 1372

At the request of Mr. GORE, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1572

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1572, a bill to amend title XVIII of the Social Security Act to eliminate the requirement that extended care services be provided not later than 30 days after a period of hospitalization of not fewer than 3 consecutive days in order to be covered under part A of the medicare program, and to expand home health services under such program.

S. 1661

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1661, a bill to simplify the tariff classification of certain plastic flat goods.

S. 1673

At the request of Mr. HEFLIN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1673, a bill to improve the Federal justices and judges survivors' annuities program, and for other purposes.

S. 1737

At the request of Mr. DOLE, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1737, a bill to prohibit the import from Yugoslavia of defense articles on the United States Munitions List.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. INOUYE, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month."

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE JOINT RESOLUTION 198

At the request of Mr. AKAKA, the names of the Senator from Kansas [Mr. DOLE], the Senator from Hawaii [Mr. INOUYE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 198, a joint resolution to recognize contributions Federal civilian employees provided during the attack on Pearl Harbor and during World War II.

SENATE RESOLUTION 178

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Resolution 178, A resolution expressing the sense of the Senate on Chinese political prisoners and Chinese prisons.

At the request of Mr. LUGAR, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Tennessee [Mr. SASSER], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Resolution 178, supra.

SENATE CONCURRENT RESOLUTION 63—DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 868

Mr. INOUYE (for Mr. CRANSTON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 868) to amend title 10, United States Code, and title 38, United States Code, to improve the educational assistance benefits for members of the reserve components of the Armed Forces who served on active duty during the Persian Gulf War, to improve and clarify the eligibility of certain veterans for employment and training assistance, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 2(a), strike out "section 1413" and insert "section 3013".

(2) In section 2(b)(1), strike out "section 1631(a)" and insert "section 3231(a)".

(3) In section 2(b)(2), strike out "section 1631(a)(2)" and insert "section 3231(a)(2)".

(4) In section 2(c), strike out "section 1711(a)" and insert "section 3511(a)".

(5) In section 4, strike out "section 2014(b)(2)(A)(i)" and insert "section 4214(b)(2)(A)(i)".

(6) In section 5, strike out "section 2011(4)" and insert "section 4211(4)".

(7) In section 6, strike out "section 1780(a)" and insert "section 3680(a)".

(8) Strike out "section 1795" each place it appears and insert "section 3695".

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FISCAL YEAR 1992

INOUYE AMENDMENT NO. 1184

Mr. INOUYE proposed an amendment to the bill (H.R. 2521) making appropriations for the Department of Defense the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 11, line 21 strike *"Provided further,"*

On page 43, line 2, strike the ", " following "1993".

On page 57, line 3, after "30", insert "days" and line type.

NOTICES OF HEARINGS

SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. KERRY. Mr. President, I wish to announce that the Senate Select Committee on POW/MIA Affairs will meet in S-116 of the Capitol, the meeting room of the Committee on Foreign Relations, on Wednesday, September 25, 1991, at 12 noon, for its organizational meeting.

SPECIAL COMMITTEE ON AGING

Mr. PRYOR. Mr. President, I would like to announce for the public that the Senate Special Committee on Aging has scheduled a hearing entitled, "Medicare Fraud and Abuse: A Neglected Emergency?" The hearing is being held to examine Medicare's responsiveness to concerns raised by older Americans about provider fraud and abuse and the manner in which carriers assign and maintain Medicare provider numbers for persons and entities who wish to participate in the program.

The hearing will take place on Wednesday, October 2, 1991, beginning at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

For further information, please contact Portia Mittelman, staff director at (202) 224-5364.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee has indefinitely postponed Tuesday's full committee markup of S. 1426, the Small Business Economic Enhancement Act of 1991. For further information, please call Laura Lecky of the Small Business Committee staff at 224-5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Wednesday, October 2, 1991, at 2 p.m. in room

SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Elizabeth Moler and Branko Terzic, nominees to be members of the Federal Energy Regulatory Commission.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON HEALTH AND FAMILIES AND THE UNINSURED

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Health for Families and the Uninsured of the Committee on Finance be authorized to meet during the session of the Senate on September 23, 1991, at 2 p.m. to hold a hearing on comprehensive reform of the health care system as a way of improving access to care and controlling cost escalation.

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

ADDITIONAL STATEMENTS

TERRY ANDERSON

•Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,382d day that Terry Anderson has been held captive in Lebanon.•

DR. KISSINGER'S ARTICLE

•Mr. WALLOP. Mr. President, I rise to submit for the record a wonderful piece by Dr. Henry Kissinger, "Russian Minefield," from last Tuesday's September 17, 1991, Washington Post. It is the best warning that I have seen on the significance of events in the former Soviet Union and what they mean for the peoples of the former Soviet Republics and for the West. If I could sum up the article I might choose the following sentence from the article to do so: "The outcome of revolutions cannot always be deduced from their initial slogans." Dr. Kissinger goes on to reflect on Russia's historical penchant toward a strong central authority, which, in turn, has meant two things: One, expansion of its farflung borders and, two, the instability that comes with seeking security through "hegemony rather than equilibrium." As we in this body debate our future relationship with the former Soviet Union, I strongly urge my colleagues to read Dr. Kissinger's piece.

The article follows:

RUSSIAN MINEFIELD

(By Henry Kissinger)

The collapse of communism, which only yesterday proclaimed itself the irresistible wave of the future, has produced the rare phenomenon of two revolutions taking place side by side: an anti-Communist upheaval against 74 years of Communist rule and an ethnic revolt against 400 years of Russian imperialism.

The anti-Communist revolution is on the verge of success. The revolution against central authority has only just begun. And the players are not necessarily the same. Not every Russian who joined the fight against Communist totalitarianism will be as prepared to dismantle the state built over four centuries with Russian blood. Boris Yeltsin's warning that seceding republics cannot expect to take their Russian minorities with them shows that the Yugoslav pattern of near civil war is not inconceivable.

For the United States, these developments spell a paradox. The collapse of communism is coming about in the name of democracy and market economics, values singularly identified with America. But the outcome of revolutions cannot always be deduced from their initial slogans. Ironically, the United States, having inspired the process, may have a decreasing role in its evolution.

For the two Soviet revolutions are full of ambiguity. Not everybody destroying the Soviet Communist Party is a democrat, whatever his slogans. Many genuine democrats, especially in the Russian Republic, are against allowing self-determination to lead to secession. In most of the republics, the majority of the population wants a kind of autonomy that amounts to independence. However, more than half of the total population of the Soviet Union is Russian and may not concur.

The state of affairs is potentially explosive. Too many vested interests have grown up, too much blood has been spilled to build the present empire over a long time for it to dissolve itself by administrative fiat. The United States may well come to be faced with a choice between two versions of democracy: the preference of the majority of the total Soviet population or our historical support of ethnic self-determination. The aborted coup was led by tired remnants of an exhausted ideology. The potential of the next upheaval resides in the up-to-now silent group of young officers, managers and government official who want neither communism nor disintegration of the union. This is not a question of personalities. History will propel any president of the Russian Republic in that direction; and president of the Soviet Union will be impelled by his office to take a similar course.

Thus the real challenge to democracy in the Soviet Union still lies ahead, for four reasons:

First, in some of the republics, the so-called democratic revolutions seem like a replay of the Romanian pattern. They are in effect coups by the Communist establishment that, by changing its name, hopes to weather the Moscow storm.

Second, there is a shortage of leaders with democratic experience. Many former Soviet leaders have earned our admiration for fighting the Communist establishment. Clearly, they are seeking something different from the system in which they have held high office, and they are obviously committed to calling it democracy. But pluralism in the Western sense was not their first instinct, and it may not prove to be their last word. The same is even more true of the many careerists who delayed their switch from communism until the outcome became clear.

Third, the population, except in a few large cities, has had little experience with democracy. During the recent coup much of the countryside seems to have adopted a wait-and-see attitude and was prepared to accept any outcome that improved economic conditions.

The fourth and biggest challenge to democracy is economic. And we are in danger of misleading ourselves as well as well-meaning admirers in the Soviet Union by an excessively exuberant advocacy. In Its first stage, market economics—especially a cold-turkey move in that direction—is more likely to be a penance for the sins of the centrally planned system than a boon. There are no shortcuts around austerity.

The transition to market economics has proved extraordinarily painful wherever it has occurred. In eastern Germany, unemployment has soared to 40 percent even with an annual subsidy of $90 billion (for a population that is 5 percent of the Soviet Union's) and the virtual takeover of the civil administration and industrial management by West German experts. In Mexico, the transition from much milder planing lowered real wages by as much as 50 percent for nearly eight years. Czechoslovakia, Hungary and Poland are at present undergoing comparable traumas.

Fledgling democratic institutions will come under severe pressures from populations undergoing such shocks. East Germany has the benefit of unconditional backing by the Federal Republic. Mexico had a modified one-party rule during its most critical period. The governments of Poland, Czechoslovakia and Hungary are buoyed by the prestige of having spearheaded the anti-Communist struggle. In all these countries, vestiges of capitalism survived, and nationalism is on the side of democracy.

None of these conditions exists in the Soviet Union. The locus of authority is unclear and contested. Regional leaders with more authority than the central government have a high incentive to blame their plight on anyone else—the vestiges of the central government, other republics, or, after awhile, even the outside world. With the nature of the market so amorphous, they will find it very hard to design a plausible free enterprise strategy.

The standard response—that the Soviet Union can help itself best by creating attractive conditions for foreign investment—is only partially true. For one thing, it is a circular argument, because the biggest obstacle to private investment is political chaos,which in turn is fed by economic distress that seems unavoidable whatever the level of aid. Moreover, amid a worldwide shortage of capital, the Soviet Union will have to compete against many other areas that are much less complicated. And Soviet needs are huge; by analogy with East Germany, they would amount to $1.5 trillion a year for at least five years—far beyond any foreseeable private or governmental resources.

Nor will another of the remedies of conventional wisdom—privatization—provide the cure-all. Obsolescent industries are not easy to sell. Some of the privatization that has taken place has paralleled the opportunistic political change in some republics. Management has simply cut loose from the ministry to which it has reported heretofore without becoming more efficient or market-oriented.

All this confronts the United States and its allies with a new challenge. The United States must tread warily through this minefield. Revolutionaries are uncomfortable companions: compromise is rarely their forte, and invocations of stability ring strangely in their ears.

We must not be seduced into believing that we can fine-tune every development, even

less that the Soviet evolution will gear itself to the prescriptives of American politics. Throughout history, Russian leaders have been known for their prickly national pride. Our missionary zeal should not be so intrusive as to trigger a backlash that could rally rationalism against those whom we think are supporting. Restraint in public advice and discrimination in official visits are prerequisites for achieving the truly essential goals.

To assist the Soviet internal revolution, we need both a concept of our national interest and an assessment of the extent to which we are able to promote that interest. These issues are before the Soviet Union; the structure of the state, the economic framework and the role of particular personalities. The comparatively easiest is the structure of the state because, quite simply, decentralization serves both the cause of democracy and of peace. A highly centralized Russian state has always maintained exorbitant armed forces and has ruthlessly expanded along all its far-flung borders. Based on two continents, it always identified security with hegemony rather than equilibrium. For four centuries, this relentless outward thrust has sapped the country's resources and undermined the well-being of its exploited population.

Perhaps the experience of the Cold war and the possession of a nuclear arsenal have reduced those historical tendencies. In any case, the industrial democracies should do nothing to suggest that they are promoting the breakup of the Soviet Union for their own purposes. But, equally, we should take great care not to encourage repressive centralizers by well-intentioned reform schemes.

Those Western leaders who insist on a strong central government as a condition for aid should remember that efficiency is not our only goal and, in Soviet conditions, probably not the most important one. Long-term economic assistance depends on the establishment of a predictable political framework, but not necessarily a centralized one. In the meantime, the industrial democracies need urgently to extend humanitarian assistance to prevent a disastrous winter. They should also seek out longer term projects where relatively rapid progress is possible, such as energy. To prevent emergency aid from becoming a weapon in a power struggle, it should be distributed in a way that takes into account the existing distribution of power between the center and the republics, perhaps applying whatever formula is agreed upon for the allocation of tax revenues between the center and the republics.

I would apply the warning against unintentionally encouraging repression even to the neuralgic issue of nuclear weapons. Of course, central control of nuclear weapons is highly desirable. But to whom and for what purpose are we addressing the repeated injunctions on that subject? The authorities in Moscow surely understand no national interest better, given its impact on national cohesion and the continued operation of deterrence. We must not encourage them to misinterpret our concern as a license to use force against the republics. Repression in the name of central control is a cure worse than the disease. Most nuclear weapons are on the territory of the Russian Republic; the few remaining in the Ukraine, Kazakhstan and Byelorussia are unlikely ever to be used against the West. The key issue is not whether nuclear weapons are under central control—which they seem to be—but whether the military structure in Moscow that controls them is subject to responsible political leadership.

One of our most difficult intellectual problems will be our attitude when democracy is challenged. In these halcyon days when everything seems possible, we should establish the maximum number of contacts with democratic institutions, especially in the republics. But somewhere down this road, we will meet setbacks. We will surely resist. There seems to me, however, one clear limiting condition; the United States must not encourage repression of the republics' autonomy by the central government as a remedy. For once repression starts, Russian history with its tragic cycles of violence and hostility to the outside world will surely take over.

I am not suggesting an active policy to undermine Soviet unity. My preferred outcome would be a loose confederation, preferably of Russia, the Ukraine, Byelorussia and Kazakhstan, together with whatever other republics may choose to join. Great Russian chauvinism, the source of much of the empire's expansionism, is less likely to become virulent in a confederated Soviet Union than if the Russian Republic is left to its own devices. But the outcome is for the peoples of the Soviet Union to decide. What we must avoid is to tempt the recurrence of a violent past. The central government as well as the republics must understand that the resort to force in relations with each other will meet the same kind of U.S. opposition as the coup itself.

The history of revolutions teaches that the greater the dislocation, the more painful the consolidation turns out to be. The Soviet upheaval has gone much too far to be identified with personalities. Mikhail Gorbachev has great historic merits, but he has unleashed forces that make it irrelevant whether or not he is more attractive than Yeltsin. Yeltsin may have autocratic tendencies, but no one has ever alleged that the road to leadership in Communist Russia has been hospitable to choir boys. We should prefer, but not require, personally attractive Soviet leaders. We do require Soviet policies compatible with the peace and progress of the world.●

DR. MANUEL R. CEREIJO

●Mr. GRAHAM. Mr. President, I rise today to honor an outstanding educator who brings tribute to his community and the teaching profession. Dr. Manuel R. Cereijo has been selected as the only Floridian and 1 of 17 recipients nationwide to receive the 1991 Hispanic Engineer National College Level-Lifetime Achievement Award.

Florida is fortunate to have the calibre of professor that Dr. Cereijo exemplifies to further the engineering career of our students, as well as to serve as role models for our young adults moving forward in today's difficult times. Dr. Cereijo personifies the achievements attainable for Hispanic men and women, and all students, when they master a field and devote their professional lives to educating others.

To Dr. Cereijo, I extend congratulations for the personal accomplishments made, for the service he has provided our community in south Florida, and for the inspiration and encouragement he has shown to future engineers whose lives he has so generously touched.●

COLUMBUS DAY CELEBRATION

● Mr. GRAHAM. Today I rise to note the upcoming national celebration for Columbus Day, marking the historic passage of Christopher Columbus to the New World in 1492.

This year's Columbus Day will be special, because we are beginning our quincentennial year from the time Columbus set sail. This milestone will be observed by Italian-American clubs throughout the United States.

One such celebration is sponsored by the Naples Italian-American Club in Naples, FL. The Naples club is sponsoring festivities on October 11, 12, and 13, featuring Italian food, games and entertainment.

The aim of the Naples Italian-American Club is to promote Americanism and to preserve traditions of Italian heritage. So today we salute the "Columbus Day Festa" committee responsible for organizing this event: Joe Criss, chairman, Tony and Nancy Incorvati, John Frascatore, Lee Napoleon, Josi Lancia, Angelo Fico, Jim Blackburn, Marian Patalon, Lydiia Tommarchi, and Bill Fote.

Mr. President, our Nation reflects a unique combination of national unity and rich diversity. As we observe the changes in the Soviet Union, we realize how rare this combination is in our world—the combination of national unity and diversity.

Florida, one of the first land masses discovered by explorers, has a special historical interest in this age of discovery centuries ago. Much of our population lives on or near the coast, so we have at least some small understanding of the courage and adventure involved in crossing the Atlantic Ocean 500 years ago in small boats with the most basic navigation equipment.

This year, as we honor the memory of Columbus, we also honor those who strive to preserve the traditions of those who followed him to the New World.●

DR. ROBERT J. KASSAN

● Mr. GRAHAM. Mr. President, I rise today to commend the meritorious efforts and lifelong work of Dr. Robert J. Kassan. Upon retirement from a vigorous medical practice as a rheumatologist, Dr. Kassan began a second career as a volunteer. One of his crowning achievements was medical director, for 5 years, of Medivan, the medical outreach van catering to indigent seniors of Broward County. To his credit is the recognition recently received designating Dr. Kassan the "Most Outstanding Senior Volunteer" in the country, bestowed by the National Association of Area Agencies. The Florida Council on Aging also selected Dr. Kassan as the "Super Senior" in the State of Florida.

Floridians are indeed fortunate to have in our midst a person as giving and as selfless as this gentleman. Dr.

Kassan personifies the idea of volunteerism and is a wonderful example of people helping people. There is no finer way to honor our fellow man than to bring to the attention of our Nation an individual whose efforts have made a positive impact upon others less able to help themselves. Dr. Kassan is truly a "Florida Super Senior" in whom we can all take great pride.•

NATIONAL DEAF AWARENESS WEEK

•Mr. HARKIN. Mr. President, I am once again pleased to join the deaf and hard of hearing community in the celebration of National Deaf Awareness Week to be held September 22-28, 1991.

One year after the glorious passage of the Americans with Disabilities Act [ADA], we are now entering another landmark year, one that will see the working results of the passage of the ADA and the Television Decoder Circuitry Act, along with the reauthorization of the Education of the Deaf Act.

The passage of the ADA and the Television Decoder Circuitry Act have provided yet many more opportunities for the many millions of Americans who are deaf or hard of hearing to fully integrate into the economic, political, social, educational, and cultural mainstream.

Closed captioning provides monumental opportunities for many Americans to turn on their television set and fully understand what is being said. I am especially pleased to announce that the Zenith Corp. will include closed captioning capability into manufactured television sets this fall, 2 years before it was required to do so by the Television Decoder Circuitry Act. I commend Zenith Corp. for its active involvement in assisting to integrate deaf and hard of hearing Americans into the hearing world by passionately working with and ahead of the law.

In addition, I was pleased to be a part of another landmark event, a portion of the Senate proceedings was closed captioned in a demonstration project on April 18. The Senate floor proceedings will be closed captioned on C-SPAN beginning in early 1992. We have come a long way, from open captioning of a few shows provided by the Caption Center in Boston in the early 1970's, to closed captioning of virtually all prime-time television shows and most major sporting events today in the 1990's.

Congress begins reauthorizing the Education of the Deaf Act this year. This legislation, passed in the 99th Congress, authorized quality educational programs for deaf and hard of hearing individuals and fostered improved educational programs for deaf and hard of hearing individuals throughout the Nation.

Persons who are deaf or hard of hearing deserve nothing less than a quality education. We have the resources to teach. We have the knowledge to share. We have the ability to promote cultural awareness of what it is like to live in a world of silence. It is up to us as a nation to open our minds and our hearts to the skills and talents of those more than 20 million Americans who are deaf or hard of hearing. That is what Deaf Awareness Week is all about.

I ask each one of you to take a moment to learn more about deafness. Take a class in American Sign Language [ASL]. Purchase a telecommunications device for the deaf [TDD] for your office or place of employment. I also recommend reading several books, such as Dr. Oliver Sach's research into the world of the deaf, "Seeing Voices," Dr. Frank Bowe's "Changing the Rules" and "Approaching Equality," to name just a few.

Also, the National Institute on Deafness and other Communication Disorders [NIDCD] is entering its fourth year under the National Institutes of Health [NIH]. This Institute conducts basic research, training, and information dissemination in the areas of hearing, task balance, speech, language, touch, and other communication services. I am pleased with the work of the Institute and believe that it should be one of our higher public health priorities.

Thank you, Mr. President, for this opportunity to promote Deaf Awareness Week. Again, I want to salute the many millions of deaf and hard of hearing Americans for their efforts to make all of us aware of the proud heritage of their community.•

CRIMINAL JURISDICTION OVER INDIANS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 229, H.R. 972 relating to a legislative reinstatement.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 972) to make permanent the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribes to exercise criminal jurisdiction over Indians.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CRIMINAL JURISDICTION OVER INDIANS.

Section 8077(d) of Public Law 101-511 (104 Stat. 1892) is amended by striking out "1991" and inserting in lieu thereof "1993".

Mr. INOUYE. Mr. President, in our committee deliberations on this legislation, a number of issues have been raised. One of these issues is the definition of the term "Indian" in the Indian Civil Rights Act, as amended last year by section 8077 of Public Law 101-511. As amended, section 1301 of title 25 of the United States Code—the Indian Civil Rights Act of 1968—contains the following definition of the term "Indian":

(4) "Indian" means any person who would be subject to the jurisdiction of the United States as an Indian under section 1153, title 18, United States Code, if that person were to commit an offense listed in that section in Indian country to which that section applies.

The definition of "Indian" for purposes of 18 U.S.C. 1153 was used in the 1990 amendments to the Indian Civil Rights Act so that there would be a consistent definition of "Indian" in the exercise of jurisdiction by either the Federal Government or a tribal government. This consistency in definition assures that a person cannot assert that he is an Indian for purposes of Federal jurisdiction and seek to avail himself of another definition for purposes of avoiding tribal jurisdiction. The same would, of course, be true if a person sought to assert himself as an Indian for purposes of the exercise of tribal jurisdiction, and sought to deny his status as an Indian for purposes of a Federal prosecution.

Mr. President, I would like to make clear at the outset that the term "Indian" as used in Federal Indian law denotes a political relationship based on a person's membership in an Indian tribe. Federal laws applicable to Indians because of their status as "Indians" are sustained on the basis of this relationship. *United States* v. *Antelope*, 430 U.S. 641 (1977).

Title 18 does not provide a statutory definition of the term "Indian." However, Federal and State case law since the enactment of sections 1152 and 1153 on June 25, 1948, provides fairly specific guidance as to the manner in which the term "Indian" is defined for purposes of the Federal Major Crimes Act jurisdiction pursuant to 18 U.S.C. 1153. Justice Department policy, and U.S. attorney prosecutional practice requires that a person charged as Indian be actually enrolled in a tribe. In most cases, status as an Indian for purposes of 18 U.S.C. 1153 is stipulated. However, in the event such status is contested elements of proof could require consideration of factors outlined below.

An analysis of more recent case law reveals that actual enrollment in a federally recognized tribe is usually sufficient to satisfy the Indian requirement of section 1153. Other factors which are weighed but which are not necessarily dispositive either alone or in combination include:

First, the defendant must have some degree of Indian blood, but Indian blood will not suffice without more;

Second, the defendant is recognized as an Indian by his tribe of origin and if residing on another reservation, the defendant is recognized as an Indian by the host Indian community—although recognition by either his tribe of origin or by a host Indian community does not of itself suffice;

Third, the defendant has accepted and asserted his "Indian-ness" by enrolling or seeking to enroll in an Indian tribe, and by availing himself of services available to Indians because of their status of Indians and actually being provided services by a Federal agency because of his status as an Indian—again, this is a factor to be weighted in determining whether the defendant is an Indian for purposes of section 1153, and is not necessarily determinative; and

Fourth, the fact that a defendant is eligible for enrollment in a federally recognized tribe is not dispositive of his status as an Indian for purposes of 18 U.S.C. 1153.

This is a short recitation of the criteria that has been used by the courts in determining the status of a person as an "Indian" for purposes of Federal jurisdiction. As a general rule, the issue is resolved on the basis of enrollment. The report filed by the committee to accompany this bill sets forth a review of case law of this subject.

Mr. President, a question has been raised with regard to the jurisdictional authority of a tribe over a person who is of Indian descent, but is not a member of the tribe for which the reservation was set aside. The status of this person as an "Indian" is, of course, an evidentiary question to be determined by the court. If this person does not maintain tribal relations; does not identify himself as a member of the Indian community; is not receiving benefits from the Federal Government on the basis of being Indian; and does not claim to be "Indian" for purposes of Federal Indian law, then it would not appear that that person meets the requisite criteria to be classified as "Indian" within the meaning of title 18, United States Code, and neither the tribal or Federal courts could assume jurisdiction over him on the grounds of his being "Indian."

Mr. GORTON. Mr. President, I thank the distinguished chairman of the Select Committee on Indian Affairs for his elaborating on the question of jurisdictional authority on Indian reservations. I agree with Senator INOUYE's perspective on this issue. Tribal enrollment should only be one part of a court's consideration in determining "Indian-ness."

I look forward to the select committee's investigation of these issues regarding tribal authority and sovereignty in hearings over the next 2 years. For too long, the Congress of the United States has allowed Indian Americans to go without adequate civil rights protections in the name of respecting tribal sovereignty.

In my view, Congress should allow tribes a wide degree of latitude in deciding upon their laws. Congress cannot, however, allow the exercise of whatever laws are passed by a tribe to infringe on the fundamental civil rights of an American just because of Indian ancestry.

For the record, Mr. President, I believe it is important that the chairman of the select committee, as well as the entire Senate understand my position on this issue clearly. Federal court review of Indian Civil Rights claims is an absolute necessity before any Duro overturn legislation is made permanent. Mr. President, without the inclusion of ability to appeal ICRA claims on a broader basis than the habeas corpus provision included in some legislation passed by this Congress, I cannot foresee being able to support a further or permanent extension of this law.

Mr. INOUYE. The issues raised by the Senator are important issues, and issues that the select committee will address in hearings in this Congress and in the Congress that follows. On one point, the issue of jurisdiction over non-Indians, I would like to assure the Senator that this legislation does not address the issues raised by Oliphant versus Suquamish Indian Tribe, and nothing in this bill is intended to alter or affect the holding in that case.

Mr. President, among other issues that have been raised in the course of the committee's deliberations on this legislation, is the extent to which the civil rights of persons subject to tribal court are protected, and the extent to which proceedings before tribal courts are subject to review by Federal courts. The Indian Civil Rights Act was enacted in 1968 and statutorily extends to all persons with minor exception all of the protections found in the U.S. Constitution and amendments thereto. For purposes of this bill, the most important exception is that the act does not require appointment of counsel to represent indigent defendants. The other exception recognizes the fact that some tribes are founded on a theocratic basis and the act therefore does not contain any prohibition against the establishment of religion. The provisions of the Indian Civil Rights Act (25 U.S.C. 1301-1303) are set forth in full in the committee report to accompany this bill.

The other major point made during our deliberations involves the extent to which actions of tribal governments, particularly tribal court proceedings, may be subject to review by Federal courts. The Indian Civil Rights Act specifically provides that the privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe. The committee report to accompany this bill contains a brief review of the case law applicable to habeas corpus proceedings and the scope of issues that can and have been raised under habeas corpus proceedings.

However, in an effort to assure my colleagues on the select committee that a full hearing record will be developed on the issue of access to Federal court for review of actions alleging violations of the rights protected by the Indian Civil Rights Act, I have indicated that I will schedule hearings on this matter beginning in October of this year.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "An Act to extend for 24 months the legislative reinstatement, following the decision of Duro against Reina (58 U.S.L.W. 4643, May 29, 1990), of the power of Indian tribal governments to exercise criminal jurisdiction over Indians.".

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING TECHNICAL CORRECTIONS TO S. 868

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a concurrent resolution making technical corrections, and I send that to the desk on behalf of Senator CRANSTON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 63) directing the Secretary of the Senate to make technical corrections in the enrollment of the bill S. 868.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

• Mr. CRANSTON. Mr. President, the purpose of this concurrent resolution is to make purely technical corrections in S. 868 as passed by the Senate on August 2 and the House on September 16. The references in that bill to sections of title 38, United States Code, do not reflect the changes made in the numbering of title 38 sections by Public Law 102-83, which was signed into law on August 6, 1991. This resolution would update the bill in order to make the necessary corrections in those references.•

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 63) was agreed to as follows:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 868) to amend title 10, United States Code, and title 38, United States Code, to improve the educational assistance benefits for members of the reserve components of the Armed Forces who served on active duty during the Persian Gulf war, to improve, and clarify the eligibility of certain veterans for employment and training assistance, and for the purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 2(a), strike out "section 1413" and insert "section 3013".

(2) In section 2(b)(1), strike out "section 1631(a)" and insert "section 3231(a)".

(3) In section 2(b)(2), strike out "section 1631(a)(2)" and insert "section 3231(a)(2)".

(4) In section 2(c), strike out "section 1711(a)" and insert "section 3511(a)".

(5) In section 4, strike out "section 2014(b)(2)(A)(i)" and insert "section 4214(b)(2)(A)(i)".

(6) In section 5, strike out "section 2011(4)" and insert "section 4211(4)".

(7) In section 6, strike out "section 1780(a)" and insert "section 3680(a)".

(8) Strike out "section 1795" each place it appears and insert "section 3695".

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RENAMING AND EXPANSION OF BOUNDARIES OF MOUND CITY GROUP NATIONAL MONUMENT

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 158, S. 749, regarding the Mound City Group National Monument.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 749) to rename and expand the boundaries of the Mound City Group National Monument in Ohio.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 749

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

SECTION 1. RENAMING.

The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act, be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.

(a) IN GENERAL.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;

(2) the map entitled "High Banks Works" numbered 353-80027 and dated July 1987;

(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and

(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.

(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior (referred to as the "Secretary") may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) and other areas of the park **[**except to the extent that an adjustment would cause the total acreage of the park to exceed by more than 10 percent the total acreage of the park as of the date of enactment of this Act.**]**: *Provided, That any such minor boundary adjustments cumulatively shall not cause the total acreage of the park to increase more than 10 per centum above the existing acreage of Mound City Group National Monument, plus the acreage of the inclusions authorized under section 2(a).*

(d) ACQUISITION OF LANDS.—(1) Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at a price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

SEC. 4. STUDIES.

(a) AREAS ADDED BY THIS ACT.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) OTHER AREAS.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Harness Group", and the "Cedar Bank Works", and **[**any**]** *may* conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.

Mr. METZENBAUM. Mr. President, today the Senate has passed by unanimous consent a bill that Senator GLENN and I introduced 6 months ago to save ancient cultural and archeological treasures from destruction. One of the four sites that this bill will protect had been scheduled to be bulldozed for a gravel pit.

I want to thank Senator FOWLER and Senator BINGAMAN for cosponsoring this bill. And I want to particularly thank Senator BUMPERS, chairman of the Subcommittee on Public Lands, National Parks and Forests, of the Senate Energy Committee, for his courtesy in holding a hearing so promptly after introduction of the bill. We introduced the bill on March 21, we had a hearing on May 21, and we now have Senate passage on September 23, lightning speed by Washington standards and I sincerely thank my colleague for his help and support.

I am proud of this unique part of North America's pre-Columbian history that we in Ohio and the United States have the privilege and the obligation to preserve.

This measure will protect four sites recommended by the Park Service midwest region for addition to the Mound City Group National Monument in southern Ohio.

Mound City was established in 1923 and is the only Federal area preserving and interpreting remains of the Ohio Hopewell, a culture which archaeologists tell us thrived in eastern North America between 200 B.C. and 500 A.D.

Part of the Hopeton earthworks site is within the national historic landmark, but outside the current boundary of the monument. It is still in private ownership. Last spring, the owner—a gravel company—began removal of a 6-foot layer of topsoil to prepare for the gravel mining season.

In the process they uncovered human bones at the site. Park Service and State officials were notified and the bones verified as ancient. Native Americans removed and reinterred the bones elsewhere.

Further mining operations have been curtailed while representatives of the Park Service, the Trust for Public Land, the Archeological Conservancy, the private owner, and others work to

prevent the landmark from further destruction.

Mr. President, this legislation is necessary to protect these ancient cultural resources. If the gravel company were to expand mining in the Hopeton Mound area, this ancient site would be destroyed.

The Senate's action today sends a powerful and clear signal to the gravel company and encouragement to those working to preserve the site. With Senate passage of this bill and with swift action from our colleagues in the House of Representatives, where Congressman MCEWEN has introduced a similar measure, I am confident that the site will be protected.

The Hopewell culture of southern Ohio was characterized by a highly developed prehistoric goods exchange system that linked populations throughout much of eastern North America in its day. The Hopewell culture is best known from southern Ohio where earthwork and mound sites are particularly abundant. Archeological investigations of these mortuary and ceremonial sites have produced substantial data on the ritual components of Hopewellian life. The culture was characterized by elaborate burial ritual and the presence of exotic mortuary offerings. Much less is known about the daily life of the ancient Hopewell people.

My bill will protect four of the best preserved, diverse, and archeologically rich sites chosen by archeologists from among over 100 sites in Ross County, OH. Many other sites of cultural importance have been identified in this area through archeological investigations dating back to the early 19th century. Unfortunately, many of these important archeological resources have been destroyed through the years by railroads, highways, and agricultural and commercial development.

In recognition of these factors and the significance of the remaining Hopewellian resources, the National Park and Recreation Act of 1980, Public Law 96-607, authorized up to 150 acres at the nearby Hopeton Earthworks to be added to the Mound City Group Monument. This law also required that the Secretary of the Interior investigate other sites in the region which contain archeological data illustrating the prehistoric Hopewellian civilization and identify those sites which he determines should be protected as part of the Mound City Group National Monument.

Pursuant to the 1980 act, the midwest region of the Park Service conducted a study that recommended the addition of four additional sites of 112 Hopewellian sites in Ross County, OH. The bill passed today follows the Park Service midwest region's recommendation and protects the four sites: Hopeton Earthworks, High Banks Works, Hopewell Mound Group, and the Seip Earthworks.

The sites recommended for addition by the Park Service and included in the bill were selected because they represent major Hopewell Earthwork complexes which still retain a reasonable degree of integrity. There is also sufficient data from earlier surface collections and excavations at these sites to document that the sites contain significant Hopewellian remains. Each of the sites included in the study represents a ceremonial center which contains a great deal of information about the culture. Each of the ceremonial centers is unique in its configuration of mounds and earthworks, and it is likely that the role each site played in the Hopewell culture was somewhat different.

While it would be desirable to also preserve Hopewell sites other than mounds or earthworks, and it is very likely that significant sites of this type are present in the study area, the Park Service found that there is insufficient data to justify a recommendation to preserve such other sites at this time.

The measure passed today authorizes the Park Service to study two additional sites for possible future inclusion in the historical park that the Park Service suggested needed additional study—the Spruce Hill Works and the Harness Group—as well as a third site, the Cedar Bank Works, that is currently listed on the National Register of Historic Places and which because of its unique design, good state of preservation, its association with protected sites, and the threat of possible destruction should be studied and considered for possible future inclusion.

The bill also renames the monument to the Hopewell Culture National Historical Park to more accurately reflect its full scope and purpose.

Since the first Europeans entered the Ohio Valley the unique remains of a great prehistoric culture has mystified and intrigued Americans. While a great deal of excavation was carried out in the 19th and early 20th century on some of these great moundbuilder sites, it is still a mystery as to who the Hopewellians were, where they came from and where they went. The great trade networks that collected exotic materials from across the continent are unexplained. The villages and habitations of the people are virtually unknown.

Scholars know little of the technology or use of the earthwork buildings of vast and accurate circles, squares, and hexagons. In the future, perhaps archaeologists will be able to use new techniques including carbon 14 dating, obsidian hydration, aerial and other remote sensing to unravel the mysterious legacy that remains from ancient times. Future research could provide much new information to the visiting public, scholars, and greatly improve interpretation at the park.

The bill will preserve some of these unique ancient sites today for present education and enjoyment and for future research.

Again, I thank my colleagues for their support in preserving part of our unique national heritage. I also want to acknowledge and thank the Archeological Conservancy, the Trust for Public Land, the National Parks and Conservation Association, the Wilderness Society, the Nature Conservancy, the Ohio Historical Society, the Ohio State Historic Preservation Office, the National Park Service, and Ms. Erica Rosenberg of the Senate Energy Committee staff for their support and assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 749), as amended, was passed as follows:

S. 749

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

SECTION 1. RENAMING.

The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act, be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.

(a) IN GENERAL.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;

(2) the map entitled "High Banks Works" numbered 353-80027 and dated July 1987;

(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and

(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.

(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior (referred to as the "Secretary") may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries

of areas added to the park by subsection (a) and other areas of the park: *Provided*, That any such minor boundary adjustments cumulatively shall not cause the total acreage of the park to increase more than 10 per centum above the existing acreage of Mound City Group National Monument, plus the acreage of the inclusions authorized under section 2(a).

(d) ACQUISITION OF LANDS.—(1) Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at a price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

SEC. 4. STUDIES.

(a) AREAS ADDED BY THIS ACT.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) OTHER AREAS.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Harness Group", and the "Cedar Bank Works", and may conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. INOUYE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday, September 24; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day.

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

SCHEDULE

Mr. INOUYE. Mr. President, on behalf of the majority leader, I would like to remind Members of the Senate that on tomorrow, Tuesday, the Senate will be in session at 9 a.m. and will resume consideration of S. 1722, the unemployment compensation bill and amendments proposed thereto. The first rollcall vote on Tuesday will occur at 7 p.m.

RECESS UNTIL 9 A.M. TOMORROW

Mr. INOUYE. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m., Tuesday, September 24.

There being no objection, the Senate, at 3:52 p.m., recessed until 9 a.m., Tuesday, September 24, 1991.

NOMINATIONS

Executive nomination received by the Secretary of the Senate September 20, 1991, after the recess of the Senate, under authority of the order of the Senate of January 3, 1991:

THE JUDICIARY

EMMET GAEL SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS, VICE JAMES A. BELSON, RETIRED.

Executive nominations received by the Senate September 23, 1991:

THE JUDICIARY

STEVEN D. MERRYDAY, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF FLORIDA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOHN M. ROLL, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA VICE ALFRED C. MARQUEZ, RETIRED.

IN THE ARMY

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. RICHARD B. BURLESON [redacted]
BRIG. GEN. PAUL P. DE LA VERGNE [redacted]
BRIG. GEN. GEORGE L. GUNDERMAN [redacted]
BRIG. GEN. GENE P. HALE [redacted]
BRIG. GEN. PAUL R. LISTER [redacted]
BRIG. GEN. ROBERT L. MENIST [redacted]
BRIG. GEN. ROSS G. PICKUS [redacted]
BRIG. GEN. CLAUDE J. ROBERTS, JR. [redacted]
BRIG. GEN. JOHN E. SCULLY, JR. [redacted]
BRIG. GEN. JOHN E. SIMEK [redacted]
BRIG. GEN. RONALD E. SNEED [redacted]

To be brigadier general

COL. DALE F. ANDRES [redacted]
COL. WILLIAM E. BARRON [redacted]
COL. THOMAS C. COLLINS [redacted]
COL. ALAN E. DEEGAN [redacted]
COL. GEORGE W. GOLDSMITH, JR. [redacted]
COL. JOHN M. GOSDIN [redacted]
COL. WILLIAM B. HOBGOOD [redacted]
COL. GEORGE O. HILLARD, III [redacted]
COL. CHARLES A. INGRAM [redacted]
COL. AXEL A. JOHNSON, III [redacted]
COL. JAMES C. JOHNSON [redacted]
COL. CALVIN LAU [redacted]
COL. DARREL W. MCDANIEL [redacted]
COL. JAMES M. MCDOUGAL [redacted]
COL. MARILYN J. MUSACCHIO [redacted]
COL. JAMES H. PHILLIPS [redacted]
COL. STEVE L. REPICHOWSKI [redacted]
COL. HAROLD H. SHIVELY, JR. [redacted]
COL. CHARLES F. SMITH [redacted]
COL. CARL J. TEGTMEIER [redacted]
COL. PAUL C. BERGSON [redacted]

HOUSE OF REPRESENTATIVES—*Monday, September 23, 1991*

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

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
September 19, 1991.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on Monday, September 23, 1991.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

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

We are grateful, O God, for all those people who use their abilities to work for understanding between peoples. We recognize that so much of the problems of life, so much of the anxiety of daily living, comes when people do not live in harmony with each other. Whether in our neighborhoods or in our families, between people of differing backgrounds or in the contests between the nations, we pay such a price for enmity and hatred and suspicion. We pray, gracious God, that Your spirit of good will and reconciliation, of respect and peace, will be with us and every person, so we will live as You would have us live and do those good things that honor You and serve people everywhere. 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. The gentleman from New Jersey [Mr. ZIMMER] will please come forward and lead the Members in the Pledge of Allegiance.

Mr. ZIMMER led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2426. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2686. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2707. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 2942. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2426) "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1992, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SASSER, Mr. INOUYE, Mr. REID, Mr. FOWLER, Mr. BYRD, Mr. GRAMM, Mr. GARN, Mr. STEVENS, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2686) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. NICKLES, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. DOMENICI, Mr. GORTON, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2707) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. COCHRAN, Mr. GRAMM, and Mr. GORTON, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2942) "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LAUTENBERG, Mr. BYRD, Mr. HARKIN, Mr. SASSER, Ms. MIKULSKI, Mr. D'AMATO, Mr. KASTEN, Mr. DOMENICI, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 374. An act to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

NATIONAL GUARD MEMORIAL

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

Mr. MONTGOMERY. Mr. Speaker, it is very appropriate that the new National Guard Memorial was dedicated this past weekend, just as the last National Guard unit activated for Operation Desert Storm returned home. This National Guard unit is from Opelika, AL, and it came home Saturday.

President Bush showed confidence in the National Guard and the Reserves by activating them for the Persian Gulf war. He was the first President to execute the total force policy of putting National Guard and Reserves right alongside the actives in wartime. They responded to the call, and they did an outstanding job.

Mr. Speaker, the new building we dedicated on Sunday is a memorial to the bravery and sacrifice of the men and women who have served in the National Guard in the Persian Gulf war and all the way back to the days of the militiamen before the Revolutionary War. The citizen-soldier National Guard has a 355-year history in our country, and this memorial is a fitting tribute to all who have accomplished these great tasks.

Vice President QUAYLE was the dedication speaker, and National Guard

personnel from the 54 States and Territories were also in attendance.

Mr. Speaker, it is my pleasure to see that the National Guard remains strong, that we continue the dual mission of protecting the country and working with the Governors of the various States and helping to maintain a strong national defense.

RESPONSIBLE BANKING POLICIES URGED FOR HOUSE BANK

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

Mr. ROBERTS. Mr. Speaker, if my colleagues returning to the Congress spent the last weekend in their home districts they discovered the No. 1 issue of concern at the coffee shops was not the Soviet Union, foreign aid, Saddam Hussein, confirmation hearings, or even the weather.

It was, in fact, that we are operating a House of Representatives bank that allows Members of Congress the dubious privilege of being bad check artists with no accountability or penalty.

Mr. Speaker, I am introducing a resolution to require the Sergeant at Arms and the House bank to comply with standard banking practices, fine account holders for returned checks, and close the accounts of those with multiple bad checks.

Let me stress in introducing these changes, I am not pointing the finger of blame at the Sergeant at Arms or House bank employees. They provide an appreciated check cashing service for Members and staff. In my view, it is too easy to make these folks a scapegoat.

Mr. Speaker, now is the time to stop our own abuses in the House bank. Late last week, the General Accounting Office reported that in a 1-year period, more than 8,300 bad checks had been written by Members on House bank accounts. Some Members have taken up to and over 30 days to pay back the bank. In terms of setting the example, to call this record sorry is an understatement. As a member of the House Administration Committee, I can recall previous GAO recommendations to stop these abuses and end the so-called interest free loans.

The time to act is long overdue. Other Americans live with responsible banking policies and accountability. Congress should and must do the same. I urge my colleagues, before you make your next speech blaming others for the savings and loan debacle and certainly before you sign your next check, sign on as a cosponsor of my resolution to reform the way we conduct our own financial affairs.

INDEPENDENCE FOR ARMENIA

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

Mr. LEHMAN of California. Mr. Speaker, Saturday in Armenia, the Armenian people voted overwhelmingly for independence. They did so in a free election, fully monitored by international observers, including four Members of this Congress.

Armenians voted not in defiance of but in accordance with the laws of the Soviet Union. Tomorrow, President Ter Petrosian will call on foreign governments to recognize this new independent state.

The United States should act immediately to recognize Armenian sovereignty. The oldest country on earth is now the youngest nation. The land has been privatized, a free economy is under way, and democratic principles prevail.

Mr. Speaker, we should be proud to be the first rather than the last to establish full diplomatic relations with Armenia, and we should sponsor Armenia's request for a seat in the United Nations.

WITHDRAWAL OF NAME OF MEMBER AS CONSPONSOR OF H.R. 1790

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 1790.

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

There was no objection.

COMMON SENSE TELLS ME

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

Mr. THOMAS of Wyoming. Mr. Speaker, common sense tells me a good idea should move quickly to the President's desk and be enacted into law. Common sense tells me a bill with over 300 cosponsors should easily become law, but that is not the case in this Congress.

H.R. 1414, which encourages realtors to hold troubled property rather than having it repossessed by the lender, is indeed a good idea and Congress should have a chance to vote on this measure, during this session.

As we all know, our Nation's banks, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and especially U.S. taxpayers do not need the burden of additional property. To address this, 305 Members of Congress believe we should do what we can to keep property in the hands of private investors.

In good times and bad, our laws should encourage investment that stimulates the economy. Unfortunately, the current Tax Code makes it difficult to continue holding troubled property when times aren't so good.

Three hundred five Members of Congress think we should do what we can to provide tax incentives for investors and also think H.R. 1414 is a great idea. Common sense tells me we should be considering H.R. 1414 this week and moving it closer to the President's desk.

Unfortunately, common sense is lacking; look at this week's schedule and judge for yourself the priorities.

□ 1210

THE TRAGEDY CONTINUES IN WHAT WAS YUGOSLAVIA

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

Mr. ROHRABACHER. Mr. Speaker, the Stalinist regime in Serbia is arrogantly demonstrating to the world that it is not interested in peace, it is committed to grabbing territory and in exercising power like a neighborhood bully.

Croatia has called for a negotiated settlement. Serbian Communists are seeking their solution with blood and steel, which is consistent with the mentality of their regime, the only Marxist-Leninists who cling to power on the European Continent.

A few months ago, when discussing the Dole-Rohrabacher amendment to the foreign aid bill, the opponents of that amendment beat back our attempt to at least symbolically side with the democratically elected governments of what was Yugoslavia, rather than the Communist dominated government in Belgrade Serbia.

We were told that we had to side with stability over freedom. Well, now it should be clear to all concerned, in the long run only freedom brings stability. America should always be on the side of those struggling for freedom. That is the way to a better world, a freer world and a more stable world.

SBA ESTABLISHES OFFICE TO COORDINATE NATIVE AMERICAN AFFAIRS

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

Mr. IRELAND. Mr. Speaker, on August 27, 1991, SBA Administrator Pat Saiki announced the creation of a new agency position dedicated to helping native Americans start their own business.

The coordinator of native American affairs will serve as the liaison between native American tribes and the SBA, and will help SBA shape programs to assist native Americans with business development.

He or she will help SBA resolve legal and regulatory problems that have

posed a barrier to native American participation in SBA programs.

According to SBA, between 1982 and 1987, the number of businesses owned by native Americans rose by more than 57 percent. Sales by these businesses rose by 84 percent. I hope this is just the beginning.

I would like to commend Ms. Saiki for her leadership and commitment to expanding small business activities in all sectors. I would remind Members that small business produces the jobs in this country that are needed to get us out of recession. I would also remind Members that excess regulation and a growth in the bureaucracy are the very things that slow job formation in all sectors of our economy.

Mr. Speaker, we need to remember that it is easy to say you are for small business, but it is how you vote that counts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote for the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, September 24, 1991.

RAIL SAFETY ENFORCEMENT AND REVIEW ACT

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2607) to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2607

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (a), by striking ", as necessary," both places it appears;

(2) in subsection (d), by striking "take such action as may be necessary to";

(3) in subsection (g), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(4) in subsection (h)(1)(A)—

(A) by striking "such initial rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "initial rules, regulations, orders, and standards";

(B) by striking "make such revisions in any" and inserting in lieu thereof "revise"; and

(C) by striking "as may be necessary" and inserting in lieu thereof ", based on such additional safety data as may be presented to the Secretary in such review";

(5) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(6) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking "including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(7) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(8) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

SEC. 3. REMEDIAL ACTIONS.

(a) REGULATIONS.—The Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue regulations to require that any railroad notified by the Secretary of a failure to comply with a provision of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.), or the Act of March 4, 1907 (45 U.S.C. 61 et seq.; commonly referred to as the "Hours of Service Act"), or any rule, regulation, order, or standard issued under such provisions, shall report to the Secretary, within 30 days after receipt of such notification, actions taken to remedy that failure.

(b) EXPLANATION OF DELAY.—Regulations issued under subsection (a) shall provide that, if appropriate remedial actions cannot be taken by a railroad within such 30-day period, such railroad shall submit to the Secretary an explanation of the reasons for any delay.

(c) SCHEDULE FOR REGULATIONS.—The Secretary shall—

(1) within 9 months after the date of enactment of this Act, issue a notice of proposed rulemaking for regulations to implement this section; and

(2) within 18 months after the date of enactment of this Act, issue final regulations to implement this section.

SEC. 4. ENFORCEMENT.

(a) MINIMUM AND MAXIMUM PENALTIES.—(1) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)), section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts"), section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act"), section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), and section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") are each amended by striking "$250" and inserting in lieu thereof "$1,000".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking "penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable," and inserting in lieu thereof "civil penalty in an amount not less than $1,000 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed, and".

(3) Section 2 of the Act of May 6, 1910 (45 U.S.C. 39; commonly referred to as the "Accident Reports Act") is amended by striking "one hundred dollars" and inserting in lieu thereof "$1,000".

(4) Section 3711(c)(2) of title 31, United States Code, is amended by striking "$250" and inserting in lieu thereof "$1,000".

(b) ENFORCEMENT DECENTRALIZATION PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a pilot program, involving more than one region of the Federal Railroad Administration, to demonstrate procedures designed to reduce the backlog of cases, reduce the workload of headquarters staff, streamline initial case review, and streamline transmittal and settlement procedures, with respect to the enforcement responsibilities of the Federal Railroad Administration.

(2) ELEMENTS OF PROGRAM.—The pilot program established under paragraph (1) shall provide for regional directors to be authorized to perform initial case review, assess penalties, and settle cases. With respect to a violation for which a regional director assesses a penalty in excess of $5,000, the person against whom such penalty is assessed may request that settlement-related actions be taken at the headquarters level.

(3) COMPLETION AND REPORT TO CONGRESS.—The pilot program established under paragraph (1) shall be completed within 18 months after the date of enactment of this Act, and within 2 years after such date of enactment the Secretary shall submit a report to the Congress describing the results of such pilot program.

(c) CONSIDERATIONS FOR COMPROMISE OF CIVIL PENALTIES.—(1) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) by inserting "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations." after "referral to the Attorney General.".

(2) Section 5(e) of the Act of March 4, 1907 (45 U.S.C. 64a(e); commonly referred to as the "Hours of Service Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Applicance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(4) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by adding

at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(5) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

(6) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall consider the safety record of the person to whom the penalty applies subsequent to the date of the violation with respect to similar violations or the same locations.".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended to read as follows:

"(f) Any final agency action taken by the Secretary of Transportation—

"(1) under this title or any of the other Federal railroad safety laws, as such term is defined in section 212(e) of this title; or

"(2) under any other law, to the extent applicable solely to railroad safety,

shall be subject to judicial review as provided in chapter 7 of title 5, United States Code. Except as provided in section 203(e) of this title, any proceeding to review such final agency action shall be brought in the court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.".

(b) TECHNICAL AMENDMENTS.—(1) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" after "Secretary of Agriculture".

(2) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (6) the following new paragraph:

"(7) all rules, regulations, or final orders described in section 202(f) of the Federal Railroad Safety Act of 1970.".

SEC. 6. PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL.

Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

SEC. 7. POWER BRAKE SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r) POWER BRAKE SAFETY.—(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and, within 18 months after the date of enactment of this subsection, shall issue rules, regulations, orders, and standards to revise such rules based on such safety data as may be presented during that review.

"(2) The review required under paragraph (1) shall, at a minimum, include—

"(A) an evaluation of whether to require 2-way end of train devices (or devices able to perform the same functions) to enable a train crew to initiate braking from the rear of a train; and

"(B) an evaluation of whether to issue requirements or standards regarding dynamic braking equipment.

"(3) The Secretary shall, within 2 years after the date of enactment of this subsection, report to the Congress on the results of the review conducted under paragraph (1) and any revisions of rules or other actions taken in connection therewith.".

SEC. 8. TRACK SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(s) TRACK SAFETY.—(1) The Secretary shall, within 6 months after the date of enactment of this subsection, initiate a review of the Department of Transportation's standards relating to track safety. Within 2 years after the date of enactment of this subsection, the Secretary shall issue rules, regulations, orders, or standards to revise such standards, based on such safety data as may be presented during that review.

"(2) The review required under paragraph (1) shall, at a minimum, include—

"(A) an evaluation of procedures associated with maintaining and installing continuous welded rail and its attendant structure;

"(B) an evaluation of the need for revisions to rules with respect to track subject to exception from track safety standards; and

"(C) an evaluation of employee safety.".

SEC. 9. APPLICABILITY OF RULES, REGULATIONS, ORDERS, AND STANDARDS.

(a) AMENDMENT.—Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by inserting ", an owner, manufacturer, lessor, or lessee of railroad equipment or facilities, an independent contractor providing goods or services to a railroad, and any employee of such owner, manufacturer, lessor, lessee, or independent contractor" after "agent of a railroad".

(b) EFFECT ON OTHER LAW.—Nothing in the amendment made by subsection (a) shall affect the authority or responsibilities of the Secretary of Labor under the Occupational Safety and Health Act of 1970.

SEC. 10. LOCOMOTIVE CAB SAFETY AND WORKING CONDITIONS.

The Secretary shall, within 18 months after the date of enactment of this Act, submit to the Congress a report on the status of efforts to improve the safety of employees in locomotive cabs. Such report shall, at a minimum, address—

(1) the crashworthiness of existing locomotives of various designs, including issues raised by different sill heights;

(2) the effectiveness in improving crashworthiness of adding features such as collision posts, anticlimber devices, thicker hoods, and occupant restraints;

(3) the estimated costs and benefits associated with various improvements to crashworthiness;

(4) the advisability of requiring the retrofitting of locomotives built before August 1, 1990, in accordance with the Locomotive Crashworthiness Requirements Standard S-580, adopted by the Association of American Railroads in 1989;

(5) whether locomotives equipped with toilets should be subject to requirements that such toilets are functioning, sanitary, and maintained on a regular basis;

(6) the effects on train crews of the presence of asbestos in locomotive components; and

(7) the Secretary's plans for related regulatory action or, if no regulatory action is planned, an explanation of why the Secretary considers such action unnecessary.

SEC. 11. RAILROAD RADIO COMMUNICATIONS.

(a) SAFETY INQUIRY.—The Secretary shall, within 18 months after the date of enactment of this Act, conduct a safety inquiry regarding the Department of Transportation's railroad radio standards and procedures. At a minimum, such inquiry shall include assessment of—

(1) the need for operable radios on all trains;

(2) a requirement that replacement radios be made available at intermediate terminals;

(3) the effectiveness of radios in insuring timely emergency response;

(4) the effect of interference and other disruptions of radio communications on safe railroad operation; and

(5) how advanced communications technologies such as digital radio can be implemented to best enhance the safety of railroad operations.

(b) REPORT TO CONGRESS.—The Secretary shall submit to Congress within 2 months after the completion of such inquiry a report on the results of the inquiry along with an identification of appropriate regulatory action and specific plans for taking such action.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended by inserting ", $51,524,000 for fiscal year 1992, and $55,022,100 for fiscal year 1993" after "fiscal year 1991".

SEC. 13. TOTAL QUALITY MANAGEMENT IN SAFETY ASSESSMENTS.

In all comprehensive, multidiscipline safety assessments of railroads, the conduct of which is initiated by the Secretary between the date of enactment of this Act and the end of fiscal year 1993, the Secretary shall evaluate the use and effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. The Secretary shall include findings and conclusions based on such evaluation in each such safety assessment report.

SEC. 14. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section $20,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994." after "fiscal year 1991."; and

(2) by striking "any period after September 30, 1991" and inserting in lieu thereof "any period after September 30, 1994".

SEC. 15. PROCEDURE FOR DETERMINING ACCIDENT REPORTING THRESHOLD.

(a) GENERAL RULE.—In establishing or modifying a monetary damage threshold for the reporting of railroad accidents, the Secretary shall base damage cost calculations only on publicly available data—

(1) obtained from the Bureau of Labor Statistics; or

(2) otherwise obtained from an agency of the Federal Government which has been collected through objective, statistically sound survey methods or which has been previously subject to a public notice and comment process in a Federal agency proceeding.

(b) EXCEPTION.—If any data necessary for establishing or modifying a threshold de-

scribed in subsection (a) is not available as provided in subsection (a)(1) or (2), the Secretary may use any other source to obtain such data, but the use of such data shall be subject to public notice and the opportunity for written comment.

(c) EFFECTIVE DATE.—This section shall apply only to the establishment or modification of a monetary damage threshold occurring after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2607.

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

There was no objection.

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

Mr. Speaker, we have before us today H.R. 2607, a bill to reauthorize the Federal Railroad Safety Act of 1970, and for other purposes. Before I continue, I would like to commend the gentleman from Pennsylvania [Mr. RITTER], the ranking member of our subcommittee, and his fine staff for the exceptional work they have done to help bring about this timely and important legislation. Our efforts have been frank and constructive, and for that we on this side are all grateful.

The last comprehensive safety reauthorization took place in 1988 with the passage of the Rail Safety Improvement Act. During the last Congress, a 1-year reauthorization passed that expires at the end of the current fiscal year. So to date, it has been over 3 years since Congress considered comprehensive rail safety legislation.

The Subcommittee on Transportation and Hazardous Materials has held two hearings this year on railroad safety. During those hearings, we have taken testimony from organized labor, various sectors of the industry, the Federal Railroad Administration [FRA], the National Transportation Safety Board, the General Accounting Office, and the public interest group Illinois Public Action. We have compiled a substantial record on this issue to help form the basis for H.R. 2607.

The legislation we are discussing today proposes to improve rail safety. We do that first by providing positive incentives for railroads to continue improving their safety records; second, by beefing up inspection and enforcement activities; and third, by asking the FRA to update some of its current regulations to reflect changing times.

I recognize the magnitude of work before the agency. In addition to two rulemakings left over from the Rail Safety Improvement Act, FRA must contribute to rulemakings required under the Hazardous Materials Transportation Act, the Sanitary Food Transportation Act, the Americans With Disabilities Act, and others. Clearly, this is not a time to be redefining the entire regulatory agenda.

However, there are certain sections in the Code of Federal Regulations that have not been reviewed in any major way in over 10 years. H.R. 2607 requires the agency to revise these areas—track safety and power brake regulations—during the next authorization period. Recent incidents in Montana, South Carolina, California, and my home State of Washington, among others, have added urgency to the need to review current regulations and ferret out deficiencies.

We're also asking FRA to conduct studies of locomotive crashworthiness, cab working conditions, and radio communications.

Mr. Speaker, let me make a note here, that under the heading of cab working conditions, we have had in the committee some absolute horror stories with regard to the conditions of the toilets in railroad engines. There is absolutely no excuse whatever for that kind of condition to exist. It should not take a study for those to be remedied. What I am hoping is by the next time we focus on this, there will be no horror stories to relate.

We expect that, if these inquires turn up any evidence reflecting major problems or changes over the past few years in these areas, FRA will take appropriate steps to minimize threats to public and employee safety.

In addition, the subcommittee included language to reauthorize the Local Rail Freight Assistance Program. This successful grant program has allowed many States and localities to preserve threatened rights of way through prudent and selective investment.

Lastly, I want to point out that recent accidents involving hazardous materials have reminded us of the threat to both public health and the environment that an accidental hazardous material release poses. Hazardous material transportation is a growing and important segment of the railroad industry's business, and railroads, generally, have a good record in this area. However, this is a commodity where even minor derailments can cause a significant threat to public safety. We have not addressed hazardous materials issues in H.R. 2607, because the subject is more properly addressed in the Hazardous Materials Transportation Act. However, this committee will be looking at the question of whether existing regulations adequately address substances that pose a significant threat to the environment, whether packaging requirements need strengthening, the need for greater cooperation among the executive branch agencies in developing up to data lists of hazardous materials, and related issues.

I would like to commend the fine work invested in this process by railroad workers. Very early on, railroad workers played an instrumental role by strongly stating their views regarding matters of operational safety. In addition, they have eloquently stated their desire to see greater activism on the part of FRA. The subcommittee has listened; we have tried to encourage a more fruitful working relationship between both parties, and will continue to do so.

I would also like to thank and commend my colleague from California [Mrs. BOXER]. Her vigorous oversight activities in response to recent breakdowns in regulatory compliance helped pave the way for language in H.R. 2607 that will insure safety compliance by railroads is tightly monitored.

Again, I commend my colleagues on both sides for their work in helping put this bill together. H.R. 2607 is a timely, balanced, and carefully crafted bill that will continue to improve the safe operations of our Nation's railroads. I urge my colleagues' strong support for H.R. 2607.

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

□ 1220

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

Mr. Speaker, this legislation represents a bipartisan effort to craft legislation renewing and updating the rail safety activities of the Federal Railroad Administration within the Department of Transportation. I want to commend Mr. SWIFT, our Transportation Subcommittee Chairman, Mr. RITTER, the ranking member of the subcommittee, Chairman DINGELL, and the committee's ranking Republican member, Mr. LENT, for their work on this important bill.

Reauthorizing the rail safety programs of the Federal Railroad Administration is an important responsibility of the Energy and Commerce Committee and of the House. Virtually every American has a stake in the safe operation of our passenger and freight railroads, whether as a passenger, a shipper, a neighbor of rail facilities, or merely a user of the many products that travel by rail. Among the types of rail operations under FRA's safety jurisdiction are our commuter rail operations, where commuter authorities use part of the interstate rail network to provide commuter service. The soon-to-be-inaugurated Virginia railway express is an example. I am sure that we all want safety to be maintained to the highest standards in such operations.

I recognize that there are areas of the bill where complete consensus has

not been achieved, and that there are strong objections to certain provisions from the administration, particularly section 2, deleting "as necessary" from FRA's rulemaking authority. I fully expect that the remaining differences can be narrowed further as we work with the administration and with the other body for enactment of final safety legislation.

Besides the FRA safety programs, this bill also reauthorizes the Local Rail Freight Assistance Program. This is a highly successful, low-cost State-Federal program to help rehabilitate and improve key rail facilities that might otherwise be lost completely to the national rail network. It has been especially helpful to State and local transportation authorities, and to the Nation's growing community of short-line and regional railroads. These smaller railroads are performing a vital function. By sheer entrepreneurial determination and customer orientation, they have been able to make a go of many rail lines that the major carriers would have abandoned entirely. When the short-line and regional carriers are able to keep such lines in service, they help provide traffic to keep the major railroads healthy, and they help out communities that otherwise would have lost rail service entirely. The Local Rail Freight Assistance Program is an important means of providing seed money for these determined entrepreneurs.

I again commend the subcommittee and committee leadership for their constructive efforts on this bill, and I support its prompt approval.

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

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

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

Mr. Speaker, on July 14 a freight train derailed and 20,000 pounds of a toxin called metam sodium was dumped in the Sacramento River, killing 300,000 fish and destroying plant life along 35 miles of river. The Sacramento River will take years to recover from the damage caused by that tragedy.

Metam sodium can be fatal, if it touches your skin. Yet it is not listed as a hazardous material by either the EPA or by the Department of Transportation. That is why in this instance there were no warning labels on the boxcar, no emergency instructions, and that magnified the damage from this accident on the Sacramento River.

Could this happen in other States, including the State of Oregon? We cannot rule it out. In Oregon alone every year hundreds of trains and thousands of railcars cross the Willamette River in the heart of downtown Portland. An accident there could have catastrophic consequences.

Today we take one step to prevent such accidents. The House can pass H.R. 2607, the Rail Safety Enforcement and Review Act. I urge my colleagues to support this bill and to be mindful that we cannot rest until safety comes first in our airways, roads, waterways, and railroads.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN], a member of the committee.

Mr. WYDEN. Mr. Speaker, I rise in strong support of this legislation, and I particularly want to commend the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT], who in my view has done an excellent job on a wide variety of rail issues in this session, particularly this legislation. I also want to thank him and the staff for including legislation that I have been particularly interested in for a number of years.

I am particularly happy to note that the Local Rail Freight Assistance Program will be reauthorized for 3 years, with a total of $75 million. I thank Chairman SWIFT for including this important rail safety and economic development program, which I had originally introduced as H.R. 947, in this bill.

The LRFA, first authorized in 1973, has compiled an impressive record in improving rail safety and operating performance on numerous short-line railroads around the country. By enabling this rail service to continue, the program has literally saved the day for towns across the country that depend on a single plant, or grain elevator, or steel mill, which in turn depends on safe, effective rail service to survive.

What is the result? Businesses stay open. A lot of jobs are saved and others are created. Communities survive and prosper. In Oregon alone since 1980, a mere $5.6 million has saved 5,300 jobs and an annual payroll of $95 million. Towns such as Prineville and Tillamook, Condon, Heppner, Pendleton, and Monroe have gotten an economic booster shot.

Oregon is currently working on two LRFA projects that clearly demonstrate the good sense of the program. The Port of Tillamook Bay Railroad will rehabilitate the 90-mile line from Tillamook to Hillsboro, clearing up a number of safety problems, bringing a new shipper to the line and generating a significant amount of new traffic and revenue. And Lake County will rehabilitate a 55-mile-long track, safely raising track speeds from 10 to 25 miles per hour and providing significant savings in reduced locomotive and crew costs.

Mr. Chairman, those towns may not be familiar to people outside Oregon, but the LRFA has helped towns in 49 States. Across the country, the names may change but the story remains the same: a small up-front investment, a lot of hard work and a big payoff in the end.

In these fiscally tight times, we need to squeeze every benefit possible out of Federal dollars, and even the prospective budget cutter with the greenest eyeshade and the sharpest pencil would have to acknowledge that this is an intelligent, worthy program.

I thank Chairman SWIFT for his leadership on this issue and urge passage of the bill.

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

I just wanted to say to the gentleman from Oregon [Mr. WYDEN] who has just spoken, he has been a strong advocate on this provision of the bill. He has been extremely helpful in seeing that it was in the bill and brought to me. I want to thank him for his assistance.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 2607, the Rail Safety Enforcement and Review Act, and commend the chairman of the subcommittee, Mr. SWIFT, for his leadership in bringing this bill to the floor.

Over the course of the past 2 years, Mr. Speaker, the General Accounting Office has performed a series of invaluable audits for the Committee on Energy and Commerce with respect to the administration and enforcement of our rail safety laws by the Federal Railroad Administration. These audits have uncovered many weaknesses in the manner in which FRA has administered the law. Most of these date back several years, to the prior administration, but many continue to the present time.

To his credit, FRA Administrator Gil Carmichael has received the GAO's criticisms in the constructive spirit they were intended, and he has begun to implement many of the reforms suggested by GAO. However, additional work remains to be done, and some of these reforms require statutory changes. H.R. 2607 is designed to effectuate GAO's recommendations in this area.

The bill contains other provisions, as well, that go beyond management and enforcement issues. Among these is section 2 of the bill, which is designed to correct a misimpression on the part of FRA and the Department of Transportation about the weight to be accorded the committee's views as to the interpretation of the statutes it writes. Section 2 strikes from various places in the Federal Railroad Safety Act of 1970 the phrases "as may be necessary" and "as necessary" because the Department appears to have used these phrases as an excuse to sit on its hands and do nothing about the No. 1 rail safety problem in America—the safety of railroad grade crossings—in spite of a statutory directive in 1988 that FRA address the problem.

Unfortunately, the dispute that prompted inclusion of section 2 in the bill was thoroughly avoidable. The Secretary of Transportation was given several opportunities in the course of the last 2 years to acknowledge the meaning of that phrase in the context of the 1988 grade crossing provision, but refused those opportunities. To make matters worse, he refused even to answer the committee's questions regarding his interpretation of the phrase. Instead, he tried to avoid the question altogether.

As indicated in the committee report, the bill we will pass today is designed to serve several purposes. To me, among the most important is a message to FRA and the Department. When Congress acts, in good faith, to address a serious problem of concern to the Members and then FRA proceeds to abuse the discretion conferred on it—in this case, by trying to expand the scope of that discretion beyond congressional intent—our response will be to remove any hint of discretion, so that in the future there will be no misunderstanding about what we mean.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 2607, the Rail Safety Enforcement and Review Act, and I commend the gentleman from Washington [Mr. SWIFT] for his efforts in bringing this measure to the floor.

Mr. Speaker, it is extremely important for us to be able to ensure rail safety in our Nation. This measure does just that by effectively addressing the need for enforcement. H.R. 2607 increases the minimum penalties for regulatory violations, establishes a pilot program allowing regional offices to conduct enforcement activities, and allows the Department of Transportation to modify civil penalties during a settlement.

Furthermore H.R. 2607 authorizes the Federal Railroad Administration Rail Safety Program and Rail Safety Research and Development Programs at $51.5 million in fiscal year 1992 and $55 million in fiscal year 1993. Brake safety, track safety, and railroad communication are all aspects that will be inspected and taken into consideration while reviewing the condition of our rails.

Mr. Speaker, today our rails carry fragile cargo such as toxic materials and wastes, and our rails also carry more and more people each year. Every rail accident that occurs today translates to greater ramifications for society as a whole. The Federal Government in its capacity to regulate interstate commerce must act to prevent these rail accidents.

Mr. Speaker, there is one aspect of rail safety that is not directly addressed by this measure, yet is very important to this subject—that is, the use of drugs by some of our transportation workers. Over the past few years, the Congress has helped to expand drug testing in the workplace, including providing for drug testing of transportation workers. However, we cannot help but to recognize the needless loss of life that comes at the hand of American workers who may be under the influence of drugs. The most recent example of this is the New York City subway system accident that claimed the lives of five people last month. The accident was apparently caused by a conductor who was drunk and possibly high on crack.

Mr. Speaker, we hope that all our workers—all our citizens will one day be drug free. However, today we must demand that our workers in sensitive jobs who hold the lives of so many people in their hands, are drug free.

Mr. RITTER. Mr. Speaker, this legislation to renew and reauthorize the Nation's rail safety programs is a high-priority item for the safety and productivity of the railroad industry. I want to commend our subcommittee chairman, the gentleman from Washington, for his diligent work in this complex area, and in helping to bring this reauthorization measure to the floor in a timely manner.

Among railroads, as in other industries, safety of operation and productivity are complementary and mutually reinforcing goals. The key is to achieve safety through efficient use of both public and private resources.

This legislation aims to do that by helping to update some of the organizational and enforcement arrangements of the Federal Railroad Administration. The bill also clarifies FRA's jurisdiction over all areas of rail safety and, significantly, makes the analysis of rail carriers' total quality management techniques an integral part of the rotating safety assessments that FRA conducts on selected major railroads each year. This embodies the close intertwining of high levels of operational safety with the quality concepts that are the key to American industrial productivity.

Quality management techniques and the productivity they promote go hand in glove with improved safety. Safety cannot be an adversarial, us or them issue in the workplace between labor and management. Rather, there must be a team effort to help everyone work more safely and more productively—two sides of the same coin. I am especially pleased that this legislation seeks to introduce evaluation of quality management techniques into FRA's rail safety assessments.

On another productivity-related note, this bill also renews the local rail freight assistance program, a highly successful and cost-effective arrangement for State-Federal cooperation in preserving and rehabilitating rail infrastructure. We know from the massive railroad bankruptcies and abandonments of the 1970's that, once a rail line ceases to be used actively, it almost always is permanently lost to the national rail network.

The LRFA program seeks to keep in service key components of our valuable rail infrastructure—whose value will be even more appreciated in coming years as we strive to comply with the Clean Air Act. And among the key beneficiaries of the LRFA program are some of America's most successful transportation entrepreneurs—the short-line and regional railroads who, by staying close to their customers and being more responsive to them, have been able to make a go of marginal rail lines that otherwise would have been abandoned by the major rail carriers. So in renewing LRFA, we are also giving an additional vote of confidence in the future of our short-line and regional railroads.

I urge the prompt passage of this bill.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in strong support of this important legislation to reauthorize and strengthen the Federal Railraod Administration's Rail Safety Program. Improving railroad safety must be a high priority. The Nation's railroad safety laws must be vigorously enforced.

I have had a particular interest in this issue. After all, Chicago has long been a hub of railroad activity. Many of my constituents are railroad workers and are exposed daily to the hazards of the railroad workplace.

As the past chairwoman of the Government Operations Subcommittee with oversight jurisdiction over the Federal Railroad Administration, I have learned from experience that vigorous and aggressive oversight is necessary to ensure that rail safety laws are adequately enforced. I commend the chairmen of the subcommittee and of the full committee for their vigorous efforts in support of a strong rail safety enforcement program.

The reauthorization legislation before us is an excellent vehicle, particularly in its provisions to toughen and speed up enforcement procedures. I am particularly pleased that this bill includes my amendment to improve the accuracy of FRA's accident statistics.

Railroads are required to report certain accidents to the FRA, including those that result in damage to railroad on-track equipment above a particular dollar threshold. This threshold was originally fixed at $750, but has been adjusted every 2 years to reflect inflation in damage costs. It is currently $6,300.

FRA's accident statistics are an important benchmark with which to measure improvements or declines in railroad safety. Those of us who are concerned about the safety of our Nation's rail system, including the Congress, the industry, and railroad employees, must have accurate information on accident rates in order to monitor railroad safety. As a result, any inflation adjustments in the accident reporting threshold must be based on accurate data to allow for valid comparisons over time.

At the Transportation Subcommittee's reauthorization hearing on June 12, testimony by Mr. Robert Creamer, executive director of the Illinois Public Action Council, raised some questions about the quality of the data used by FRA to adjust its damage threshold for inflation. Subsequently, I discovered that some elements of the data, relating to the cost of materials, are based on phone conversations between FRA and the Railroad Industry Trade Association.

In my view, the data used by FRA for accident reporting purposes should be beyond reproach and should not be based on phone conversations with industry with no opportunity for public comment. My amendment requires that, in the future, changes in the accident reporting threshold should be based on publicly available data, such as that from the Bureau of Labor Statistics, or data that agencies have collected through sound and objective survey methods or data which has been previously subject to a public notice and comment process by a Federal agency.

However, in the event that the necessary data is not available through such sources, FRA may use other sources, provided the public is given notice and an opportuity for writen comment. The amendment applies to any future establishment or changes in the threshold, but it would not require FRA to recalculate the current threshold.

As a result of my amendment, the public will have more accurate accident statistics in the future and more valid comparisons over time of changes in railroad accident rates.

I urge support for this legislation.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from

Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 2607, as amended.

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

The title of the bill was amended so as to read: "A bill to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes."

A motion to reconsider was laid on the table.

□ 1230

OUR RAPIDLY CHANGING TIMES

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

Mr. GONZALEZ. Mr. Speaker, we are living in a fast-paced, tremendous time in which the rapidity of change has just been raised exponentially.

Nevertheless, fundamentally we cannot subtract ourselves from history. The events in Middle Europe and the events in the Soviet Union, such as it is, are clearly fast paced and very rapid in our eyes. However, historically it is a development that returns in some cases such as in the case of Germany and Russia to their historical association and ties.

It was in 1890, about 101 years ago in the spring that Kaiser Wilhelm II dismissed the great Prussian prince, Otto von Bismarck, and with that, a few weeks later, thanks to some of what turned out to be misguided advice from some of his counselors, advised Russia that the treaty that had been forged by Bismarck was no longer to be considered valid and in operation.

The treaty was one of cooperation and understanding and association and mutual defense with Russia. Through history, the association between Germany and Russia has been one of the most interesting. Russia actually has participated, if we include the 1945 reversal of the Nazi invasion of Russia and their triumphant entry through the Brandenburg Gate, if we consider that a third, Russia had participated in two invasions of Germany since the 18th century. Those were the days, of course, of kings and emperors like Napoleon. Germany was then very much like some of the older countries, England, for instance, or Spain as nations were once.

We must remember that every one of these countries had the same developmental ideas. They had regions and kingdoms that were joined and merged into one great nation.

Mr. Speaker, I will continue later in my special order.

COMMENDING PEOPLE OF THE SOVIET UNION FOR COURAGE AND COMMITMENT TO FREEDOM

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 199) commending the people of the Union of Soviet Socialist Republics and their democratically elected leaders for their continuing courage and commitment to freedom as amended.

The Clerk read as follows:

H. CON. RES. 199

Whereas the people of the Union of Soviet Socialist Republics are demonstrating their personal and collective commitment to freedom and democracy in the face of attempts at oppression;

Whereas it is the yearning of all people to be free and determine their own future;

Whereas such principles are often won and maintained at great cost;

Whereas the people of the Union of Soviet Socialist Republics, following the steadfast leadership of Russian President Boris Yeltsin, *and other democratic leaders throughout the country*, have moved the people of the United States with their courage;

Whereas the safe return of President Mikhail Gorbachev and the repeal of the emergency decree issued by the State of Emergency Committee signals the return of the Union of Soviet Socialist Republics to the process of reform;

Whereas the democratically elected leaders of the Union of Soviet Socialist Republics have called for expressions of worldwide support; and

Whereas it is the hope of the United States that the people of the Union of Soviet Socialist Republics continue their progress toward a democratic society: Now, therefore, be it.

Resolved by the House of Representatives (the Senate concurring), That the people of the Union of Soviet Socialist Republics and their democratically elected leaders are commended for their continuing courage and commitment to freedom.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

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

Mr. Speaker, I rise in strong support of House Concurrent Resolution 199, as amended, a resolution commending the people of the Union of Soviet Socialist Republics and their democratically elected leaders for their continuing courage and commitment to freedom.

I would like to commend at the outset the gentleman from Florida [Mr. STEARNS], for his leadership on this issue, and for his timeliness in introducing this resolution.

The success of the people of the Soviet Union and their elected leaders in defeating last month's coup attempt is not only a victory for them, but a victory for democracy and freedom everywhere.

The process of democratic and economic change in the Soviet Union has been given a new push forward.

These changes in the Soviet Union are very much in the interest of the United States, and therefore I strongly support this resolution commending the people of the Soviet Union and their elected leaders.

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

Mr. Speaker, I would like to offer my appreciation to Congressman CLIFF STEARNS of Florida for bringing this resolution to the floor. This is a long overdue expression of our admiration for the people of the former Soviet Union who overturned the hardline coup last August.

The events of last August provided us with a glimpse of how quickly everything we achieved in our relationship with the Soviet Union could fall apart.

Could anyone imagine Secretary of State Jim Baker sitting across the table from Boris Pugo and negotiating a reasonable arms control agreement?

How many more Afghanistans, Cubas, and Angolas would have started with dictators again holding the reins of Soviet power?

Fortunately for us, and the world, the force of ideas is stronger than the force of arms.

As the hardliners in the Kremlin attempted to turn back the clock to the days of Lenin and Stalin, they found that the Soviet people were more loyal to the ideas of Thomas Jefferson and Adam Smith.

It must be said that we are not out of the woods yet. Many changes still must be made in the Soviet Union. Democratic institutions and a market economy will not be formed overnight.

Such a transition will take difficult decisions by freely elected leaders over a long period of time. Throughout this transition, the United States must be patient and supportive, but also clear in our demands for what we want—a partnership with a truly democratic Soviet Union.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS], the chief sponsor of this concurrent resolution.

Mr. STEARNS. Mr. Speaker, I thank my distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD], for yielding time to me. I also would like to thank the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON], as well as Chairman FASCELL and the ranking member of the subcommittee, the gentleman from New York [Mr. GILMAN], for their assistance in bringing this resolution to the floor. You share decades of experience in this vital area, and I am grateful that you have seen merit in this resolution to bring it to the floor.

This August, we witnessed a series of events which were simply unimagina-

ble just a few years ago. However, in the last several years, we've come to accept miracles as a matter of course. We've seen the world move toward the values of democracy, freedom, and respect for human rights at breathtaking speed. However, it's important to sometimes stop and take stock of where we are and where we are going.

This resolution simply is a message from the people of the United States to the people of the former Soviet Union. We should have, as a matter of record, a statement of our support for their courageous stand during those alarming 3 days before the coup collapsed. We should state proudly that we always have supported their desire for a freer, more humane way of life. Americans are a generous people and we are most generous in sharing the values of freedom and democracy.

It once seemed as though the people of the United States and the people of the Soviet Union were set in stone as adversaries. We feared that we would pass this terrible situation on to our children.

However, we have entered a new era.

The people of Russia and all the former Soviet Republics have a new opportunity to craft their own destiny. It is not of central importance to us whether they remain in some form of union or not. It is not critical whether they form a Congress or a Parliament, or what levels of government hold what specific powers.

What is vital is that whatever resolution is reached, it is achieved as a contract between the people and their duly elected representatives. President Woodrow Wilson once said that "self determination is not a mere phrase. It is an imperative principle of action." This is a truth based in our faith that democracy will bring about a more peaceful world.

For 45 years, the world has held its breath as a cold war between the forces of freedom and the forces of repression was fought. It was a contest of two unresolvable beliefs. The first, our own, that government existed "of the people, by the people and for the people". The second, that of the corrupt Communist establishment, that power alone justified government over the people, apart from the people, and against the people.

There have been many heroes in winning this battle; some of them have served in this very House, but none have ever been more courageous than those who stood in the streets against the guns of the hardliners armed only with the hope of a better future for themselves and their children.

We should stand together today to applaud what the people of the Soviet Union have done and express our support for them as they face the difficult task of building a future of peace, freedom, and democracy.

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for House Concurrent Resolution 199, commending the people of the U.S.S.R. and their democratically elected leaders for their continuing courage and commitment to freedom, and I commend the gentleman from Florida [Mr. STEARNS] for his timely an expeditious work on this measure.

It is altogether fitting that we take this opportunity to commend the Soviet people for their exemplary courage during one of the most harrowing periods in the history of the Soviet Union. It remains clear that it is the yearning of all people to be free and to be responsible for the determination of their own future. It is equally clear that once the spirit of freedom and democracy is let loose it cannot be again repressed.

Mr. Speaker, the return of President Gorbachev and his promise to work alongside President Yeltsin signals a return to the commitment of political and economic reform in the Soviet Union. It is our sincere hope that progress toward democracy in the Soviet Union will continue.

Accordingly, Mr. Speaker, let us join the world community in expressing our support for the changes which are occurring in the Soviet Union, and let us commend the people and the leaders of the U.S.S.R. for their continuing commitment toward freedom.

Mr. MICHEL. Mr. Speaker, I rise today to say a few words in support of House Concurrent Resolution 199, a resolution that commends the people of the Soviet Union for their actions in bringing freedom to their country.

I want to thank our colleague, Mr. STEARNS, for his work on this resolution. It certainly is appropriate that we note the courage of the people who have finally toppled communism in the Russian Empire.

During the coup, the world held its breath while waiting to see if freedom indeed could survive in the birthplace of Marxist-Leninism.

The Soviet people's climb from the depths of communism toward the peaks of democracy has been long and difficult. Mikhail Gorbachev's reform program went too far for some members of the Communist bureaucracy but not far enough for the people who wanted freedom. The battles were many and the victories for freedom were few and far between.

Recent events brought the central question to a head: Would the people of the Soviet Union make it to the top of the mountain and make the leap of faith into democracy? Or would they tumble back to the days of despair, deprivation, and desolation under the Communist system?

They have seemingly made the right choice. The problems that confront the new democrats in the old Soviet Union are formidable. There can be no doubt on that point. But I firmly believe democracy and the free market will provide the Soviet people the tools to solve these problems.

So, I commend Mr. STEARNS for his work on this resolution, and the Soviet people for their work in defeating communism.

□ 1240

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

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

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 199) as amended.

The question was taken.

Mr. STEARNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 199, the concurrent resolution just considered.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 330

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 330.

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

There was no objection.

TRIBUTE TO A CHICAGO JOURNALIST ON HIS RETIREMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, Art Petacque, a Pulitzer Prize-winning reporter and columnist for the Chicago Sun-Times is retiring on September 27 after nearly 47 years with that newspaper and its predecessor, the Chicago Sun. Art has done a great public service for the people of Chicago over the years with his indepth, hard-hitting reporting on crimes against society.

While Mr. Petacque is planning to continue working in journalism, his retirement from the Sun-Times is a milestone.

A Chicago native, Art graduated from Austin High School and the University of Illinois. After 6 months at the Chicago Sun, he advanced to the job of police reporter. This experience set the stage for many of Art's journalistic triumphs.

Art's love of police reporting, and his zeal for gathering facts, was inspired in part by his father, whom I knew as a friend and a police lieutenant on the Northwest side of Chicago. Art's father set a fine example for his son regarding the values of public service and justice under the law. These principles helped Art develop into an excellent police reporter and

an all-around journalist who has specialized in crime reporting. Perhaps the finest example of Art's work is the series of investigative stories he wrote, with a Sun-Times colleague, on the tragic, 1966 slaying of Senator Chuck Percey's daughter. Art and Hugh Hough won a Pulitzer Prize in 1974 for that project.

Over the years, Art has covered hundreds of other stories with the same clarity, accuracy and compelling style that underscores his drive to bring information to his readers. Art's investigative zeal has led to outstanding articles on subjects including the disappearance of Jimmy Hoffa, the kidnaping of Patty Hearst, the assassination of President John F. Kennedy, and the activities of the Ku Klux Klan. In addition to his outstanding work for the Sun-Times, an NBC television program has dramatized two of Art's stories: His exposé of a lonely hearts murder racket and his drive to solve the Hyde Park cat burglar mystery.

Most Chicagoans consider Art the city's brightest and best-informed journalist. Over the years, his reputation has spread across the United States. ABC's Ted Koppel has made Art a frequent guest on Nightline, and the CBS Morning News has broadcast a feature interview with Art.

During his long career, Art has received 36 awards from professional journalism organizations, including 10 Associated Press and United Press International Awards for investigative reporting. In February of 1990, Art was inducted into the Chicago Journalism Hall of Fame, which includes such celebrated figures as Carl Sandburg, Ben Hecht, and Clifton Utley.

Mr. Speaker, I want to wish Art a happy retirement, but I'm glad that the American people will continue to benefit from his ongoing work as a commentator for Chicago's WLS—Channel 7. Art also is planning to write at least one book about the stories he's covered for the Sun-Times. Whatever other projects he undertakes, I'm sure Art will continue to maintain the highest standards of journalistic excellence.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, before picking up on what I had initiated by way of a discussion earlier, I want to say that this is a continuation of what I have, through the years, accustomed the title "My Advice to the Privileged Orders."

Mr. Speaker, I want to give a little background for some of the Members who may be reading this is the RECORD or may be watching it on the closed-circuit TV. That phrase was one from one of the great Revolutionary heroes, Joel Barlow, who, among other things, was one of George Washington's chaplains during the war, the Revolutionary War. But he was also a pamphleteer. He was also a great thinker and poet.

He was the one who wrote the magnificent American Olympiad in which it was an epic narrative poem, and it was great. He foretold what later tragically, and in the most bloody fraticidal fight in the annals of mankind, the American Civil War, he foretold it in his olympiad. He described the titanic struggle of the oppressed peoples represented by the god Hester, and that was the god of the African, or the black, and the god of the white, and this was there in a period of the 18th century during which there was a great ferment throughout the world, not unlike our period of time.

We began it, but the French Revolution was actually contemporaneous. It took place a few years after 1776. In fact, the French just recently celebrated their bicentenary of the French Revolution.

So even though we have lost historical memory in our country tragically, events happen in such a way, and they telescope in such a fashion, that what happened just 1 week ago becomes old, stale, and ancient news so that we are living in a day and time that I consider to be a great promise, a hope and, at the same time, a perilous period of time.

□ 1250

We are emerging from the 20th century into the 21st and also entering the third millennium, as we describe it, in the Christian era, so that these are interesting times.

As another great thinker, patriot, and pamphleteer of that time, Thomas Payne, a contemporary of Joel Barlow, would say; but Joel Barlow then addressed a series of pamphlets or essays to the privileged orders, "My Advice to the Privileged Orders of Europe." I would advise if any of my colleagues ever have any time to spare and you want to go to the Library of Congress and make the request, I would advise them to read Joel Barlow. Those are our roots. There are the men and the minds that forged the country that today it seems ironical, I think we have fallen down on the task of reaffirming the basic concept of what followed after a brief experience with a faulty union and the adoption of the Constitution of the United States.

In any event, today and after World War I, we tend to forget that we joined France and England in invading Russia with the ostensible purpose of putting down the Russian Revolution.

Now, we should have learned. We lost 300 American soldiers in that ill-advised adventure. We should have learned from them that when you have an authentic, indigenous revolution or civil war, that you cannot through external force impose the will of those who are not in the midst of either that society or that culture or that people.

Certainly our experience in the Revolutionary War, had it not been for the French and the British fleet outside of Chesapeake Bay that bottled up the British, we might have had a different result in our American Revolutionary War. We tend to forget.

But at that time the British complained about the meddling and the improper interference of the French. Lafayette, a famous name in our history and which through the period of our history we have acknowledged and in fact, and by way of parenthesis, I have wanted to emphasize my Speakers to return to the tradition of the reading of George Washington's last or farewell speech that he addressed to the Nation. It used to be the custom when I came here 30 years ago, every official Washington's birthday, which used to be February 22d or thereabouts, you would have a Member on a Monday either preceding or following the birthday read all of George Washington's farewell address.

Well, a few years ago, and I believe it was under Speaker Tip O'Neill, for some reason or another that was suspended. I would like to urge my leadership to try to reinstate that, and I will tell you why. That farewell address is just as timely in many ways today as it was then. George Washington in that address said:

> Don't take or demonstrate too much affection for one nation or too much hatred for a given nation, because it is going to cloud your judgment with respect to the true national interest of America.

Oh, if only that admonition had been listened to, particularly during the phase of development after the hot shooting phase of World War II.

I hope my colleagues, those who are listening or will read this, will notice that I emphasize the hot shooting phase of World War II, because World War II has not ended officially. There is no peace treaty yet. There is a lot of confusion and that is what I was referring to as to the historical antecedents that apparently our leaders in and out of the Congress, in and out of the executive branch, and even our intellectuals, do not bother to factor in as to what is happening today.

I spoke earlier of the fact that a treaty had been entered into which had to us a very unusual name. It was called the Reinsurance Treaty between Germany then and Russia.

I mention that 101 years ago in March 1890, after Kaiser Wilhelm the Second dismissed Prince Otto von Bismarck, he soon advised the Russians that he considered the treaty as no longer extant.

It is ironic now that exactly 100 years and 8 months later, last year in November, the Soviet President, Mikhail Gorbachev, and the German Chancellor, Helmut Kohl signed what is known as a treaty of good neighborliness, partnership, and cooperation. Unfortunately, there has not been much said to the press about this treaty or the understandings that followed this treaty. There were several, includ-

ing the one following and leading up to the so-called London meeting of the Group of Seven Nations, in which Gorbachev for the first time was invited to be present, but thanks to whom—not George Bush, not the British Prime Minister, but Helmut Kohl, who was the one who intervened in behalf of Gorbachev to be present, and in fact urged the United States, British, French, and the Japanese, all the coparticipants of the Group of Seven to let Russia for the first time, if it so wanted, and it did, join the IMF, the International Monetary Fund.

It was our country, principally President George Bush, who opposed that.

Well, I know it would sound strange to my fellow countrymen if I were to tell them that that denial rendered Mr. Gorbachev most vulnerable to what happened on August 19, because Mr. Gorbachev and very much President Yeltsin now of the Soviet Republic do not have a firm base and Mr. Gorbachev as a result of his failure to bring the bacon home, so to speak, to Moscow, was vulnerable to pressures that had been building up for almost a year to produce.

He was saying, yes, Perestroika—in other words, the word that we would say in our day would be "a new deal, a reform" to avoid the economic catastrophe that continues to envelope the Soviet peoples, it would seem far-fetched, but nevertheless I want to emphasize to my colleagues that there is a direct connection. Gorbachev had promised, he wrangled this, he said, "Wait until I go. I am going to bring back a firm economic association that will enable us to join the hard currency countries," which Russia has not been one.

□ 1300

And in order to do that, it meant that the Russians, like some of the others who have not joined yet in Asia, were willing to come in and divulge for the first time, because you have to, if you seek to obtain membership in the IMF, what their true capital fund, gold reserves, and the like, were.

It has been Russia that could destabilize the gold markets, as they did in December 1979–1980, by just merely moving some of the famous Russian .999 pure gold bricks and they could immediately throw those old gold marketeers in Switzerland and London in a tizzy. And of course it pressured the dollar also.

What is not much discussed in our country is that at the same time that these things are happening in this great people, the Russians, and let me add by way of explanation why I say "great": No matter what happens I cannot in any way diminish the admiration and thanks to the Russian people. I am now of an age that can recall and vividly remember the beginnings, the happenings, and the outbreak, preceding—and the actual outbreak of World War II. I recall Hitler's boast. It will always be in mankind's annals, the most phenomenal and eventually successful repulsing of the German Nazi invaders. Beginning in November 1941, in the city of Kursk, the rollback that did not stop until the Soviet armies entered in victory and paraded down to the Brandenberg Gate in East Berlin.

How could people that had been sunk in peasantry just two decades before have developed the tremendous resources to roll back an invasion that cost them 22 million lives, 22 million lives? That being as if the country of Guatemala, which is one jump over next to Mexico, would have invaded our country and killed every citizen of the States of Texas, New Mexico, Oklahoma, Arkansas, and Louisiana. But that was not factored in. As soon as the hot shooting phase of the war ended, you had the disputation.

We can, and history will eventually reveal all the ins and outs of what led to the Cold War, but any people that can do that, I would not worry about ultimately how they come out now, because the reason Mikhail Gorbachev could even get started as he did was that from the standpoint of the peoples of the Soviet they were in a transition period. They were emerging from what they call state-controlled democracy, because they have always called it democracy, you know. Human beings just do not use words the same way, particularly when you go through all of the cultural prisms and filtering of words and translations.

But from their standpoint, they were in a period of transition. They had emerged from less than 50 years in the backwaters of peasantry, ignorance, and poverty, into the leading nation—and still is—producer of oil, the first to put up Sputnik on October 7, 1957.

Why do I remember so exactly? Because I was a member of the State Senate of the State of Texas, a great body, the greatest honor I have ever had. I was in the midst of a 20-hour filibuster against—in a special-called session—against an effort by the then-governor to undo the Supreme Court decision. It was great passion there. He called it the bill to keep the bayonets from the necks of our school children because you had just had the Little Rock, AR, case where President Eisenhower had called out the National Guard over school desegregation. But I had come from the city council of San Antonio, where alone, on June 19, 1954—which in Texas is a celebrated day, they call it Juneteenth because that is the day emancipation was declared in Texas. The city council at that time, why? I do not know, do not ask me, I never understood it, decided to pass a whole kit of celebratory ordinances with respect to city municipal facilities. The reason the city of San Antonio had never had, since its municipal status in 1839, was that San Antonio has never had but a small minority of fellow Americans of black descent. So it depended on the State Jim Crow statutes and constitutional inhibitions against miscegenation and other prohibitions, and tradition. But then with the Supreme Court decision of May 1954, with respect to what? Schools, over which our city government did not have any jurisdiction. We have independent school boards under the laws of Texas.

But nevertheless it got them scared. And we had the city manager called the mayor saying, "You have to have a special-called session because, as a former FBI agent, I am privy to information that if you don't pass some ordinances here, we are going to have those blacks trying to force themselves into those swimming pools over on our side," which was 100 percent white at that time.

The city attorney advised us that the reason he was there was that the mayor called him and, yes, he wanted to advise the council that San Antonio did not have ordinances.

I raised the question. I said, "But now, after 130 years, you are going to think of this when the trend is the other way and all the judicial corpus of decisions is the other way?" He said, "It is a policy matter the council has to decide."

So after a silly argument in which they decided that they would allow one golf course links to be used by blacks one day from noon until 7:00 p.m., the municipal auditorium would be used one day out of the month, and the only swimming pool available was the one already in the then-segregated black district.

So I said this is foolish. I cannot see how you can seriously comply with this.

So, sure enough, they did. They had a special-called session of the council. The rest is history.

I was the only one resisting.

Now, I cannot evoke that period of time, I am not trying to get credit for anything; I felt that it was a duty. I took an oath to uphold, like I do now and like I did in the State senate, to uphold the Constitution. I felt it was very basic. I was not doing, certainly, could not have had political motivation. The black population was never more than 7.5, 7.75 percent in the city or the county.

□ 1310

So again, like today, the question was: "What's his angle? What is he driving at?" But it was not that easy at that time.

There was a police sergeant who, unknown to us, had been the organizer for the White Citizens Council, who immediately denounced me and said, "I'll say this to this councilman: If this chili-eating"—and I am going to use his words because this is what was

printed—"nigger-loving Mexican wants, he ought to go back where he came from."

Well, the rest is history. I am still around. That sergeant was not around 2 months later, not because of that but because he was also antisemitic, and that disturbed some of the leaders of the community who were not going to tolerate that kind of foolishness.

So I go to the State senate, and lo and behold, the big issue was corruption, the big scandals, the ICT, the Insurance Corp., of Texas, and the veterans' land scandal. The Veterans' Land Bureau, whatever you want to call it in Texas, appointed by the outgoing Governor, had been immersed in some scandalous conduct. It was very reminiscent of what I have seen later on up here with the Abscam and Tongsun Park.

So then the big cry was: "Let's get a lobby control act." But we were just in the throes of a 10-year drought, and Texas had no comprehensive water law or program. So I joined with a senator from the county of Dallas at that time who probably had as much liking for me as he would for a persimmon, but we nevertheless saw that what he was offering was about the only glimmer we had for some comprehensive State water legislation. So I joined him, and we got it out.

On the other issue, since it involved some former senators and legislators, it got sticky. But in the meanwhile, out of the State of Virginia and going down through the Confederate States comes the Massive Resistance Act, and this was that series of bills or laws to insist on perpetuating segregation. They passed in every single Confederate State legislature, in some cases in less than 15 minutes. The only place it got any debate was in the Texas State Senate, and that is because we took the floor. I held it personally for 26 hours. Texas is the mother place of the unlimited debate rule. It is not the U.S. Senate, it is the Texas Senate, and it is still there, I think. That is that once you are recognized, and can keep the floor as long as you talk and as long as you stand. If you read the rules on it, that is what it is.

So that is what I did. Then I was joined by my then colleague—and may his soul rest in peace—from Laredo, Senator Abraham Kazen, later my colleague from that district in the House after I came here. We managed for 36 hours, in the waning hours of that legislative session, to prevent 12 of the 14 suggested bills from being enacted. Two of those were later declared unconstitutional anyway. That was in May 1957.

And it became kind of a matter of great humor. In fact, nobody thought much of it other than to say, "Look at this. They held the Senate for 36 hours."

But then came September and Little Rock, and I am telling you, then came the passions and emotions. The Governor called a special session. He has two bills. I could not persuade my former colleague in debate to join me, so I stood alone and, in fact, there were two specially called sessions, and in fact on October 7th, it was late, a norther had come in and the wind was rattling the windows of that great Senate Chamber, and I remember the news coming out that the Russians had put up in orbit this so-called Sputnik.

That threw us in convulsions. What happened? On the two bills calling for a national education program that had floundered on the state-church issue, all of a sudden, 6 months later, in April, they passed as the National Defense Education Act. We had to call it "defense" to get through. It emphasized engineering and mathematics and the like.

If you picked up Life magazine at that time—and it was the most popular big magazine that we had—it showed Russian students in high school and a blackboard with algebraic and calculus formulas, and on the other page you would see a bunch of kids in New York rocking and rolling, and boy, you would have thought that every Russian kid was nine foot tall, was a scholar, and that every American kid was nothing but a frivolous, uninformed, untutored youth. Well, we know now that those things are not true, but that was the atmosphere.

This is what we are going through now. We look at the beam, the mote in our neighbor's eye, and we overlook the beam in our eyes. How can we talk about democracy? How can we talk about the Russian empire crumbling when we have done worse than Hitler?

How many of my colleagues, spoke out against the Panamanian invasion of December, 1989? As far as I know, I was the only one in the House, and there were two Senators who raised their voices. I denounced it. I said that first we have gone in and we have, with the stealth bombers, incinerated a whole area populated by black Panamanians who were living in these highly flammable wooden structures that had been built in 1908 when we were trying to build a canal and were importing the Jamaican black worker to help with the labor. They are still living in these structures. They incinerated them, and we can only make a guess as to how many. The best calculation that I would say would be the truth is that there were over 3,500. We had mass graves.

Is that not what we said the Nazis did when they occupied countries, when they overran them, when they occupied middle European countries and East European countries, the Slavic countries? I remember pictures of the Katyn massacre and the like. And we also accused the Russians of those acts when they came back and were chasing the Nazi troops out. But we do not look at it that way when we do it. Now, we called it something else. I know that at least from that aspect, from the standpoint of the abuse of words, this is the Orwellian world, but of all things, the President labeled the illegal invasion of Panama as Just Cause, Operation Just Cause. It turned out that we made our military a giant posse to go out and hunt down and capture Gen. Manuel Antonio Noriega. And for what? For drug peddling.

□ 1320

Overlooking the fact, as is amply brought out in this last issue of the New Yorker in the section known as "The Talk of the Town" for September 23, which is today.

Mr. Speaker, I will insert this article at this point in the RECORD:

NOTES AND COMMENT

It has been more than a year and a half since United States troops invaded Panama in an operation, code-named Just Cause, that, according to some estimates, caused a thousand Panamanian fatalities, destroyed a billion and a half dollars' worth of property, and left twenty-three American servicemen dead. On the morning of December 20, 1989, President Bush explained to the American people that he had been compelled to transform the United States military into a federal posse, with orders to bring General Noriega to justice, for several reasons: to safeguard American lives, to protect the Panama Canal, and to defend democracy. The President also cast the invasion as a battle in the war against drugs. General Manuel Noriega, he pointed out, was "an indicted drug trafficker," and he implied that the General's removal would help stem the flow of drugs into American cities. Ironically, the invasion appears to have had the opposite effect. This past July, the General Accounting Office reported that money laundering has "flourished" in Panama, and that since Operation Just Cause drug trafficking in Panama "may have doubled."

Last week, in Miami, jury selection of the long-awaited trial of General Noriega began. Federal prosecutors argued in pretrial briefs that "this is first and last a drug case," but, whether or not Noriega is ultimately found guilty, his trial is likely to provide a chilling post mortem on United States foreign-policy goals and priorities during its long crusade against the perceived threat of Communism. The more evidence the prosecution presents of how General Noriega turned his country into what one of his associates called a "narco-kleptocracy"—how he received millions in commissions from the Medellin cartel for laundering drug money, permitted the Colombians to build cocaine-processing plants in Panama's jungles, and used members of his own staff to smuggle drugs—the more difficult it will be for United States officials to explain why the General was at the very same time receiving hundreds of thousands, if not millions, of United States taxpayers' dollars from the American intelligence community. Already, the government has been forced to admit that even as Noriega was trafficking in narcotics he was "a paid asset" of the United States military and "held a paid relationship with the C.I.A." United States paychecks made out directly to Noriega may add up to only three hundred and twenty thousand dollars, but Noriega's lawyers say that the C.I.A. pro-

vided the General with "project funds" of eleven million.

In return for this money, General Noriega rendered services to a number of United States agencies. He allowed the Pentagon to conduct secret military operations in Panamanian territory; he spied on other nations, including Fidel Castro's Cuba, for the C.I.A.; he aided the Reagan Administration's covert war against the Sandinistas in Nicaragua. He also assisted the United States Drug Enforcement Agency, by turning in drug runners whom he found uncooperative. These activities are expected to provide the core of General Noriega's defense—the contention that his nefarious activities were known to his American intelligence handlers and were at times sanctioned by them, as part of his contribution to the United States battle against radicalism in Latin America.

The question of who knew what, and when, has already proved embarrassing for President Bush, who has claimed that he did not know of Noriega's illicit operations until the General was indicted, by federal grand juries in Florida, in February, 1988. As director of the C.I.A. in 1976, however, and as Ronald Reagan's Vice-President from 1981 through 1988, Mr. Bush was in official positions where briefings would almost certainly have included a clear picture of the General's criminality and corruption. By the early nineteen-eighties, according to Norman Bailey, a one time member of President Reagan's National Security Council staff, there existed "not a 'smoking gun' but rather a twenty-one cannon barrage of evidence" regarding General Noriega's involvement in drug-smuggling activities. Indeed, as early as 1972 the Nixon Administration's Bureau of Narcotics and Dangerous Drugs had considered "total and complete immobilization" of Noriega—a euphemism for assissination—as one method of halting his narcotics operations. But the rest of Washington ignored Noriega's growing narco-business then and went on ignoring it until June 13, 1986, when the Times printed a front-page story by Seymour Hersh under the headline "Panama Strongman Said to Trade in Drugs, Arms and Illicit Money." And even then high-ranking Reagan Administration officials were willing not only to look the other way but to help Noriega, as a quid pro quo for his pandering to their No. 1 foreign-policy obsession—the overthrow of the Sandinista government in Nicaragua.

Among the troubling stories that emerged during the 1989 trial of Lieutenant Colonel Oliver North was that in August, 1986, two months after the Times article appeared, Noriega approached North through an emissary and offered a deal. According to a document submitted as evidence by the government, Noriega said that in return for "a promise from the USG to help clean up Noriega's image" and a commitment to lift the ban on arms sales he would "assassinate the Sandinista leadership" and undertake sabotage operations inside Nicaragua. Vice-Admiral John Poindexter, then President Reagan's national-security adviser, ruled out assassination but, according to trial documents, suggested that "Panamanian assistance with sabotage would be another story." North later reported that he met with Noriega in London on September 22nd and worked out a plan whereby Noriega would "try to take immediate actions" against Nicaraguan installations, including an airport, a cargo facility, and the nation's only oil refinery. Those operations never came to fruition, however, because of the Iran-Contra scandal, which ended the government careers of North and Poindexter, and left General Noriega without his protectors.

The image of the United States consorting with, paying and even protecting dope peddlers of General Noriega's ilk is not what Americans think is meant when our government says it is promoting freedom abroad and protecting our national security at home. Yet such corruption of moral and political values is a large part of the reality of the "dirty wars" that have been fought on our behalf—usually without our knowledge of consent—in the name of safeguarding democracy. Our policymakers seem to believe that there is no connection between the end and the means—that our principles can remain uncorrupted even when we defend them with methods that are debased.

Mr. Speaker, I would like to read a few selections from this article.

It has been more than a year and a half since the United States troops invaded Panama in an operation code named Just Cause, that according to some estimates caused 1,000 Panamanian fatalities, destroyed a billion and a half dollars worth of property, and left 23 American servicemen dead.

On the morning of December 20, 1989, President Bush explained to the American people that he had been compelled to transform the United States military into a federal posse with orders to bring General Noriega to justice, for several reasons: to safeguard American lives, to protect the Panama Canal, and to defend democracy. The President also cast the invasion as a battle in the war against drugs.

This past July the General Accounting Office reported that money laundering has flourished in Panama and drug trafficking in Panama may have doubled.

Well, it has more than doubled. But we have two-thirds of the troops we had at the height of the invasion still in Panama occupying that country and governing it. There is not a major decision that is not cleared through the American military.

How many Americans know this? How many Americans know of the hundreds of children that are blinded, crippled, and maimed because of our bombing that are there, with no help from anybody? No efforts have succeeded in trying to get some compensation for that horrible destruction of life and property.

I will say this: We dare not move those troops out of there, because there will not be one American life safe in Panama.

But what about the other repercussions? Oh, yes, the other countries in Latin America, especially those that belong to the Pan American Association, they muttered here and there, but they are beholden to the United States. But basically there is not one that does not know what is going on now in the trial of Noriega, which, incidentally, is very questionable under international law. For what is he, if he is not a prisoner of war?

We have violated the Geneva Convention, that are party signatories to, in the treatment of prisoners of war. We are just kidding ourselves and the American people. The American people are the last to know.

All of this is discussed at great length in the other presses, in the Spanish language and the French language, in Britain and Germany, of course.

Now, what happened here recently, no more than a couple of months ago in Los Calientas, Mexico. We had a meeting of the leading government Presidents and leaders of the leading Latin American countries. Fidel Castro, Felipe Gonzalez, the premier of Spain, and the leader of Portugal.

How much of what went on there and what Senor Castro was able to negotiate has been reported in our press?

Now, the Mexican press, the South American press, naturally the Cuban press, they are all full of it. But how much of it has been reported?

If Fidel Castro is, as so many are hoping he is, and who are also gleeful over what they consider to be the dismemberment of the Soviet Union, and, let me say you are bragging too soon. That meeting in Los Calientas brought forth definite economic commitments. The German agreement of November 1990 with Gorbachev, and particularly the then Foreign Minister Shevardnadze, who was the one that actually put it together—and it wasn't easy for Gorbachev. He could not come back to the Russian Politburo to sell them on that treaty agreement for 3 months.

He was scared. Remember, you still have the hardliners that remember World War II and do not trust Germany, and do not trust the United States, and much less now, since our operations in the Middle East.

Iraq, after all, is just 90 miles away from the Russian border. There are about 3½ million Muslims on that side. If anybody has got the idea that the Arab Muslims, particularly, or the Muslims worldwide are very happy and satisfied with what we have been bragging about and celebrating in the so-called Persian War, which like World War II is far from over, this is just the beginning, and this is why it is important for us to realize, my colleagues, and not again commit the error of three and a half decades of the misperception of the world, the misperception of ourselves, and their misperception of us, without having to pay dearly, as we have, beginning with Korea, where that is still unresolved.

We have over 45,000 troops in South Korea. What is their military mission? Defense of South Korea? No. How can it be?

The South Korean military has a bigger and better equipped military than any of our NATO partners. They have over 675,000 just in the army. They have the highest sophisticated aircraft. We provided that. We have even given them manufacturing rights in some.

In the meanwhile, the Koreans, like the Germans before, have a passion for reunion. We have had four violent demonstrations against our military presence there already. But is there any awareness? No.

Not too long ago when we had the appropriation bill there was a little glimmer of debate about, wait a while, should we not be reducing this? What is the purpose. We have no treaty agreement or commitment to South Korea for their defense, for their military defense. There just is not any there. But who knows that or who even is aware of it?

Now, are we going to go from emergency and crisis to emergency and crisis as we have been for 30 years, or are we going to have some anticipatory preparation, some thinking, some contingency, and more than, and I hate to say it, than we have had in Panama, where as I say and repeat, we have got over 15,000 American trooops right now in Panama? We are governing there.

If anybody has any doubts, just about 8 months ago, maybe 9 months ago, the President that we installed at our military base had to plead for the U.S. Army to intervene to put down resistance he was getting in his police, his civil guard, whatever you want to call it. It took our soldiers to put it down.

Now, nobody wants to look into the history, the social and economic history and conditions of Panama.

What we have been dealing with is the upper 10 percent, the whites that traditionally have ruled or oppressed, from whatever point of view you want to look at it, that country. We forget about the 90 percent that have accepted people like General Doreja, who was the main propellant for the treaty of Panama with President Carter, and his successor, Noriega, who was suspected of probably having killed off General Doreja. Whatever the truth is, one followed the other.

With respect to the European, if anybody wants to be misled as to what even today are the fears in Poland, in the Balkans, in the Slavic countries, a great part of which are Russian, I would like to read excerpts from an article entitled "Could the Western Democracies Have Survived Without the U.S.S.R.?" This was written by a Soviet historian, Alexei Antosyak. Mr. Speaker, I include for the RECORD the article at this point:

COULD THE WESTERN DEMOCRACIES HAVE SURVIVED WITHOUT THE U.S.S.R.?

Could Europe have been freed from fascism without the assistance of the Soviet Union?

I don't think so. Before attacking the Soviet Union, fascist Germany had enslaved nearly all European countries without meeting any serious resistance and established a rule of terror and oppression in the territories it occupied. A deadly threat hung over the planet. Germany used the economies of the occupied European countries to feed its war machine.

A tragic fate was in store for all the world's nations. "We must exterminate the population," Hitler said. "We shall have to develop the technology of extermination. If I were asked what I mean by the extermination of the population, I would say the extermination of whole racial entities."

Speaking about France, which has made a great contribution to the development of world civilization, Hitler claimed that "this race of Negroids will fall into decay, which it deserves a thousand times." According to him, the extermination of the French and the destruction of France depended on the results of the war against the Soviet Union. No wonder the progressive forces of France linked their liberation from the fascist yoke with the victory of the Soviet Union over Germany. General Charles de Gaulle said: "The French know what Soviet Russia did for them; they know it played the main role in their liberation."

Hitler also planned to occupy Great Britain. Walter Darre, Hitler's expert on racial affairs, said, "As soon as we defeat Great Britain, we will do away with Britons once and for all. Healthy and able-bodied men will be deported to the continent as slaves. The old and the ill will be exterminated."

The Netherlands, Denmark, Norway, and Sweden were to be Germanized. "All Norwegians, Swedes, Danes, and Dutch must be deported to the eastern regions [Eastern Europe]," Hitler said. "They will serve the empire. Before us is a great task for the future—the carrying out of a planned racial policy."

The Nazis also intended to eliminate neutral Switzerland and to employ its population "as innkeepers." Hitler wanted to eliminate all small states, which he called "the junk of Europe."

Hitler's directives, as well as the suggestions and projects issued by different military organizations in the period from June 1940 to July 1941, provided for the occupation of Gibraltar, Portugal, the Canary Islands, Rumania, Greece, Yugoslavia, Bulgaria, the Soviet Union, Crete, Northern Africa, Turkey, the Suez Canal, Iraq, Iran, and India.

On June 11, 1941, shortly before the attack on the Soviet Union, Hitler signed Directive No. 32, "Plans for the Period After Operation Barbarossa," which provided for the enslavement of the peoples of Africa, the Middle and Near East, some Asian countries, and Latin America and the creation of major bridgeheads for the war against the United States.

The fascists had barbarous plans concerning Slavic nations. Under the general plan OST (East), a considerable part of the Slavic population of Europe was to be exterminated, and the land colonized.

Government and military leaders of the United States and Great Britain warned about the deadly threat to European and other nations. President Franklin Roosevelt said in his address to the nation on May 27, 1941, that after the occupation of Latin America the Nazis planned to strangle the United States and Canada.

The military successes of 1939–1941 went to the heads of German political and military leaders. Intoxicated by their military successes in the West, the Nazis became convinced of the invincibility of their army and expected to win the blitzkrieg against the Soviet Union through powerful strikes of major groups of tanks, planes, and infantry troops. It concentrated 190 divisions (5.5 million personnel) against the Soviet Union. These divisions had more than 47,000 heavy guns and mortars, some 4,300 tanks and assault weapons, and about 5,000 planes. The Germans had a three- or four-to-one advantage over the Soviet Union in the main lines of attack. They benefited not only from the element of surprise but also from the grave mistakes Stalin made in organizing Soviet defenses. The situation became even more critical after the cream of the Red Army's leadership was exterminated in the purges of the late 1930s.

Members of the Soviet armed services fought fiercely against the superior enemy. Some battles became tragedies. The Red Army suffered heavy losses and had to retreat from a considerable part of the national territory in the initial period of the war. The New York Post reported on June 27 that only a biblical miracle could save the Reds from the coming destruction.

Later, while the Red Army was fighting valiantly on the vast front stretching from the Barents Sea to the Black Sea, the Washington Post wrote that it was terrible to think what could have happened if the Red Army had crumbled under the onslaught of the German forces or if the Russian people had been less courageous and fearless. By conducting such a valiant struggle, the Russians were defending civilization against the enemies of all humanity. They had made an unprecedented contribution to the common cause.

Of exceptional importance was the victory in the Battle of Moscow, in which 50 German divisions were defeated. German losses exceeded 800,000. This defeat destroyed the German army's myth of invincibility, foiled the plans for a blitzkrieg, and gave Europe a hope for victory over fascism.

The victory of the Red Army in the Battle of Stalingrad was a catastrophe for Germany. During that battle 330,000 German servicemen were encircled and destroyed. This was the turning point of the war. President Roosevelt said in an address on February 5, 1943, that the Battle of Stalingrad was an epic struggle whose decisive results would forever inspire all freedom-loving people

During the Battle of Kursk in 1943 the Red Army snatched the strategic initiative from the German command and kept it till the end of the war.

By the summer of 1944, when the Western Allies opened a second front in Europe, the Red Army had destroyed more than 370 divisions of troops belonging to Germany and its allies (total strength 5.5 million). General George C. Marshall, U.S. Army Chief of Staff, admitted that without the successful operations for the Red Army the American forces would not have been able to counter the aggressor, and the war would have spread to the American continent.

On the Eastern Front, 607 divisions, 75 per cent of the planes, tanks, and guns, and more than 2,500 ships belonging to the fascist forces were destroyed. To make up for these losses, the Germans had to redeploy 268 divisions from Western Europe.

The liberation of Europe from the fascist yoke would have been impossible without the destruction of the main German forces and its allies on the Eastern Front, the main front of the Second World War, where more than 80 per cent of the Axis forces were fighting. By no means am I trying to belittle what our allies did; we will forget neither the courageous American soldiers and officers, nor the material aid the United States gave to the Soviet Union. Soviet Life has dedicated many articles to this topic.

For more than a year seven million Soviet servicemen fought the fascists in foreign countries, liberating them from the fascist yoke. The Red Army liberated 11 European countries completely or partially.

The Red Army paid a very high price for the liberation of Europe: one million killed, another two million wounded. Three million men out of action all in all, among them more than 600,000 in Poland, more than 140,000 in Czechoslovakia, 140,000 in Hungary, 69,000 in Rumania, 26,000 in Austria, 8,000 in

Yugoslavia, 2,000 in Finland, more than 2,000 in Norway, and 102,000 in the Berlin operation.

The Red Army respected the national customs and traditions of foreign countries. The April 10, 1944, Resolution of the State Defense Committee on the entry of the Red Army into Rumania says: "Traditional order should not be disrupted, and Soviet order should not be established in Rumanian regions occupied by the Red Army. All Rumanian bodies of power and the existing economic and political system should be preserved."

It was also said that the Red Army entered Rumania "not as the occupier but as the liberator of the Rumanian people from the fascist German yoke." The same was said in addresses of the military councils of fronts to the population of Hungary, Poland, Czechoslovakia, and other countries.

The Soviet Union and its army not only played the decisive role in the liberation of peoples from fascism but helped many of them in their reconstruction efforts.

Soviet soldiers who died liberating Europe are not to blame that after the war Stalin pursued a hegemonic policy with regard to East European countries.

Did glasnost provide new opportunities for studying the Second World War?

Certainly. A responsible analysis of the past paves the way to the future, while half-truths about acute problems hamper the elaboration of practical policies and hinder progress.

The establishment of glasnost and truth has helped purify the moral atmosphere and stimulated historians to bolder quests.

We are witnessing the beneficial influence of the new thinking, the new world outlook, and the new attitude toward problems of history. Proof of this is the discussion of the Second World War in magazines and scientific societies, in particular, the discussion of the 1939 Soviet-German Non-aggression Pact.

People want to know the truth about such events of the Second World War. Knowing the truth could help us avoid repeating our mistakes, and it is the duty of historians to help people in this noble desire.

□ 1330

He says, "A tragic fate," speaking about the Nazi invasions, planned and being, "a deadly threat hung over the planet. Germany used the economies of the occupied European countries to feed its war machine. A tragic fate was in store for all the world's nations.

"And 'We must exterminate the population,' Hitler said. 'We have to develop the technology of extermination. If I were asked what I mean by the extermination of the population, I would say the extermination of whole racial entities.'"

This historian says, "Speaking about France, which has made a great contribution to the development of world civilization, Hitler claims that 'this race of Negroids will fall into decay, which it deserves a thousand times.'

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"The fascists had barbarous plans concerning Slavic nations. Under the general plans OST (East), a considerable part of the slavic population of Europe was to be exterminated and the land colonized."

Now, given that, and I hope those of my colleagues interested will read the rest of this article in the RECORD, we have to not forget that the new generations, for instance, Helmut Kohl was 15 years old at the time of World War II. Mikhail Gorbachev was 15 years old. So what we have now, and I want to remind my colleagues that long before these proceedings were televised, I was speaking on this. I have been speaking on the eventual German reunification, which has turned out to be a merger more than a reunion, since the middle 1960's. And in fact, I had written a letter to then President, in the late 1960's, Johnson, mentioning the fact that I was hopeful America would take the leadership and anticipate.

I would be a thorn in the side of my great, and may his soul rest in peace, fellow Texan, who was chairman of the Committee on Appropriations, George Mahon, of Lubbock, TX. He was the chairman.

I would get up here, and they used to pass the appropriations bills in 20 minutes, like we do suspensions. That is the way they used to pass everything, defense, everything else, out in 20 minutes.

But I would get up and I would say, "Will the gentleman yield for a question?"

And he would say, "No, you are bothering again. But all right, I will yield."

So I would say, "I wonder if the gentleman can tell me in this appropriation for our defense, as it is called, the defense bill, what percentage of this is for the protection of Europe?"

And he would say, "Well, I have already explained that."

But a good friend who also used to sit on the Subcommittee on Military Construction and Operations of the Committee on Appropriations would always get up and say, "If the gentleman would yield, as we have said before, we don't have line items saying this is for defense."

I said, "I know that. I know this is spread all over the budget from OMB to the support of our troops in Germany."

By the way, we still have a little under 300,000 troops in Germany.

And I would say, "This is true, but I want to know if my estimate that this budget would contain a total of not less than 50 percent for that purpose is out of the ballpark?"

Mr. Mahon would get very impatient with me, but this other gentleman would always say, "Well, yes, we would say that you are within the ballpark range."

When finally the defense appropriation reached the level of $50 billion, I estimated that then, as now, somewhere between 55 and 60 percent of that defense budget was for the so-called defense of Europe. Today we are spending $70 billion a week for the development of nuclear weapons targeting Russia. Right now, $70 billion a week.

Now, the point I would make, and that is when I would get on the House floor after all the proceedings and I would get a special order. Naturally, there was no TV coverage then. I was not seeking that any more than I am today.

I never address anybody but my colleagues because I know the reason for this privilege of special orders, and I will never abuse the privilege of the House, as keen as this is. The historical roots of this go way back.

The reason was to afford the Members of a multiple body a chance to enlarge and extend on some subject matter agitating that Member, which he would not get a chance in limited debate.

That is the reason why, and I honor that. I cherish it, and I respect it. And I have never injected a partisan politi-

cal, I do not think it is right. I do not think we ought to convert this floor into a political stump. I will reserve that for back home, for the election. But I am not going to abuse the intelligence of my fellow Congressmen or for that matter any other American or any other constituent who might be reading the RECORD.

The reason I speak is for the RECORD, and I speak out in moments when it is obvious that I must transcend my purely parochial, ministerial duty of defending the interests of that geographical section known as my congressional district, because every one of us participates in that in a small way. We are all 135th a part of national legislation.

□ 1340

We cannot subtract ourselves and we should not, and I feel that.

I have been ridiculed. I have been more criticized than I have been read, so that is part of the game. I am not complaining about it, nor am I trying to take any credit for doing this, that, or the other. I am just saying that these are issues that I know from reading foreign press that our constituents do not have any access to, unless some of us gets up here and says, "hey look, here is the other point of view."

The fact is that reading these plans of people, in fact, the truth of the matter is that the reason so much of this extermination did not take place is because some of Hitler's generals were far more humanitarian than he was or his ideologues. They did not follow through on some of these mass exterminations. They could have, and this has not been forgotten. We cannot expect the people to forget.

I will dare say that right now in the middle of Poland there is more distrust of Germany than there is of Russia.

If ever you have a fellow down and you are holding him down by force, and after many years you finally decide to release him, the chances are more likely than not that he is likely to come up fighting. That is what happened after World War I. You cannot hold a people like the German people, great, virile, industrious, disciplined, you cannot keep them down in slavery any more than their later leaders who came forth because of the maltreatment that had been subjecting the German people to such things as right before and during the Weimer Republic. For instance, like German mothers. I remember the pictures in 1930, 1931, German mothers with their little children lining up to receive handouts of milk; unemployed is what they called them, German males, sleeping in a railroad depot with their head on an iron rail.

Of course something was going to happen, like it is going to happen in Russia. You cannot keep this vacuum that is shaping up in Russia. We can talk all we want to about republic, independence, democracy, and what have you. But there are a lot of things there of a practical nature.

For instance, what is going to be the nature of the common currency? These are things they have to worry about. But leaders such as Gorbachev were compelled to have to flip-flop right before the so-called attempted coup in August because he could not produce, and in the meanwhile you have severe economic problems. Once those become severe, and they are continuing, something is going to have to fill that vacuum. And what I am afraid of, because all history shows that when peoples develop in the line or trend that what is more likely than not to happen is that this vacuum will be filled by a strong arm eventually, and more likely than not you will have what some people or ideologues, I hate labels, but would call a Fascist state. But it would be authoritarian.

What is the difference? Hitler never called his regime Fascist. His party was the Nationalist Socialist Party. That is where the acronym, Nazi, comes from. Mussolini liked that word, Fascist. What was that? That was a corporate state, and that is what I think is more likely than not to happen in Russia.

What does that mean? In the meanwhile the Germans have been very farsighted. Incidentally, Germany has the strongest financial status of any country in Europe. The DM or the deutschemark right now in the markets in Europe is quoted a lot faster than the American dollar. And I have been warning, but I cannot seem to interest anybody, from the chairman of the Federal Reserve Board to some international bankers or my colleagues here or in the Senate to discuss the great danger confronting us, which I think would be fatal, and that is the dollar being replaced as the international reserve unit. That is beginning to happen already. It is obvious. But now unfortunately we in Congress would have to yield very much to our monetary authorities, and especially the executive branch in that area, and there is no discussion there.

Now there are signs that we are beginning to enter a very dangerous period in that respect. If the dollar is replaced as the international reserve unit, and mind you it has everything to do with what is happening now in Russia, in Europe, Germany, and Japan, it means that this tremendous debt overhang that we have developed, we the people privately have the greatest debt structure any country has ever had, the corporate debt equals the Government debt, what it would mean is that for the first time in our history all this debt would have to be paid in somebody else's currency. We have been the only country that has ever had the benefit of paying its debts in its own currency.

However, who cared when we pointed out that in 1985 for the first time our country had become a debtor nation? Since 1914, from a creditor nation to a debtor nation. A few years before that, we were no longer a producing country. We are a net importing country. Our trade balances have been so fateful that they have caused, and they are the symptoms of a far greater danger.

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). The time of the gentleman from Texas is expired.

The articles previously referred to follow:

U.S.S.R.-GERMANY: A LINK RESTORED

(By W.R. Smyser)

In March 1890, Kaiser Wilhelm II of Germany dismissed his aged chancellor, Prince Otto von Bismarck. Shortly thereafter, acting upon the advice of his ministers, he notified the Russian Imperial government that Germany would not renew the Reinsurance Treaty, the document that Bismarck had crafted to maintain a Russo-German link despite Germany's primary allegiance to Austria-Hungary. From that point on, the central European balance came unhinged and war became virtually inevitable.

One hundred years later, in November 1990, Soviet President Mikhail Gorbachev and German Chancellor Helmut Kohl signed a "Treaty on Good-Neighborliness, Partnership, and Cooperation." With that signature, they renewed the connection between Germany and Russia that the Kaiser had severed a century before, attempting to reconstruct a system of European stability after a costly lapse.

In the Reinsurance Treaty, Germany and Russia had pledged that they would not make war upon each other and would remain neutral, unless (for Russia) Germany attacked France or (for Germany) Russia attacked Austria-Hungary. Many German officials considered the treaty incompatible with Germany's brotherly loyalty to Austria, and Bismarck kept the treaty secret to avoid a crisis of confidence.

The German-Soviet treaty of 1990 also provides for neutrality in some situations. It states that "if one of the two states should become the target of aggression, then the other side will give the aggressor no military aid or other support." Under that provision, Germany would not take part in NATO attacks on the Soviet Union. This was an oddly improbable contingency to write into a major treaty, but it was apparently so important to Moscow that Germans say privately that the treaty and German unity would have been impossible without it.

The German commitment has raised many questions, most notably from the French, who rejected Gorbachev's request for a nonaggression clause in similar agreement. Theoretically, the treaty could mean that German forces would not join a NATO engagement of controversial origin. The German government, however, has insisted that the treaty is fully compatible with its NATO commitments, because NATO is a defensive alliance that would never attack the Soviet Union. Neither France, Great Britain, nor the United States has formally objected to the agreement.

The terms of the treaty and the thinking behind it, therefore, require a second look, as does the entire German-Soviet relationship that has emerged from the confrontations of the Cold War. And above all, the U.S. interest in German-Soviet relations deserves ex-

amination, because the dynamics of that relationship always have implications for the United States.

The new treaty establishes many German-Soviet ties. It calls for annual or semiannual consultations of the most senior officials, including defense ministers. It provides for economic cooperation and many other forms of contact. Germany pledges to help the USSR develop cooperation and economic links with the West. Germany will thus help open the door for the Soviet Union to enter the economic structures of Western Europe.

The new treaty, like the Reinsurance Treaty, establishes a diplomatic connection that creates a pattern of political contact even more than a legal obligation; it provides a basis for mutual understanding and confidence. The agreement could encourage or even compel Germany to look both toward Moscow and Washington on occasion, as it is likely to raise German sensitivity to Soviet interests. This German-Soviet tie creates new confluences within Europe's center even as it renews old ones. And Germany, America's most important European ally, now has a connection to Moscow far stronger than that of any other Western state.

That Russo-German link, like the treaty, must be seen in contexts both new and old. The East-West border that divided Germany and Europe for some 45 years has vanished. Western Europe and the Soviet Union no longer confront each other bristling with weapons and reinforced by superpower nuclear arsenals. In the place of the dividing line stands a country, Germany, serving as both barrier and bridge, a creature of the West with a foot in the East, drawn in both directions even while exerting a pull of its own.

GORBACHEV AND GERMANY

The new Germany owes the Soviet Union, or at least Gorbachev himself, a debt of gratitude. Although U.S. President George Bush also played a significant role, Gorbachev did more than any other foreign leader to bring about German unity. Ample evidence suggests, however, that Gorbachev did not desire or expect reunification when he instructed Soviet troops to remain in their barracks as crowds gathered on the streets of Leipzig and Berlin in October 1989. Nothing Gorbachev said then or for some time thereafter revealed a readiness to write off the German Democratic Republic (GDR), whatever its shortcomings.

Gorbachev undoubtedly did want a new and different relationship with what was then West Germany and a less-burdensome balance of power in central Europe. His decision to negotiate the elimination of the intermediate-range nuclear forces betrayed an awareness that former Soviet leader Leonid Brezhnev made a mistake by threatening Western Europe with the introduction of the SS-20 intermediate-range nuclear missile into the East-West arms race. Gorbachev hoped to reverse Brezhnev's blunder and to create new ties with West Germany and Western Europe.

Gorbachev also sought reforms that would enable the East German economy to deliver the kinds of high-quality goods that perestroika in the USSR needed, and he was plainly unhappy with the East German leadership. But there are reasons to doubt that Gorbachev ever wanted to dismantle the GDR or that he intended to clear the way for German unity and for a new relationship with a united Germany.

Even after the opening of the Berlin Wall on November 9, 1989, the USSR tried on several occasions to reassert occupation rights. The Soviets called a meeting of ambassadors of the four World War II Allies at the old Allied Control Council building in Berlin. After Kohl on November 28 offered a cautious 10-point plan envisaging gradual all-German confederation, the Soviet Union warned about the "dangerous irrationality of destroying the postwar realities."

Only in January 1990 did Gorbachev formally support German unification in principle. The following month, in Ottawa, the foreign ministers of Britain, France, the Soviet Union, and the United States announced agreement on the Two plus Four formula for talks on German reunification. Gorbachev had realized that he had unleashed forces in Europe beyond his control.

During much of 1990, Gorbachev seemed more driven by German and European events than driving them. Even after he accepted the notion of German unity, he said repeatedly that Germany should be neutral and not in NATO. By July, however, at a summit with Kohl in the Caucasian resort of Zheleznovodsk, Gorbachev agreed that a united Germany should be free to choose its alliances. It was clear to him, as to everyone else, that the new Germany would choose NATO.

A three-fold bargain emerged during the German-Soviet and Two plus Four negotiations of 1990, and it is this bargain that forms the basis of the new German-Soviet relationship. This arrangement has military, economic, and political dimensions. On the military side, Moscow has offered the main concessions. Soviet forces in eastern Germany, which for decades threatened West Germany and formed the USSR's glacis in Central and Eastern Europe, are to be withdrawn. The treaty for the limitation of Conventional Forces in Europe (CFE) also mandates the reduction of Soviet military power throughout the Continent. Soviet landbased tactical nuclear missiles will no longer threaten German cities.

The German government also made important concessions, agreeing to limit its armed forces to a total of 370,000 soldiers. Even with this ceiling, Germany will have the most troops in Western Europe, but not enough to threaten Soviet or other territories, especially since German forces are to remain in international structures. Germany has also agreed to continue to accept the post-World War II Allied guidelines that limit the types of weapons it can develop or deploy.

The United States and NATO both agreed to make their forces—and the alliance itself—appear less threatening. In May 1990 NATO foreign ministers agreed to allow Soviet troops to remain in eastern Germany for some time and to station no NATO troops there. On July 6, the NATO heads of state and government set forth the "London Declaration," which committed NATO to reducing its frontline defense, revising its nuclear strategy, and withdrawing U.S. nuclear artillery shells from Europe, provided the Soviets did likewise. Gorbachev and then Foreign Minister Eduard Shevardnadze described the NATO declaration as "constructive" and a "move in the right direction."

The German secretary general of NATO, Manfred Wörner, was key in persuading Moscow that a united Germany in NATO would not constitute a threat. Significantly, Wörner was in Moscow during the Gorbachev-Kohl summit at which Gorbachev accepted Germany's NATO membership.

The change in Europe's military configuration benefits Germany immensely. The United States and NATO can provide Germany with military protection, as they have for the Federal Republic since 1949, but only the Soviet Union can give Germany true peace. As long as there is tension with Moscow, Germany must remain an armed camp, sustaining large numbers of its own forces, hosting numerous troops from abroad, living with maneuvers in a potential battle area, and submitting to the rigors of constant and increasingly burdensome military preparation. Germans are understandably glad to be rid of the tension, even if foreign troops remain.

A January 1991 poll showed that a majority of Germans regarded Switzerland as a good model for their country. Switzerland is not a demilitarized state; it has a small but highly trained military force, among the best equipped in the world. Swiss men must serve in the military and remain on reserve status for most of their adult life. The Swiss have long been able to defend themselves, and take great pride in it. But there is no sense of threat in Switzerland; the imperative of military preparedness does not preoccupy the Swiss as it has the West Germans for 40 years. The parallel, at any rate, is imperfect. Switzerland is neutral and uninvolved in the affairs of states far from its borders. Germany is not neutral, but if a new relationship with the USSR can secure peace, any German government would be foolish not to leap at the opportunity.

On the economic side, Germany made the majority of concessions. Two German-Soviet economic treaties, signed at the same time as the political treaty, will boost economic cooperation. One agreement provides for German support to the Soviet Union in economics, industry, science, and technology. Another provides for cooperation between labor and social service agencies in the two countries. The German government has stated that both treaties will lend support to Gorbachev's economic reform policies. The Soviet leader almost certainly had two complementary considerations in mind during the negotiations. On the one hand, he wanted a united Germany to provide large quantities of aid and trade. On the other, he may have hoped to devote greater resources to civilian, as opposed to military, purposes in the USSR.

The German government has pledged to assist Gorbachev even more. Through a number of related agreements, Germany has agreed to offer the Soviet Union a total of about DM 70 billion (approximately $40 billion) over the next several years. This sum is equivalent to almost 3 percent of Germany's current gross national product, comparable to the U.S. commitment to the Marshall Plan. Unlike the Marshall Plan, some of the money is in the form of commercial credits that are linked to the purchase of German goods, and that must be paid back, but the deal also includes broad aid packages, plans for joint ventures, and special provisions to build housing for Soviet troops returning home from eastern Germany and to support those left behind. Of all Western credits, to the USSR, Germany has granted more than half. Kohl has stated that Germany is helping the Soviet Union "more than any other country."

This aid presents special problems for Germany. The German government was upset in the spring of 1991 when it learned that the Soviets might award contracts for officer housing to Austrian, Finnish, and Turkish consortia rather than to more costly German bidders; Bonn insisted that Germans have a majority share. German government credits, some of which have been available since the 1980s, have been used only sparingly by Ger-

man industry because few investment opportunities or products for import in the USSR were suitable. German officials now maintain that the pace of credit implementation has accelerated significantly since late 1990. Although the Bundesbank, Germany's central bank, and private German banks are increasingly convinced that Soviet debts will not be repaid and must be written off, the aid will undoubtedly remain available, since it serves political as well as economic purposes. Germany has also helped the Soviet Union in international economic matters. The German government has promised to advocate the rescheduling of Soviet debts to Western international agencies. German Economics Minister Jürgen Möllemann stated during a visit to Moscow that Germany would attempt to convene an international conference to reschedule and forgive Soviet debts and to arrange for additional aid beside which earlier pledges would be "only peanuts."

Kohl himself worked hard to overcome U.S. and British reluctance to invite Gorbachev to the July 1991 London summit of the seven leading industrialized democracies. After having, in the words of Möllemann, "powerfully supported" Gorbachev's wish for an invitation, Kohl even visited the USSR before the summit to help Gorbachev prepare for the meeting. Kohl also urged that Moscow be granted full membership in the International Monetary Fund, accepting the alternative of associate membership for the USSR only when others refused to grant full status. It was never clear whether Kohl did all of this primarily as a favor to Gorbachev or as an attempt to shift the burden of providing Moscow with aid to other Western nations; he probably had both objectives in mind.

Moscow's long-term prospects for trade with Germany are impressive. If Western experts are able to help the Soviet Union revive its oil and gas production, Moscow could export large quantities to Germany in exchange for high-technology products, investment goods, or machine tools. Germany has already agreed to purchase 3 billion additional cubic meters of gas and oil annually, raising the total amount to 11 billion cubic meters within three years—if the Soviets can deliver. Energy exports of that magnitude could contribute significantly to Soviet income and growth. The Soviet Union may even be able to, one day, export food to Germany and Western Europe, as Czarist Russia once did, if it can reform its agricultural system and if the European Community (EC) permits.

German trade and aid do not just help the Soviet Union; they benefit Germany as well, supporting industry and providing jobs. They also reinforce Germany's international financial position. The d-mark is a parallel currency throughout much of Europe, with market prices now quoted more often and more quickly in d-marks than in U.S. dollars. Through the European Monetary System, Western Europe is already a d-mark zone; the addition of Eastern Europe to this area would greatly enlarge the breadth of German economic influence. Although the Bundesbank may be uncomfortable to have the d-mark so widely used, German traders and tourists are pleased to see their currency go continental.

REASSURING THE RUSSIANS

The third and most delicate dimension of German-Soviet relations is political. The realm of politics includes a significant psychological component. In this area, the Germans have been most judicious and restrained, following the maxim of "don't rub it in." The German government has consistently done everything possible to help Gorbachev. The Germans have repeatedly made clear that they and NATO want accommodation and peace with Moscow. Almost every statement by senior officials in Bonn has contained assurances that Germany wants a new Europe and a new relationship with the Soviet Union. In particular, speeches by Kohl and Foreign Minister Hans-Dietrich Genscher have emphasized such themes as peace, stability, and a new European security framework. Senior German officials visiting in Moscow have searched for institutional formulas to make clear that a united Germany, even within NATO, will not threaten Soviet security.

One source of German concern was the opposition Gorbachev's policies toward Germany during 1990 sparked in Moscow. A number of statements, especially in the Supreme Soviet, revealed considerable Soviet unease about German-Soviet agreements and the German unity treaty were not submitted to the Supreme Soviet for approval until several months after they had been signed; statements from the Kremlin made clear that anticipated opposition with the legislature lay behind the delay. During the crucial Central Committee meeting the Soviet Communist party in July 1990, Soviet officials admitted that many among them were worried about Gorbachev's concessions on the German question. In exasperation, Gorbachev once asked rhetorically if his opposition wanted to send tanks back into Eastern Europe.

Shevardnadze received heavy criticism for the German agreements. He was principally responsible for those agreements, having met often with Genscher during 1990 and having participated in the Two plus Four negotiations.

Shevardnadze at first seemed to welcome that criticism, saying that it made his responsibilities more "interesting." When he resigned at the end of 1990, however, he remarked bitterly that one of his reasons was his resentment over frequent charges that he had made "one-sided concessions"—obviously a reference to his positions on German unity on European arms control.

Even after German unification, the Soviet Union was very anxious not to allow—or even to be perceived to allow—the reemergence of a powerful Germany in the center of Europe. In that vein, German officials have said that Germany did not send forces to fight beside its NATO allies in the Persian Gulf war in part because the Soviet Union has signaled its objections.

In the German agreements, Gorbachev did not simply withdraw; he tried to convert a strategic retreat into an advance. After 40-odd years of Cold War in Europe and a decade of stagnating German-Soviet relations, Gorbachev restored a classic link that many past Russian leaders regarded as a foundation of their nation's security. He sought to create a less-dangerous European environment, one that would cut costs, reduce risks, and open new opportunities for the Soviet Union.

Gorbachev eventually abandoned his insistence that the new Germany not be in NATO. Over time, even those Soviet leaders who opposed Gorbachev may see certain advantages to be gained from that concession. A united Germany in NATO may encourage among its allies better understanding of important Soviet interests, especially in arms control. German leaders did, in fact, emphasize the Soviet perspective in discussions about the CFE treaty. Moscow might also privately prefer to have a non-German general—American, French, or British—command German forces.

In understanding and respecting Soviet security needs, Germany will often find itself in a difficult and ambiguous position. This was evident in German efforts to limit retaliation against Moscow for the Soviet military's suppression of the Lithuanian nationalist movement in January 1991. Kohl and Genscher welcomed and stressed Gorbachev's statements that he had not personally ordered the crack-down. Kohl remarked that the Lithuanian people should not attempt to move too fast and that "one hundred small steps are better than one large one." He expressed concern about a potential breakup of the Soviet Union, but he also sent Gorbachev a personal message urging that the Soviet forces suspend military action and requesting respect for Lithuanian self-determination. Genscher later warned Moscow that "our willingness to help and our scope of action have been seriously jeopardized by the use of force in the Baltic states." Germany also supported EC sanctions against the Soviet Union over Lithuania.

A MUTUAL RESPECT

In bilateral relations, Germany and the Soviet Union have pursued policies and granted concessions with complementary benefits to both countries. The USSR has primarily reaped economic gains, though it enjoys some security benefits as well. Germany's gains are mainly in the realm of security, but it will benefit economically as well. In the treaty, Germany also undertook an implicit obligation to respect Soviet feelings.

In that final regard, the parallel with the former Reinsurance Treaty is most pertinent. Germany is not neutral—it remains in NATO. Nor does Germany have a military commitment to the Soviet Union. The terms of the 1990 reinsurance clause are more political than practical; the central message is that Germany will not use its new position to threaten Soviet interests, nor will it permit others to do so.

Germany's restraint toward the USSR serves its own purposes as well. If Germany were to prove recalcitrant, perhaps by ceasing to support Gorbachev and his policies, it might precipitate a change in the Soviet government or a breakup of the Soviet Union, either of which could threaten Germany interests. Of course, even with ideal assistance from abroad, the success of perestroika depends ultimately on the Soviet Union itself. But if perestroika were to fail and if civil war ensued, or if the USSR were to abandon Gorbachev's foreign policy for renewed expansionism, Germany's opening toward the East might close. To avoid this, Germany has to remain highly sensitive to Gorbachev's needs.

The new Germany-Soviet tie will unfold in a historical context of hundreds of years of dramatically varying relations between the Russian and German peoples. Russian troops were in Berlin as enemies in 1759, as friends in 1814, and as conquerors in 1945. A Prussian expeditionary force joined in Napoleon's invasion of Russia in 1813, and the two Germany invasions of Russia during World Wars I and II alternated with periods of friendship. From the eighteen through the twentieth centuries, the Germans and Russians have maintained a fascination for each other, a mixture of fear and attraction that may be unique in international affairs.

During their long relationship, Germany and Russia have rarely been allies. Each has usually asked the other for friendship or

neutrality, not alliance. Germany has turned to Russia only when Berlin had no friends in the West. With only a few exceptions, neither Imperial Russia nor the Soviet Union sought German commitments against other Western states. Current German-Soviet relations are therefore consistent with the historical pattern.

The rather mixed record of German-Russian relations has not prevented the periodic resurgence of Western fears that Germany might one day abandon the West and turn toward the East. That scenario was for decades a nightmare of European diplomats; and the shadow of Rapallo, the Italian town where Germany and Soviet Russia signed a notorious treaty after World War I, still falls across every hint of a relationship between Moscow and Bonn. Germans have grown accustomed to offering almost ritualistic reassurances regarding their ties to Moscow, especially to foreign friends who have little understanding of Central European history or reality.

No country in recent years has been more deeply worried about the German-Soviet relationship than the United States. The new Bonn-Moscow ties are a mixed bag for Washington. The Soviet Union did agree to allow a united Germany to remain in NATO, the main institutional vehicle for U.S. influence in Europe. But a closer link between Moscow and Bonn might reduce that influence in Germany, which in some cases may count more on negotiations with Moscow than on treaties with Washington.

The United States, therefore, faces several important questions: Does the new German-Soviet treaty reinstate the earlier Reinsurance Treaty? Does it violate the loyalty German owes the United States after four decades of protection, as the Reinsurance Treaty appeared to violate the loyalty Imperial Germany owed Hapsburg Austria? Does it jeopardize U.S. interests?

The answers to these questions depend on both the current definition of U.S. interests and the state of Soviet-American relations. Germany is correct to argue that its NATO membership never included a commitment to attack the Soviet Union, and the treaty does not prevent the new Germany from participating fully in any defensive NATO operations. The treaty's importance lies elsewhere, as part of the entire bilateral relationship.

The new united Germany will consider Moscow's probable reaction before deciding on many policies, especially until Soviet troops leave Germany. Within alliance councils, Germany will at times appear to be an advocate for the Soviet Union, as it was in pushing for Gorbachev's presence at the London economic summit. Germany will attempt to moderate both Western and Soviet policies. The United States must in turn consider Soviet positions more carefully, because a principal ally—Germany—may support them.

In Russo-German relations, the United States is the latecomer and, geographically, the odd man out. Historically, it played no part in the relationship until 1941, when Americans first helped defend the Soviet Union against Germany during World War II. In later years, the United States defended West Germany against the Soviet Union in the Cold War. The U.S. presence in Germany today, however, is not as necessary as it was at the height of the Cold War. The German opening to Moscow may thus reduce U.S. leverage on German decision making to an extent that Washington, and perhaps the American public, might find troubling.

For decades, the United States was the chief guarantor of West German security. That guarantee remains important today—the German government values the U.S. nuclear deterrent and wants to retain U.S. backing in case Soviet policy shifts. Even during the 1990 negotiations, the United States played a crucial role, making both German unity and NATO membership possible. Now that the negotiations are complete, however, Moscow guarantees German interests as well—not against invasion but rather against instability. Bonn will not suddenly begin to ignore American wishes, but it will be more likely than before to pay attention to Soviet needs and policies.

Despite this sensitivity to Soviet concerns, Germany does not want to jeopardize its links with the United States. Germany hopes to keep those bonds as strong as ever, even as its ties with the Soviet Union improve. The Germans do not believe they have abandoned the security alliance with America. Instead they see their economic and diplomatic support for the Soviet Union as a contribution to the NATO alliance, to Western security generally, and to global stability.

Germany is thus caught on the horns of a dilemma: To improve relations with Moscow may be to risk relations with Washington. The United States needs to understand that improved Soviet-German relations offer it some very real advantages. With the new treaty, Washington can reduce its military presence in Europe. As long as the Soviet Union and West Germany confronted each other across the inner-German frontier, a large U.S. military presence was necessary to protect West Germany and other NATO allies. As that confrontation concludes, the U.S. role can change. American forces are still needed, but not at previous levels and not at hair-trigger readiness.

Virtually every policymaker in Washington has understood since the détente agreements of the 1970s that U.S. troops in Europe would eventually be cut, but no one was sure when and how the reductions could best be achieved. The present opportunity to slash force levels is thus welcome, even if U.S. influence diminishes as a result. No strategic or political rationale can justify keeping a massive U.S. military presence in Europe indefinitely. Americans should be grateful to see their commitment reduced.

By the same token, reconciliation between the Germans and the Soviets helps ease U.S. Soviet relations in Europe and elsewhere. Washington and Moscow, for example, would not have cooperated in the Gulf crisis as they did if a tense confrontation had persisted in Europe. German-Soviet accommodation is thus an important ingredient in improved U.S.-Soviet cooperation worldwide.

Naturally, however, negative reactions can arise in both the United States and Germany over each other's policies. The American public has grown accustomed to having Germany as a principal ally, fully by America's side. When Germany did not contribute forces to the U.S.-led coalition in the Gulf crisis, some Americans expressed bitter disappointment. One should not discount the risks of future controversy when Germany does not support, or even opposes, certain U.S. policies.

Americans may also resent the ongoing allocation of tasks between the countries. America maintains its troops in Europe to help protect Germany, and the U.S. strategic deterrent shields Germany, among other allies. The United States has to negotiate with the Soviet Union about arms control, force levels, and the like, while Germany makes trade deals and says nice things about Gorbachev and peace. This division of labor is likely to lead administration officials, Congress, and the American public to ask whether the United States is not getting the tough end of alliance responsibilities compared to Germany.

The German public faces a parallel problem. With German unity and an apparently stable relationship with the Soviets, the Germans have achieved their principal political objectives since World War II. Although many Germans remain deeply skeptical of Soviet motives and of the entire Soviet system, they will not want to return to anything like the Cold War. They will want to maintain good relations with the USSR. But Soviet and U.S. interests and policies globally will not always coincide. During crises in which Moscow and Washington disagree and perhaps clash, the Germans will probably be eager to preserve good relations with Moscow and may urge Washington to use restraint in future rivalries with Moscow.

Germany has never been a world power, as Britain and France have been or as the United States is. The country is now content in its historical role as European power. In that capacity, Germany needs a Russian connection, and it now has reestablished that link. Those who feel compelled to remind Germany of the world's other problems cannot expect to receive thanks upon bringing the news.

Americans and Germans alike ought to recognize that the new international alignment may endure for a long time. The Europe that has emerged since 1989 represents a return to the historical Europe that existed before this century's great wars; as such, it can be expected to last. If history is any guide, German-Russian relations will be among the most important elements of the new Europe. U.S. policymakers should be pleased that those relations have improved, for that improvement helps assure the passage away from the Cold War and away from aggressive Soviet policies of the past; yet American officials still must work to prevent the German-Soviet tie from evolving in ways that could jeopardize U.S. interests. U.S. officials also need to distinguish between real and apparent problems. Only then can Americans be confident that the German-Soviet link will not hamper broad policy objectives or jeopardize the U.S. alliance with Germany.

East and West are no longer in a zero-sum game. American military strength and diplomacy can support German security. German economic influence and diplomacy can serve U.S. security. Both can enhance Soviet security. All three countries have to cooperate to make the work of each effective. But Germany and the United States have to be careful not to break old relationships in order to establish new ones. Above all, Germany will want to preserve structures that promise greater stability. The Germans will only achieve these goals if the United States and the Soviet Union are themselves cooperating. Germany must therefore do everything possible to encourage positive U.S.-Soviet relations so that it does not have to choose one partner over the other. And the United States must be careful not to confront the Germans with absolute choices unless they are absolutely necessary.

In the context of the new German-Soviet connection, U.S. policy will not be easy to steer. U.S. administrations will continue to worry that Germany might get so close to Russia that it will begin to ignore U.S. policy wishes. At the same time, the United

States certainly does not want German-Soviet relations to deteriorate again to crisis levels. There are many points between these two extremes, and Washington will need to ensure that Soviet-German relations remain within that range. In a broader sense, the Americans and the Europeans also need to craft new relationships between them. Such times are always particularly sensitive. German-American relations, and the Moscow connection, will evolve against this background.

PRESIDENTIAL WARS

(By Theodore Draper)

1.

At Princeton University on May 10, President Bush made an important pronouncement which received little attention. He talked about the presidency, Congress, and the Constitution. He particularly touched on the role of the president in foreign policy, especially as it may lead to war.

We have just been through a war for which Congress voted at almost the last moment. Now, however, Bush said that he had an "inherent right" to use the UN resolution to take the country into the war, without congressional authorization. The passage in which he made this claim holds the key to what Congress and the country may expect from him in similar circumstances:

This does not mean that the Executive may conduct foreign business in a vacuum. I have great respect for Congress, and I prefer to work cooperatively with it wherever possible.

Though I felt after studying the question that I had the inherent power to commit our force to battle after the UN resolution, I solicited congressional support before committing our forces to the Gulf war. So, while a President bears special foreign policy obligations those obligations do not imply any liberty to keep Congress unnecessarily in the dark.

The italics are mine. They give away what Mr. Bush understands the real relationship with Congress to be. In effect, everything depends on what the president chooses to do. He will decide where it is possible to work cooperatively with Congress, and he will decide whether it is necessary to keep Congress in the dark.

This extraordinarily devious passage was clearly composed with the greatest care to give with one hand and take away with the other. Behind it is an unstated but ever-present premise: foreign policy is the sole province of the president, even if it leads to war. Congress has a part to play only if the president, in his superior wisdom, permits it to play a role. He will not work with it if he thinks it is impossible to do so, and he will keep it in the dark if he thinks it necessary.

In another part of his speech Mr. Bush said that presidents "must preserve, protect, and defend the Constitution." If so, it is necessary to ask: What is there in the Constitution that permits presidents to treat Congress so cavalierly? Should a president do anything he pleases in his relations with Congress, to confront it with accomplished facts and to manipulate public opinion before he shows his hand to Congress?

The issue here is far larger than Congress. A president who keeps Congress in the dark keeps the American people in the dark. If Congress is not trusted by a president, the people do not have a chance.

Since World War II, presidents have led the country into three major wars.[1] Two of them, Korea and Vietnam, were disappointing or disastrous. It remains to be seen what the final verdict on the Gulf War will be. Whatever it is, such wars cannot be regarded with equanimity, especially if presidents were largely responsible for them.

One attempted justification for presidential wars is that there have been as many as two hundred of them in our history.[2] Relatively minor as these may have been, together with Korea, Vietnam, and now the Gulf, they indicate that presidential wars are not occasional aberrations; they represent most of our wars—and all of them since World War II.

Yet, the Framers would be flabbergasted to learn that presidents wage wars as if the Constitution had never been written. Recent constitutional studies have gone over the ground again without finding that presidents have anything like the powers they have claimed. The question did not start with George Bush, but it may well have reached a point of no return with him.

2.

Bush himself tried to give the problem some historical perspective. He spoke at some length and with much feeling about a threat to presidential power. The "most common challenge," he said, "comes from a predictable source"—members of the United States Congress. This was their sin:

Although our founders never envisioned a Congress that would churn out hundreds of thousands of pages worth of reports and hearings and documents and laws every year, they did understand that legislators would try to accumulate power. James Madison, your son—Princeton's son—warned that, "The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex." That was Mr. Madison speaking, not President Bush speaking.

Yale's son should have known better than to cite Princeton's son in this connection. Bush seemed to think that Madison was referring to the same kind of Congress that has been churning out hundreds of thousands of pages of reports and documents. In fact, Madison's words appeared in No. 48 of *The Federalist*.[3] They were written and published in 1788. Madison was not referring to the Congress under the Constitution, which had not yet been ratified; he had in mind, as he clearly stated, the state constitutions of Virginia and Pennsylvania under the old Articles of Confederation. If Bush had mentioned the source, it would have been clear that "the legislative department" Madison had referred to was not the one that was created by the Constitution.

It might be more to the point today to cite what Madison wrote in No. 47 of *The Federalist*:

"The accumulation of all powers legislative, executive, and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."[4]

The accumulation of all powers legislative, executive, and judiciary is just what is now being claimed for the presidency in foreign policy. In any case, Madison was then concerned about something that no longer holds true—the disparity between the numbers in the legislature and those in the executive and judiciary. When Madison became secretary of state in 1800, the staff was made up of seven clerks—which he soon cut down to four.[5] The personnel of the Department of State today—not to speak of the Executive as a whole—is many times that of the legislature and judiciary. Thus Madison's fears in *The Federalist* about the numerical advantage of the legislature must be put into its historical context to be understood.

It would also help to know the historical context of those two hundred presidential wars that come up so often in this connection. The prototype is the story of Thomas Jefferson and the Barbary pirates in 1801. The moral seems to be that if a presidential war was good enough for Jefferson, it should be good enough for us in all circumstances.

The story has an altogether different lesson to teach us. Washington and Adams had continued the British practice of paying tribute to the pirates of the Barbary States (Algiers, Morocco, Tunis, and Tripoli). When the pasha of Tripoli increased his price for immunity from blackmail and sent cruisers to attack American shipping, Jefferson ordered some frigates into the Mediterranean to protect it. One Tripolitan cruiser was captured by a small US schooner, *Enterprise*, but was let go. Jefferson told what happened next in a message to Congress:

"Unauthorized by the Constitution, without the sanction of Congress, to go beyond the line of defense, the vessel, being disabled from committing further hostilities, was liberated with its crew. The Legislature will doubtless considered whether, by authorizing measures of offense also, they will place our force on an equal footing with that of its adversaries."[6]

This statement by Jefferson that the Constitution did not permit him to go beyond "the line of defense" brought down on him a fierce attack by Alexander Hamilton:

The first thing in it which excites our surprise, is the very extraordinary position, that though *Tripoli had declared war in form* against the United States, and had enforced it by actual hostility, yet there was not power, for want of *the sanction of Congress*, to capture and detain her cruisers with their crews.[7]

Whatever the merits of the case, the incident shows, if anything, that Jefferson was extraordinarily solicitous of the need for Congress to declare war; he was willing to take defensive action on his own but to go no further. The precedent which Jefferson set cannot be used—as it has been used countless times—to justify presidential wars of the Korean or Vietnam type; it is strictly applicable to limited, small-scale, defensive encounters such as the Barbary action.

As for Madison, he was the first to give a war his name. In 1812, he resolved to fight against Britain's policy of barring all commerce with Europe in its war against Napoleonic France. The war tore the country apart. The opposition to it in New England was so great that call-ups were massively disobeyed; sedition was openly advocated. It was "Mr. Madison's War" to all those who opposed it. To make peace in 1815, Madison was forced to drop all the demands for which the war had been fought and go back to the status quo ante. Historians have not regarded the war as his finest hour.

Even his admiring biographer Irving Brant did not approve of some of his methods: "President Madison actually undertook, in a democratic republic with divided powers, to execute a policy that was appropriate only to an autocracy or a strong ministerial government like that of Great Britain."[8] His latest biographer, Drew R. McCoy, is far less critical, commenting on his "republican restraint as president and commander in chief."[9] Whatever the verdict, the war itself was soon celebrated as a "second war of independence" by virtue of standing up to Great

Footnotes at end of article.

Britain again, even without a victory, and an "era of good feeling" followed.

That was followed by "Mr. Polk's War." The war against Mexico in 1846 was President James K. Polk's personal crusade to obtain Texas and California. Even a historian so little censorious as Samuel Eliot Morison recognized that Polk "baited Mexico into a war with the United States in which California was the big pile of blue chips."[10] Albert Gallatin, the secretary of the treasury under both Jefferson and Madison, the last surviving statesman present at the creation, demanded. "What shall we say of a war iniquitous in its origin, and provoked by ourselves, of a war of aggression, which is now publicly avowed to be one of intended conquest?"[11] A young congressman made his maiden speech in opposition to the war with Mexico. He voted in favor of a resolution declaring that the war was "unnecessarily and unconstitutionally commenced by the President." The young congressman was Abraham Lincoln.[12]

Lincoln's actions in the first months of the Civil War have been used to justify presidential wars. But Lincoln was faced with an internal rebellion, not an external threat. He acted to resist an attack, not to send armed forces half way around the world. Lincoln was responding to an unprecedented type of civil war, and his proclamation calling out the militia to suppress the revolt cannot be used to justify presidential wars of very different character without indiscriminately disregarding the difference between a sudden civil war and deliberate intervention in a Korean-type war.[13]

In 1898, the United States engaged in a peculiar war with Spain. It was waged by the administration of President William McKinley, ostensibly on behalf of Cuban independence. When it was over, Cuba was made into a quasi-protectorate, and Hawaii, Puerto Rico, and the Philippines, which had nothing to do with the original war aim, were annexed by the United States. In the Philippines, which had been promised independence, a native rebellion took two years to suppress. The United States for the first time became a colonial power, though it was so squeamish that the term "dependencies" was preferred. McKinley himself wavered but was too weak to resist pressure from the imperialist wing of the Republican party. The philosopher William James was appalled. For James and others, a line had been crossed, the best of the nation's traditions betrayed. James grieved that "the manner in which the McKinley administration railroaded the country into its policy of conquest was abominable, and the way the country puked up its ancient soul at the first touch of temptation, and followed, was sickening."[14]

If Albert Gallatin and Abraham Lincoln were not proud of the war with Mexico and William James was not proud of the war with Spain, it is not necessary for anyone to be proud of every American war. Yet, as late as the two world wars in the first half of the twentieth century, one thing in the Constitution held firm. Whatever the responsibility of presidents may have been for the War of 1812, the Mexican War, and the Spanish-American War. They went to Congress for declarations of war. There was no exception to this rule in a major conflict until the Korean War in 1950. The president who waged an undeclared war on his own for the first time was Harry S. Truman. He also set the precedent of using a UN resolution, which President Bush claims gave him the prerogative to go to war with or without a declaration by Congress.

3.

Truman's precedent now appears to be so contagious that it is worth looking into more closely. Why did Truman refuse to ask Congress to declare war in 1950?

Truman's first move was to deny that the United States was at war at all. In a press conference on June 29, 1950, he said that combat operations in Korea were merely a "police action" undertaken for the United Nations. This terminological masquerade did not last long, as US forces found that they were engaged in a real war, and it became necessary to institute a draft to enlarge the army, and to come to Congress for a $10 billion rearmament program.

Once Truman had sent US forces into action, no senator directly opposed it, but a few objected that it had been done without congressional approval. In this period, Republicans made the constitutional argument against Truman's action. The most serious criticism came from the "Mr. Republican" of the period, Senator Robert A. Taft of Ohio. His words make strange reading in view of the position taken by the present Republican president.

"I merely do not wish to have this action go by with the approval of the Senate, if it is what it seems to me, namely, a complete usurpation by the President of authority to use the Armed Forces of this country. If the incident is permitted to go by without protest, at least from this body, we would have finally terminated for all time the right of Congress to declare war, which is granted to Congress alone by the Constitution of the United States."[15]

As the war dragged on and casualties increased, the Republican leader in the Senate, Kenneth S. Wherry of Nebraska, declared:

"The President is waging war in Korea. It is an undeclared war into which the United States has been taken by the unilateral action of the President without consulting the Congress. The President's action . . . is an outright violation of the letter and the spirit of the Constitution of the United States."[16]

But the Republicans were divided. Senator William F. Knowland of California, of the party's extremist wing, wanted an all-out war against North Korea and saw no need for a congressional declaration. Senator Scott Lucas, the Democratic spokesman, took up Taft's challenge and replied that Truman's action was justified by more than one hundred historical precedents, including Jefferson's initiative against the Barbary pirates in 1801. The Democrats and their Republican allies enabled Truman to have his way by default.[17]

Yet the present Republican president might find the Taft-Wherry speeches strange reading. His arguments in favor of presidential war-making come right out of what the Democrats said in 1950.

Truman himself related that he had thought, "I ought to go before Congress and address a special session." But he changed his mind because "Korea was a United Nations matter; and our country should not make an individual approach to it."[18] It did not seem to matter that Congress, and not the president alone, should decide what approach to take before going to the United Nations, if war was at stake. Later, he enlarged on his role as if the president could now decide on all matters dealing with foreign policy. In lectures at Columbia University he declared of the president: "As specified in the Constitution, he's the maker of foreign policy."[19] No one seems to have asked him where in the Constitution the president is made "the maker of foreign policy."

Dean Acheson, who as secretary of state gave Truman's crude decisions a degree of superficial polish, is on record with two versions to explain why Congress was not drawn in for a declaration of war.

Acheson later claimed that his recommendations to Truman had been to go before Congress for a Joint Resolution. Truman agreed but was dissuaded by Senator Lucas on the ground that "things are now going well." Lucas said: "Many members had suggested to him that the President keep away from Congress and avoid debate." Acheson later explained that he had refrained from pushing the resolution because "the thing to do was to get on and do what had to be done as quickly and effectively as you could and if you stopped to analyze what you were doing, you immobilized yourself and [tried] to answer a lot of questions which were unanswerable. All you did was to weaken and confuse your will and not get anywhere." On another occasion, Acheson poohpoohed the idea that the war had been inevitable; it had been Truman's choice.[20]

Acheson's other version is somewhat different. Toward the end of his first meeting with Congressional leaders on June 27, 1950, Senator Alexander Smith of New Jersey asked the President whether he thought it would be a good idea for Congress to pass a resolution approving what the President had already done. Truman replied that he would think about it. After the meeting Acheson advised Truman not to do it, because the troops were already engaged—in the other version, he had allegedly advised Truman to do it. Acheson recalled:

"It seemed to me if, at this time, action was pending before the Congress, by which hearings might be held, and long inquiries were being entered into as to whether or not this was the right thing to do, or whether the President had the authority to do it, or whether he needed Congressional authority for matters of that sort—we would be doing about the worst thing we could possibly do for the support of our troops and for their morale.

"I felt that we were in this fight—and it was a desperate fight—and we had better concentrate all our energies in fighting it and not in trying to get people to formally approve what was going on."

Truman accepted Acheson's advice. When he came to tell this story, Acheson was not so sure that they had done the right thing.

This may well in the light of events, have been the wrong decision. If the Congress had promptly and without debate passed a resolution endorsing vigorously what had happened, this, of course, would have been fine, and it would have nipped in the bud all the statements about the Korean War being Mr. Truman's war and so on.[21]

And so "Mr. Truman's War" joined the long procession started by "Mr. Madison's War." What is noteworthy about both of Acheson's versions is his lightmindedness about constitutional requirements. His only concern seems to have been expediency. A president decided on a war and then decided against going to Congress for authorization because he had already decided without it. In 1951, Acheson also made the first assertion that Congress could not interfere with the president in his use of the armed forces "in carrying out the broad foreign policy of the United States."[22] This was a radical perversion of the original understanding that the president could use the armed forces only as Congress directed, unless the country was suddenly attacked.

Mercifully, Acheson made no attempt to hide behind the UN. The fighting was done

overwhelmingly by US forces under US command, acting in the name of the UN, not by the UN. About 85 percent of the non-Korean troops came from the United States. The UN merely designated the United States as its surrogate—a critical departure from the original intent of Articles 46 and 47 to make the Security Council and its use of force against acts of aggression.[23]

Any resort to the UN to justify a US war runs up against the original bill passed by Congress to implement the UN Charter. Section 6 to this bill authorized the president to negotiate a special agreement with the Security Council, *subject to the approval of Congress*, providing for the exact numbers and types of armed forces to be made available on behalf of a UN action. It went on to say that the president did not need to get the authorization of Congress, provided that the only forces used were those already authorized by Congress.[24] As Edward S. Corwin put it, "American implementation of the Charter and hence its ultimately binding interpretation for the United States is based on *the national legislative power*, not on the treaty-making power or on presidential prerogative."[25]

Yet the Korean war seems to have served as a precedent for presidential prerogative in the Gulf War. If we may trust Bob Woodward, who gives a highly circumstantial account of a meeting in the Cabinet Room on January 8, 1991, the Deputy Attorney General William P. Barr told President Bush: "The situation most closely resembling the current crisis was the Korean War, when Truman acted without Congress under a United Nations resolution somewhat similar to the current one."[26] This report reads as if Woodward had access to a detailed account of the meeting.

As Brian Urquhart, the distinguished former UN Under Secretary-General, pointed out, Resolution 678 of November 28, 1990, "went further down this divergent road" by authorizing member states to use force against Iraq after January 15, 1991. Urquhart explained the increased divergence by forty years of cold war, which had prevented agreement on how to carry out the provisions of the Charter.[27] Whatever the sins of the past, an opportunity was missed to live up to the plain language of Article 47, Section 3, to make the Military Staff Committee responsible "for the strategic direction of any armed forces placed at the disposal of the Security Council." In both the Korean and Gulf wars, the UN adapted itself to the United States, not the United States to the UN.

Bush moved against Iraq by proclaiming a general doctrine against the use of force to change borders, whatever the circumstances. This Bush doctrine uncannily resembles the Truman doctrine in the way it converts a single, concrete case Greece for Truman, Kuwait for Bush into an all-purpose recipe to be applied everywhere in the world.[28]

4.

It is not as if serious thought has not been given to the questions raised by this history. Constitutional scholars have pondered them for generations. Two recently published studies continue the tradition and have much to teach us on these very matters in dispute.

Does the president have the constitutional right to take the country into war without a declaration by Congress? Can he substitute a UN resolution for a congressional declaration? Where is it stated that the president has an "inherent right" to commit our forces to battle? In what sense can it be said that the president alone "makes" foreign policy?

Constitutionalism, Democracy, and Foreign Affairs is a magisterial essay by Louis Henkin, Professor Emeritus of Columbia University and the doyen of constitutional scholars. His book of no more than 125 pages, based on lectures delivered at the University of Michigan Law School in 1988, is the distillation of long service in the State Department and thirty years of academic life.

Henkin is not an optimist. He sadly notes the Iran-contra miasma; followed with pained incomprehension of the struggles of President and Congress over Nicaragua and her neighbors; heard the President and the Senate shout disagreement over presidential authority to interpret (reinterpret) the Anti-Ballistic Missile (ABM) Treaty; and watched the United States slip into the Persian Gulf and the Iran-Iraq War.

And concludes that the country has not verged on constitutional crisis, but few have been moved to declare that the constitutional arrangements for conducting the foreign affairs of the United States are worthy of celebration.

In view of other misgivings, he asks the critical question: "Is it time for a checkup and some rehabilitation" of the Constitution?

In the end, Henkin is a worried traditionalist or, as he might prefer, constitutionalist. He goes no further than to see a need for a "constitutional construction that will recommit us to the principles of constitutionalism with which we began and reflect the democracy we have become." Meanwhile, he ponders the problems that have arisen. One is the use made of the "Commander-in-Chief clause" to claim excessive war powers for the president.

During the ensuing two hundred years, Presidents have prominently and frequently claimed large powers by virtue of their constitutional designation as Commander in Chief. There is little support for such claims in text or original intent. Strictly, "the President shall be Commander in Chief of the Army and Navy" is a designation, or assignment, not a grant of power (though some powers may be necessarily implied in the function). . . . The evidence is that in the framers' contemplation, the armed forces would be under the command of the President but at the disposition of Congress. Principally, the President would command the forces in wars declared by Congress. As an exception, the framers agreed to leave to the executive "the power to repel sudden attacks"; authorization by Congress might not be possible to obtain promptly, or at all, and could be assumed. There is no evidence that the Framers contemplated any significant independent role—or authority—for the President as Commander in Chief when there was no war. . . . The President's designation as Commander in Chief, then, appears to have implied no substantive authority to use the armed forces, whether for war (unless the United States were suddenly attacked) or for peacetime purposes, except as Congress directed.

Yet, of all the foreign affairs functions given to the president in the Constitution, the only one that conceivably implies any war powers is the "Commander-in-Chief clause."[29] Presidents have made wars all but inevitable by using this clause, as in the recent case of President Bush, who ordered hundreds of thousands of the armed forces to a theater of war on his own authority, giving Congress little choice but to leave the forces stranded in the Saudi desert or go along with the President's action.

Henkin does not approve of this presidential tactic of cornering Congress into approving what has already been done:

"The President has acquired authority to use the forces that Congress puts at his command for foreign policy purposes. But the Constitution clearly denies him the power to initiate war and therefore must deny him authority to do what is likely to bring us into war."

He recognizes that a long transition favoring the presidency enabled Bush to do what was likely to bring us into war:

"As our Presidents' 'foreign relations power' took root and grew, they found themselves wearing two hats. In limited, uncertain steps the President as Commander in Chief began to carry out what the President as foreign affairs executive determined. In time, precedents accumulated and Presidents gained confidence and claimed more authority. Beginning early and continuing to this day, in several hundred instances of varying scope and significance. Presidents have deployed the armed forces of the United States for foreign policy purposes determined by the President on his own authority."

Henkin does not exempt Congress from responsibility for this de facto perversion of the Framers' intentions. This is one case in which "original intent" backfires on its presidential proponents.

Congress contributed to the steady growth of presidential power. Congress early recognized and confirmed the President's control of day-to-day foreign intercourse, and the resulting monopoly of information and experience promoted presidential claims of expertise and a congressional sense of inadequacy. Congress generally acquiesced even in the President's deployment of forces, and the Senate in his executive agreements. Later, a growing practice of informal consultations between the President and congressional leaders disarmed them as well as members of Congress generally and helped to confirm presidential authority to act without formal congressional participation. . . . It has sometimes been asserted, and even assumed, that the President himself can determine the foreign policy of the United States, can communicate that policy as "the executive," and can enforce it as Commander in Chief.[30]

Thus Henkin is caught in a familiar dilemma. He can find no constitutional warrant for presidents refusing to accept congressional legislation in the field of foreign affairs, as Nixon and his successors have done by refusing to abide by the War Powers Resolution of 1973, the single most important effort by Congress to prevent presidents from ignoring it.

History supports few limitations on the power of Congress in foreign affairs other than the Bill of Rights, and history gives no support for any presidential authority to flout congressional legislation in the matters we are addressing. The President would have to find foreign affairs and Commander in Chief powers that give the President power exclusive of Congress, and there is little basis for that in text, original intent, or history.

He believes that we cannot constitutionally grant undefined, uncircumscribed, unchecked, unbalanced, "plenary" powers to the president in foreign affairs:

"Constitutionalism implies limited government. For our subject, that means that the Constitution should be expounded so that there can be no extraconstitutional government, that, in principle and in effect, no activity of government is exempt from con-

stitutional restraints, not even foreign affairs: government cannot exercise unlimited authority in any large area—not even in foreign affairs. . . . For us, as for the framers, no branch of government has authority that is so large as to be essentially undefined and uncircumscribed, that is 'plenary,' that is not checked, not balanced, not even the President, not even in foreign affairs. . . . Constitutionalism is not mesmerized by invocations of efficiency, by extravagant claims of 'necessity' (even when clothed in irresistible formulae, such as 'national security,' 'national interest,' or raison d'etat)."

For Henkin the Constitution of the Framers is still very much alive if not altogether well. He makes this confession of faith in the critical sphere of war powers:

"Consider the authority to use force—the perennial and paramount constitutional issue. The Constitution gave the decision as to whether to put the country into war to Congress; the farmers intended for the President only the power to defend the United States if this country were suddenly attacked. That division still seems wise and responsive to popular wishes—the basis of authentic democracy. It is not a power that Congress should delegate."

Wise it may still be, but whether it is responsive to popular wishes is more doubtful. If the people understood what the Constitution requires—that the president's only individual war power is to defend the country if it is suddenly attacked—and felt deeply enough about it, presidents could not get away so easily with doing what Henkin rejects—undefined, uncircumscribed, unchecked, and unbalanced power "to do what is likely to bring us into war."

Wishful thinking may also vitiate the guidance with which Henkin comes closest to a positive solution to the problem:

"In the end, I see no need for amendment or radical reconstruction of the Constitution as regards foreign affairs in particular. The checks and balances intended by the farmers and—in my view—justified by our history . . . can be assured under our contemporary constitutional jurisprudence, as I see it. The responsibility for maintaining them lies with both political branches, but it is ultimately in the hands of Congress. . . . Only Congress can assure both checks and balances and democracy in foreign affairs."

It may be true that only Congress can assure these ends. The trouble is that over the years Congress has given little assurance that it is able and willing to carry out its responsibilities. It wakes up from time to time, usually doing too little too late, only to slip back into vacillation and opportunism. Advocates of presidential power like to point out that presidents have all the advantages in the formation and execution of foreign policy. That is only too true, and presidents have taken full advantage of it. As long as presidents greedily grasp at as much power at they can get, and Congress meekly or belatedly acquiesces, the balance and separation of power presupposed in the Constitution will be no more than a fond memory or a political mirage.

Henkin's book is the testament of a scholar who has thought long and deeply about our constitutional predicament. Its moderate tone cannot hide a troubled mind. Nothing in his work justifies the tactics that have again landed us in a presidential war.

5.

The author of another recent study, Constitutional Diplomacy, has the distinction of having been challenged by two administration lawyers. He is Michael J. Glennon, Professor of Law at the University of California, Davis, School of Law. His book also contains a valuable foreword by former senator J. William Fulbright on the skullduggery that went into the Tonkin Gulf Resolution and how it changed his view "about the role of Congress and the courts in our constitutional scheme."

Glennon's work is a formidably detailed, scholarly examination of the relationship between the president and Congress in diplomacy and foreign policy. Like Henkin, Glennon believes that "the Constitution gives Congress important responsibilities in foreign-policy decision making and that it gives the Courts the responsibility of resolving disputes between Congress and the President concerning the power to make foreign policy." Constitutional Diplomacy is really an extended dissertation of these two propositions.

It is instructive to compare what President Bush said at Princeton about his "inherent power to commit our forces to battle after the UN resolution" and what Glennon tells us about this alleged power. Glennon asks the critical question: Can a treaty grant the president war-making power beyond what he would otherwise possess without it?

Glennon finds the answer in a fundamental principle, enunciated by Justice Black for the Supreme Court in 1954—that treaty makers must "act in accordance with all the limitations imposed by the Constitution." This rule was restated in a report of the Senate Foreign Relations Committee in 1979—that mutual-security treaties do not change the distribution of power within the United States government, which is "precisely what it would have been in the absence of the treaty, and that the United States reserves the right to determine for itself what military action, if any, is appropriate." In effect, since the Constitution explicitly says that only Congress can declare war, no treaty can abrogate that responsibility or enable the president to claim an "inherent right" other than what he would possess if there were no treaty.

Glennon devotes a chapter to the ramifications of this subject. In the case of the UN, he confirms what we have already noted: "A statute governing United States involvement in the United Nations, the United Nations Participation Act [1945], was ultimately enacted requiring congressional approval of such an agreement"—that is, to use armed force to carry out a decision of the Security Council. The same principle was adopted at the time of the NATO treaty. In 1949, Secretary Acheson gave assurances that the treaty "does not mean that the United States would be automatically at war if one of the nations covered by the pact is subjected to armed attack. Under our constitution, the Congress alone has the power to declare war." This rule has now been undermined by President Bush.

Glennon sums up that these treaties, including the UN treaty, committed the United States "to judge whether an armed attack actually occurred, to asses whether the attack was provoked, to determine whether a military response is the most propitious, to consider all the factors that go into an evaluation of which action is most appropriate." But the judgment must be made by the United States in conformity with its traditional constitutional processes, which do not give any other body the prerogative to override the responsibility of Congress to authorize a war or the president any "inherent power to commit our forces to battle" as a result of any other body's resolution.

The challenge by the administration's lawyers came in response to an article by Glennon in the Spring 1991 issue of Foreign Affairs in which Glennon examined President Bush's actions in the Gulf War.

In this article, Glennon traced the administration's road to war. It begin, he pointed out, when Secretary of Defense Dick Cheney announced on August 7, 1990, over the five months before the beginning of hostilities, that the United States was committed to the defense of Saudi Arabia in the event of an attack by Iraq. This commitment was solely an executive agreement, more sweeping than previous mutual-security treaties, none of which had contained an absolute commitment to go to war. When the chairman of the Senate Intelligence Committee, David Boren, was asked on September 12 whether the President should have consulted Congress before sending troops to the Gulf, Boren replied: "No, I think the President should be supported on that point." So much for Congress's safekeeping of its constitutional responsibility.

Congress was mute until, on November 8, President Bush increased the number of US troops in Saudi Arabia to about half a million. Only then did congressional questions arise whether the President had the authority to commit the nation's forces to war without congressional approval. On December 6, Secretary Baker conceded that the UN resolution had merely authorized the use of force against Iraq but did not oblige the United States to take such action. If so, it remained for the constitutional processes of the American government to work themselves out before the UN resolution could be acted on.

Whatever the president's war powers may be, Glennon observes, they cannot be construed in such a way that the Framers are made to "play the neat trick of giving Congress a war power that is really no power at all." Whatever Congress's power to declare war may be, it cannot be nothing. Advocacy of a presidential monopoly is like a prestidigitator's trick to make Congress's power disappear.

Not that Glennon evinces much respect for Congress. No vote is more career threatening than a vote for or against war. The most advantageous political posture was thus for members to position themselves to criticize the president if the gulf policy failed and to join in the praise if it succeeded. As Senator Mark Hatfield (R-Oreg.) put it, Congress was "cheering with one hand and sitting on the other." If this seemed cynical, it was. Yet it was no less cynical than the suggestion that Congress had any real choice to approve or disapprove war after more than 400,000 troops were already placed in the Saudi desert.

Bob Dole was the quintessential senator. On December 30, 1990, he said that returning the emir of Kuwait to power "wasn't worth one American life." Two weeks later, he led the effort to use US troops to return the emir of Kuwait to power.

One of Glennon's statements evidently annoyed the administration the most:

"Starting from President Bush's unilateral commitment to defend Saudi Arabia and proceeding to Congress' jury-rigged approval, the episode represented a textbook example of how an audacious executive, acquiescent legislature and deferential judiciary have pushed the Constitution's system of separation of powers steadily backwards toward the monopolistic system of King George III."

This sentence was chosen to show the error of Glennon's ways by two administration lawyers, David P. Rivkin, Jr., and Lee A.

Casey, associate general counsel and deputy associate general counsel respectively of the US Department of Energy. They replied to Glennon in the Summer 1991 issue of Foreign Affairs.[31]

Rivkin and Casey's first complaint turns on the difference between the power to "make" and "declare" war. They contend: "A strong case can be made that the Framers granted the power to declare war to Congress principally to control the domestic consequences of the use of military force, rather than to avoid foreign entanglements." They do not make a strong case for this view or any kind of case. Yet they make it seem that the "control of domestic consequences" was the real reason the Constitution gave Congress the sole power "to declare War."

It is an elementary mistake. In an early draft, Congress was empowered "to make war." An amendment was jointly introduced by James Madison and Elbridge Gerry to substitute "declare" for "make" in order to "leave the Executive the power to repel sudden attacks."[32] This was the real reason for the change, not the spurious one offered by Rivkin and Casey.[33]

Next, Rivkin and Casey take up Glennon's assertion that the Bush administration compelled Congress to go along with its war policy against Iraq by taking measures which forced Congress's hand. At this point, the two offer a surprisingly hardboiled opinion of Congress, not unlike Glennon's:

"It is not that the tools granted to Congress by the Framers are ineffective, but that members of Congress lack the political will to employ them. In fact it is the very lack of Congress' political will that makes it imperative to act faithfully to the original meaning of the Constitution which, in the foreign area, gave Congress mostly post-hoc checks upon the executive power."

The first sentence should tell Congress what administration spokesmen really think of it. The contempt is merited, and Congress has brought it on itself, but it has nothing to do with constitutional requirements. The second sentence is another historical hoax. In foreign policy, the congressional powers "to regulate Commerce with foreign Nations," to "declare War," to "raise and support Armies," and to "provide and maintain a Navy" are very far from "post-hoc checks upon the executive power."

The second main objection of Rivkin and Casey turns on the War Powers Resolution. They state:

"We believe that the resolution's biggest flaw, and it has many, is that it allows Congress to tie the president's hands. The reason this has not happened so far is that succeeding presidents have refused to accept the resolution's constitutionality and, when deploying military forces abroad, have never 'started' its 60-day timeclock running. Professor Glennon, of course, would overturn this practice by letting the courts force the executive branch into invoking the resolution."

So now we know what is really at stake. Congress, it is held, can on no account "tie the president's hands." This means, in effect, that the president must be free to do anything he pleases. Checks and balances are meaningless if they must never "tie the president's hands"; the very term "checks" means that the president may be prevented by the other two branches from doing what he wants to do. This is not merely a criticism of a particular congressional resolution; it is an assault on the essence of the Constitution.

The War Powers Resolution of 1973 was Congress's vain effort to play even a subordinate role. It merely required the president to report any involvement of the United States in hostilities, or when imminent involvement was clearly indicated, to Congress within forty-eight hours and to terminate such involvement within sixty days after his report if Congress so directed by concurrent resolution. The real criticism of the War Powers Resolution is that it is so full of loopholes that presidents can easily get around it.

But presidents have taken even this token of congressional participation to be too much. Beginning with Nixon, they have simply brushed it off as unconstitutional and refused to have anything to do with it. One would imagine that a decision of unconstitutionality should be made by the courts, but they have habitually evaded their responsibility in this area by considering such issues to be a "political question." As for Congress, it has taken the presidential definance and judicial abdication lying down and let the War Powers Resolution fade away.

Still, Rivkin and Casey have unwittingly performed a useful service. They have sharpened the issue so much that it cannot be evaded: either the Constitution provides for checks and balances, in particular on the prerogative of the president to go to war, or it does not. If it does not, we are no longer living under the Constitution that we thought we had.

6.

An article, "The Lonely Superpower," by Charles Krauthammer in the July 29, 1991, issue of *The New Republic*, offers an opportunity to consider some aspects of the war that will always be associated with the name of George Bush.

Krauthammer is a breathless triumphalist. The world, he says, is now "unipolar." Only the United States counts as a great power. This unipolarity "became blindly clear this year when, with a prodigious act of will, the United States turned history in the Arabian peninsula."

But this celebration has its dark side. Isolationism. Krauthammer warns, is again rearing its ugly head. It used to be "left isolationism"; now it is "right isolationism." Russell Kirk made a speech in October 1988 attacking the "fanciful democratic globalism" of the neoconservatives. Pat Buchanan came out for an "America first" foreign policy and declared, "When this cold war is over, America should come home."

The larger threat, Krauthammer says, comes from "multilateralism" Fortunately, he explains, it was a myth in the Gulf War, which was merely an example of "pseudo-multilaterialism" It was pseudo because: "The United States recruited a ship here, rented a brigade there, bought (with skillfully deployed sticks and carrots) the necessary UN resolutions to give its action a multilateral sheen. The Gulf was no more a collective action than was Korea, still the classic case of pseudo-multilateralism."

But if the multilateralism of the Gulf War was so phony, why should we be worried about it? Krauthammer offers two reasons. One is that "we will mistake the illusion—world opinion, UN resolutions, professions of solidarity—for the real thing, which is American power. And that we will assume that if we dispense with the real thing, the illusion will get us where we mean to go. It will not."

But an illusion is an illusion; it generally lasts only so long as it does not come up against hard reality. If it should last much beyond that, it would tell us that there is so much wrong with the American people that the "real thing" is not very real.

Worse still, Krauthammer is sorely worried that multilaterialism may become a fetish as well as an illusion. He reasons:

"The ultimate problem with multilateralism is that if you take it seriously you gratuitously forfeit American freedom of action. You invite China and the Soviet Union, countries indifferent when not hostile to our interests, to have a decisive say and even a veto over our interests and those of our friends. Why should the preeminent power on the globe invite such a needless constraint on its action?"

This is strange anxiety for one who was so clairvoyant about the "pseudo-multilateralism" of the Gulf War. He did not take the alleged dangers of multilateralism seriously in this war; it is hard to see why it should be taken far more seriously next time. The United States was able to go to the UN because it was able to collect enough votes to do what it wanted to do anyway. UN permissiveness is a luxury, not a necessity. If the UN does not come across with the votes next time, the United States will not be so uninventive that it will lack reasons for doing what it wants to do. After all, the United States sent an armed force into Panama—a larger country than Kuwait—without a license from the UN.

Oddly, Krauthammer needs no lessons in how to ignore the U.N. As he points out, the United States acted unilaterally on behalf of the Kurds, after having let them down. Why the same thing could not happen again is his secret.

Krauthammer is both a cynic and an enthusiast. He is refreshingly cynical about the Gulf War's "pseudo-multilateralism."[34] He is equally cynical about Bush's "New World Order." When Bush says that "The quest for a new world order is, in part, a challenge to keep the dangers of disorder at bay," Krauthammer reads it to mean that "For Bush, the new world order is principally about order." Or, in other words, the new world order is really designed to prevent the old world order from changing—or changing in a manner that Bush disapproves of. But the enthusiast always breaks through in order to make the United States decide what, if anything, is going to change.

7.

Krauthammer's article raised questions about America's alleged decline and the nature of the Gulf War itself. To explode the "myth" of American decline, Krauthammer reaches back to the Korean war.

"Well, in 1950 the United States engaged in a war with North Korea. It lasted three years, cost 54,000 American lives, and ended in a draw. Forty-one years later the United States engaged in a war with Iraq, a country of comparable size. It lasted six weeks, cost 143 American lives, and ended in a rout."

The reason for the difficulty with North Korea, according to Krauthammer, is that it had "strategic depth," with China and the whole Communist world behind it. Saddam's Iraq had to face us alone.

If someone like Krauthammer can believe this, it is worth looking into. "Strategic depth" refers to extensive space, as in the case of the Soviet Union, which enjoys enormous strategic depth by virtue of its size, and permits Soviet armies to retreat, if necessary, far into the interior.

Even if Iraq had enjoyed the support of the Soviet Union or China, its war cannot be compared strategically with that of Korea. No one can believe that Soviet or Chinese forces would have intervened in Iraq the way Chinese forces intervened in Korea. Saddam's forces had as much "strategic

depth" in Iraq as the North Koreans had in Korea.

This wildly misused term falsifies the real nature of the Gulf War. The main difference between it and the Korean War is that the North Koreans fought fiercely and the Iraqs scarcely fought at all. In his interview with David Frost, General Norman Schwarzkopf stated that "they chose not to stay and fight; . . . they were not willing to fight." During the bombardment of the Iraqi roads, bridges, airfields, and other infrastructure for over a month, the Iraqi air force offered almost no resistance. The vaunted Republican Guard hardly fought at all. Nothing like this can be said of the North Koreans, who fought to the death with every weapon at their command and whether they were outnumbered or not.

The Gulf War ended in an Iraqi rout, but it was more a walkover than a war. It was not the "Mother of Battles," as Saddam blustered; it was more like the abortion of battles. If the "myth of American decline" is to be exploded by such a war, it is going to be a hardy myth until it is tested in different circumstances.

Something else is of greater importance. American decline is not predicated on the success of military power alone, especially against such an opponent. It is the disparity between accumulated military force and the deepening social and economic malignancies in the United States that presents the true threats of decline. Until the United States demonstrates the ability to confront and overcome its domestic disorders, it is premature to bury the myth of American decline.

The same issue of Foreign Affairs that contains the exchange between Rivkin-Casey and Glennon includes an article on "The Roots of American Power" by Robert D. Hormats, former assistant secretary of state for economic and business affairs. Hormats sees fit to ask these questions:

"Can an America whose cities are in some parts indistinguishable from Third World slums, and whose already large underclass continues to fall behind the rest of society, maintain the moral authority required for world leadership when so many nations and peoples see a better quality of life as their overriding goal?

"Can an America whose primary and secondary education system suffers from profound neglect, where the full economic potential of many of its citizens remains untapped, boost productivity and international competitiveness enough to remain a preeminent global economic power?

"Can an America that continues to pass its debts on to the next generation, and fails to provide it with adequate education or infrastructure avoid divisive intergenerational tensions that weaken its international resolve?

"Can an America in which large numbers of blacks and other minorities fall outside the productive economy and become alienated from mainstream society avoid the kind of social conflict that forces a country to turn inward? Can such an America provide an example to other nations tying to cope with their own racial heterogeneity, ethnic diversity and increased immigration?

"Can an America plagued by these internal conflicts generate the resources or domestic political consensus future leaders will require to play an effective global role? And if the United States is beset by such problems, will other nations have confidence in its long-term reliability as an ally or in its political staying power in global crises?"

These are inescapable questions. They hardly exhaust the dire problems the United States faces today. The signs of economic and social deterioration are beyond dispute; the real question is whether they are long-term or merely represent a short lapse. Bush and the Republicans are betting—or praying—that they are the latter; if they are wrong, their foreign policy will not be appreciated for long. In this respect, the Gulf War did not help; it tipped the economy into a recession, according to Michael I. Boskin, chairman of the President's Council of Economic Advisers.[35]

One form of presidential escapism from domestic problems is Bush's preference for foreign business. When he was asked what he liked best about his job, he revealingly answered "foreign affairs." One suspects that Bush's priorities flow in some part from the satisfaction he gets from dealing with other nations' leaders and the frustration he suffers every time he confronts a domestic predicament, for which there is never enough money or a realistic policy.

A difference of perspective helps to explain this preference. Internationally, the United States appears to be the only superpower, "at the apex of the international system," as Krauthammer enthusiastically puts it. But internally, the prospect is quite different. Domestic problems seem to be so intractable that the Bush administration has all but given up presenting a convincing program for dealing with them.

The disparity between the "apex of the international system" and the national base has already shown itself in different ways. It was naively revealed when President Reagan gratefully accepted a few million dollars from King Fahd of Saudi Arabia to support the President's favorite contras. It emerged again when the Bush administration, for the first time in American history, felt that it should or could not pay for a military operation and methodically solicited donations from other countries to offset the cost. To the "tin-cup diplomacy" of the Iran-contra affairs was added tin-cup war-making in the Gulf.

8.

Krauthammer also raises the question why the United States achieved such "an extraordinary military victory" in the Gulf and then "could not wait to get out and go home." His answer is that the United States is not sufficiently "imperially minded," as Britain and France were at their height.

It is highly questionable how extraordinary a military victory can be against an enemy who did not fight. We do not know why Saddam's forces gave way so easily after all his boasting, but that is by far the most striking aspect of this one-sided war rather than why the US-led forces scored such an easy victory. Against such an enemy, triumphalism is frivolous.

Still, the question remains: Why did such an ostensibly glorious victory end in so many ways ingloriously? The answer is not in whether the Bush administration was sufficiently imperially minded but in whether it was sufficiently politically minded.

Many of Clausewitz's insights are still as valid as they were more than a century-and-a-half ago. He might have been thinking of Saddam's Iraq when he wrote: "The defeated state often considers the outcome merely as a transitory evil for which a remedy may still be found in political conditions at some later day." But his most famous dictum is even more relevant: "War is merely the continuation of policy by other means."[36] Like any other, the Gulf War will have to justify itself politically, not by a clash of arms between wildly unequal forces.

Politically, three stages must be taken into account—before the war, during the war, and after the war. We do not yet have the full story of the prewar US policy vis-à vis Iraq, but there is no doubt that the Reagan and Bush administrations contributed to Saddam Hussein's power for years. It is not only clear that he was the beneficiary of US favor up to the very eve of the war but that a cover-up was attempted to hide the evidence, as in the case of Ambassador April C. Glaspie's last meeting with Saddam on July 25, 1990. We now know that she misled the Senate Foreign Relations Committee about it; far from having told Saddam off, she assured him that President Bush still wanted to please him."[37]

From what we now know, Bush's war aims went through a number of phases. On August 8, 1990, Bush wanted nothing more than "the immediate, unconditional and complete withdrawal of all Iraqi forces from Kuwait." But he abstained from committing American forces to military action to carry out this mission. In a second phase, the US war aim was expanded to protect Saudi Arabia from an Iraqi attack.

Still later, US war aims were again expanded. UN resolution 678 of November 29, 1990, was basically limited to the liberation of Kuwait. But Bush contributed war aims of his own. When he denounced Saddam as a Hitler, called on the people of Iraq to overthrow him, and put the United States behind a "new world order," they were war aims as much as the UN's. If Saddam was the Iraqi equivalent of Hitler, he could not be expected to survive the war. Woodward says that Bush signed a top-secret intelligence "finding" authorizing CIA covert actions to overthrow Saddam.[38]

The fixation on Saddam personally, by making Saddam's survival a test of the war's success, was another miscalculation. If Saddam survived. Bush lost: if Saddam fell, Bush won. So far Saddam has survived, with the result that he has blandly proclaimed a kind of victory. The gamble on Saddam's removal by his own retinue betrayed a misconception of the nature of his regime. If he went down, too many others beholden to him were almost certain to go down with him. A personal regime, such as Saddam had methodically fashioned, was most unlikely to be overthrown from the inside.

Saddam as Hitler will also haunt Security Council members. The implications of Bush's words were only too well understood in Iraq by the disaffected Kurds and Shi'ites.

Thus, there was a one-dimensional UN war aim and there were multidimensional US war aims. The defense of Saudi Arabia, the overthrow of Saddam Hussein, and the establishment of a "new world order" were clearly understood to be US war aims until the Kurdish-Shi'ite uprisings made Bush and his advisers change their minds.

On the fourth day of the ground offensive, it suddenly occurred to the administration's strategic thinkers that the downfall of Saddam Hussein threatened the unity of Iraq. General Schwarzkopf, as he later related, had expected to finish his "battle of annihilation," but President Bush "made the decision that, you know, we should stop at a given time, at a given place that did leave some escape routes open for them to get back out."[39] The British were also surprised at the sudden turn of events, but went along quietly.

The specter which moved Washington was the assumed threat to the unity of Iraq by

rebellious Kurds and Shi'ites, though both had been encouraged to rebel by the US and the former at least had asked for no more than autonomy. Their rising brought the order to Schwarzkopf to stop his offensive and let Saddam's remaining forces escape from his nut-cracker attack. These forces were permitted to get away with enough tanks and aircraft to put down the Kurdish and Shi'ite rebellions without mercy. In effect, the United States saved Saddam Hussein's regime in order to prevent the feared disintegration of Iraq and a radically changed balance of power in the region.

The new strategy was an improvisation, based on a miscalculation. The United States had been deliberately waging a personal vendetta against Saddam Hussein; it was designed to separate him from the Iraqi army and the Baath Party, which were expected to get rid of him as soon as they saw that his cause was hopeless. If he was a Hitler, as Bush said, it would have been as if we had wanted the German Army and the Nazi party to overthrow the Führer and take charge of the country in his stead.

Saddam become a Hitler? On the day he invaded Kuwait? Otherwise, how can their deliberate policy of arming Saddam's Iraq to the hilt—$40 billion worth of weapons on credit!—be explained? This embarrassing prewar arms policy was energetically practiced by France, the Soviet Union, Germany, Great Britain, the United States, China, and Italy as if they were building up Saddam for just the expansion of his power that enabled him to behave as if he were an imitation Hitler.[40] One would imagine that these countries were suffering from advanced amnesia to judge from the attention which they have paid to their own recent largesse to Saddam.

When Bush was confronted with the realization that the Iraqi army and the Baath party had no intention of sacrificing Saddam and that the Kurdish-Shi'ite rebellions might lead to a break of the Iraqi state, he abruptly changed course. Saddam was now our de facto ally to hold Iraq together. Even this extemporized arrangement could not be maintained as protests rose, and US forces went into northern Iraq—only to go out again.

By this time, Bush must have been sorry that he had ever raised expectations of a deposed Saddam. To cover up this indiscretion, the official US war aim was reduced to the UN resolution to liberate Kuwait. But wars are not one-dimensional. They are multidimensional and must be judged on the basis of the totality of their causes and consequences. The liberation of Kuwait cannot be separated from how Kuwait emerged from it and what the Sabah dynasty has in store for it. The fate of the Kurds and Shi'ites is just as much a part of this war as that of Kuwait. An air war which destroyed much of the Iraqi infrastructure on which civil life depends was just as deadly as a policy of deliberately aiming to kill civilians.

We cannot as yet make a full estimate of what this war entailed. It is too early to see the prewar, war, and post-war phases in perspective. But it is not too early to see why the United States "could not wait to get out and go home." The essential reason is that the United States set off a chain of political consequences with which it was incapable of dealing. The ease of the military victory was a surprise, and everything else that followed from it was even more of a surprise. Yet wars cannot be judged by reducing them to a single objective or by ruling out all the miscalculations and surprises that went into them.

Bush's "new world order" suggests that he was far-reaching, if vacuous, intentions for the region and the world. His slogan represents some kind of imperial ambition, if without an imperial vision; imperial-mindedness takes different forms and uses different means in different times and conditions. The trouble is that Bush could not have both "new" and "order." If the world is going to be new, the change is not likely to be orderly, and if he is going to restore order, the world is not going to be new. Whatever the slogan is supposed to mean, it does not exempt the United States from responsibility for the aftermath of the war. When Bush fled from this responsibility, it was because he was less politically minded than "imperially minded." He came to a political dead end and did not know how to finish what he had started.

Nevertheless, the United States has taken on responsibilities in the Gulf region which will severely tax its imperial-mindedness and political-mindedness. The country which prides itself on being the greatest democracy in the world has become the protector of some of the most undemocratic die-hard, caste-conscious, otiose monarchies in the world. This, too, is part of the gulf War. Kuwait is not the only miniature Gulf state coveted by a neighbor. Egypt and Syria would benefit enormously if they could get some of that oil money flowing into the emirates. Bahrain has long been claimed by Iran, and two empty seats in the Iranian parliament are reserved for representatives from the present emirate.[41] Anyone who thinks that very much in the region was settled by the Gulf War desperately needs to wake up.

9.

The Gulf War was another presidential war. It was no less a presidential war by virtue of a congressional authorization which Bush has insisted he did not need.

The heart of the constitutional issue is whether one man alone, the president, can decide to take the country into war and maneuver Congress into putting its seal of approval on what he has all but predetermined. At stake is nothing less than whether the Constitution is to function as a living guide—instead of a historical relic, nice to have around but convenient to disregard.

Over the decades and centuries, the Constitution has shown amazing resiliency and adaptability. Nevertheless, in the crucial matter of war powers, ways have been found to make it little more than a dead letter. Administration lawyers ominously warn us that we cannot "tie the President's hands," as if this were not the express purpose of checks and balances in the Constitution. To leave the President's hands completely untied in any sphere of policy is to do violence to the fundamental principles which have guided this nation for all of its existence.

Yet checks and balances have not worked well for almost half this century. The executive branch has become so vast in numbers and so laden with responsibilities that it has come to live a virtually autonomous existence in which its first loyalty is to itself. The officials who managed the Iran-contra affairs did not consider themselves responsible to anyone but themselves or their immediate superiors. When former Secretary of Defense Caspar W. Weinberger said that they were "people with their own agenda," he was describing an attitude that extends far beyond Oliver L. North or John M. Poindexter. The president, situated atop this huge bureaucracy, sets the example of governing by "his own agenda," at least in foreign policy.

Yet for those who are disturbed by this state of affairs, as I am, the way out is not easy or obvious. It has gone on for so long, presidents are determined to prolong it and have battalions of lawyers to rationalize it, Congress has been so neglectful, that the obstacles to change seem to be insuperable. That presidential wars represent a perversion of the Constitution is, in my view, undeniable. Scholars of the authority of Louis Henkin and Michael J. Glennon demonstrate that foreign policy is not a presidential monopoly and Congress has an important role to play in it. But constitutional exegesis has done little to hold back the presidential juggernaut. Something else is needed.

Since we are getting so much inspiration from Madison these days, we might turn to him for an analysis of just this problem. In a letter to Jefferson in 1798, he wrote:

"The management of foreign relations appears to be the most susceptible of abuse of all trusts committed to a Government, because they can be concealed or disclosed, or disclosed in such parts and at such times as will best suit particular views; and because the body of people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other."[42]

In the first part of this sentence, Madison might have been alluding to the way the State Department manipulated the testimony about the Glaspie-Saddam meeting on July 25, 1990. But the second part of this sentence is crucial to an understanding of both the problem and its possible resolution. The heart of the matter, Madison seems to be telling us, is that the problem will be with us and get worse all the time so long as presidents can manipulate the prejudices of the body of people, so that they cheer him whenever he takes the country into war.

The Gulf War benefited from a popular need to exorcise the failed presidental wars in Korea and Vietnam. The victory was all the more welcome because it was so cheap and easy. Yet cheap and easy wars are not to be had except in exceptional circumstances. Korea and Vietnam, where the enemy fought bitterly, were far more the norm of what the cost of wars may be. If the Gulf War lures us into wars ostensibly on the cheap, it may yet be the costlier war of all.

The so-called "rally round the flag effect" notoriously works for presidents. It has even been found that presidents are more likely to win congressional approval on key international issues in the month following the use of military force. Before President Johnson sent troops to Vietnam after the Tonkin Gulf incident, 42 percent said that they supported involvement in Vietnam; soon afterward, the figure went up to 72 percent. Before Nixon ordered the bombing of Cambodia, only 7 percent thought it was a good idea; afterward, 50 percent approved. In the end, Truman, Johnson, and Nixon were hurt by their wars, but not until they had lasted too long and had cost too much.[43]

In this sense, the Gulf engagement was the ideal presidential war; it was almost absurdly short and exacted a minimum of casualties. This hollowest of American military victories brought on an orgy of self-congratulation. So long as public opinion responds to such a war as a test of American manhood and an occasion for patriotic intoxication, presidents are not likely to be dissuaded or Congress impressed by constitutional arguments.

In the end, voters must decide whether they want presidents to make wars. For those who do not want an autocratic presi-

dent in this sphere above all others, it is more than ever necessary to clarify the issues, to purge our history of self-serving myths and distortions, to show why constitutional processes deserve to be lived up to in foreign as well as domestic affairs. But presidents and Congress are more likely to respond to an aroused public opinion than to the best of constitutional authorities. Until the voters get tired to these wars, they are not about to go away.

The tragedy will be if we have to have one war too many before we learn that presidential wars are both undesirable and unconstitutional.

FOOTNOTES

[1] I count the Gulf War on the ground that using about a half million troops cannot be considered a small operation.

[2] As Professor Michael J. Glennon points out, nearly all two hundreds cases involved "fights with pirates, clashes with cattle rustlers, trivial engagements and other minor uses of force not directed at significant adversaries, or risking substantial casualties or large scale hostilities over a prolonged duration." *Foreign Affairs* (Spring 1991), p. 90.

[3] *The Federalist*, edited by Jacob E. Cooke (Wesleyan University Press, 1961), p. 333.

[4] *The Federalists*, p. 324.

[5] Irving Brant, *James Madison: Secretary of State, 1800–1809* (Bobbs-Merrill, 1953), pp. 48–49.

[6] First Annual Message, December 8, 1801, *A Compilation of the Messages and Papers of the Presidents*, James D. Richardson, editor (Washington, 1898), Vol. I, pp. 326–327.

[7] *The Papers of Alexander Hamilton*, Harold C. Syrett, editor (Columbia University Press, 1977), p. 454. Italics in original.

[8] Irving Brant, *James Madison: Commander in Chief, 1812–1836* (Bobbs Merrill, 1961), p. 20.

[9] Drew R. McCoy, *The Last of the Fathers* (Cambridge University Press 1989), p. 16.

[10] Samuel Eliot Morison, *The Oxford History of the American People* (Oxford University Press, 1965), p. 558.

[11] Albert Gallatin, *Peace With Mexico (1847), reprinted in The Writings of Albert Gallatin*, Henry Adams, editor (Lippincott, 1879), Vol. III, p. 583.

[12] Speech of January 12, 1848, House of Representatives, *The Collected Works of Abraham Lincoln*, Roy P. Basler, editor (Rutgers University Press, 1953), Vol. I, p. 432.

[13] See the discussion of Lincoln's action in William M. Goldsmith, *The Growth of Presidential Power* (Chelsea House 1983), Vol. II, pp. 327–333.

[14] William James to W.C. Forbes, June 11, 1907, *The Letters of William James*, Henry James, editor (Atlantic Monthly Press, 1920), Vol. II, p. 289. James was only one of those who prominently opposed the war in 1898; See Robert L. Beisner, *Twelve Against Empire: The Anti-Imperialists of 1898–1900* (McGraw-Hill, 1968).

[15] *Congressional Record*, June 28, 1950, p. 9323. Taft also said that he would have voted for a joint resolution approving Truman's actions.

[16] *Congressional Record*, January 22, 1951, p. 537.

[17] Glenn D. Paige, *The Korean Decision* (Free Press, 1968), pp. 218–219. A Democrat. Senator Paul Douglas of Illinois, cited among other executive actions. Jefferson and the Barbary pirates and Polk's move against Mexico in 1946 in justification for Truman's Korean policy (*Congressional Record*, July 5, 1950, p. 9648).

[18] Harry S. Truman, *Years of Trial and Hope* (Doubleday, 1956), p. 388.

[19] Harry S. Truman, *Truman Speaks* (Columbia University Press. 1980). p. 7.

[20] David S. McClellan, *Dean Acheson* (Dodd Mead. 1976), pp. 275, 281–282.

[21] Merle Miller, *Plain Speaking* (Berkley Publishing Corp., 1973), pp. 280–284.

[22] US Congress, Senate, Report No. 797, 90th Congress, 1st Session (1967). p. 17, cited by Edward Keynes, *Undeclared War* (Pennsylvania State University Press, 1982), p. 2.

[23] This point was made by Brian Urquhart, "Learning from the Gulf," *The New York Review of Books*, March 7, 1991, p. 34.

[24] *Congressional Record*, Senate, June 28, 1950, p. 9323.

[25] Edward S. Corwin, *The President* (New York University Press, 4th revised [last] edition, 1957), p. 221. Italics in original.

[26] Bob Woodward, *The Commanders* (Simon and Schuster, 1991), p. 357.

[27] Brian Urquhart, *The New York Review of Books*, March 7, 1991, pp. 34–35.

[28] Presidents have taken to announcing "doctrines" in the most slipshod, arbitrary fashion. The "Carter Doctrine"—that the United States was going to fight if necessary to prevent an outside power from taking control of the Persian Gulf area—was drafted by a few officials without any staff studies or discussion with Congress. Reagan suddenly stated in reply to a question at a press conference that the United States had a commitment to Saudi Arabia. Yet John H. Kelly, the present Assistant Secretary of State for Near Eastern and South Asian Affairs, testified that there are "no written records, no official record, establishing the commitments of the United States for the defense of any of the Gulf nations, including Kuwait and Saudi Arabia." After noting these aberrations. Charles William Maynes, the Assistant Secretary of State for International Organization Affairs in the Carter administration, observed: "I would contend that if we had had discussions with Congress or discussions between the executive branch and the Congress, we might have had some difficult and clarifying questions put to us. For example, the Congress might have asked what we were doing to implement a commitment, if we had one, to Kuwait or what our policy really was toward Iraq, if we had the commitment of these other States?" *Relations in a Multipolar World*, Hearings before the Committee on Foreign Relations, Senate (November 26, 28, 30, 1990. Part I. p. 150).

[29] The only others are: to make treaties and appoint ambassadors, both with the advice and consent of the Senate. Congress is given far more such powers: to declare war; grant letters of marque and reprisal (contemporary terms for most naval warfare); make rules concerning captures on land and water; raise and support armies; provide and maintain a navy, make rules and regulations for land and naval forces; provide for organizing, arming, and disciplining the militia.

[30] In a footnote, Henkin sardonically comments: "Observers may have noticed that there has been little invocation of original intent in foreign affairs, surely not by the most vocal recent supporters of original intent in the executive branch."

[31] This letter reminded me of similar letters by the same David Rivkin, Jr., and another administration lawyer, Lawrence Block, who argued with me *The New York Review of Books* last year. See "The Constitution in Danger: An Exchange," [*NYR*, May 17 and August 16, 1990].

[32] *The Records of the Federal Convention of 1787*, Max Farrand, editor (Yale University Press, revised edition, 1937), pp. 318–319.

[33] In his original article, Glennon had already explained why the change had been made from "make" to "declare" (*Foreign Affairs*, Spring 1991, pp. 86–87). The historical background is carefully examined by Edward Keynes in *Undeclared War* (Pennsylvania State University Press, 1982), pp. 34–38. Keynes concludes: "The decision to engage the nation in offensive hostilities or limited war is a congressional decision."

[34] Krauthammer is cynical enough to believe that the American people want to be hoodwinked: "But Americans insist on the multilateral pretense. . . . In the Gulf, for example, the Kuwait policy commanded support when presented not as an issue of oil and jobs but as a war of liberation."

[35] Leonard Silk, *The New York Times*, August 16, 1991.

[36] Carl von Clausewitz, *On War*, edited and translated by Michael Howard and Peter Paret (original German edition, 1832; Princeton University Press, 1984), p. 80, 87. The second quotation, in its usual form, is taken from the heading; the original wording is: "We see, therefore, that war is not merely an act of policy but a true political instrument, a continuation of political intercourse, carried on by other means."

[37] Ambassador resumed her theme, recalling that the President had instructed her to broaden and deepen our relations with Iraq. Saddam had referred to some circles' antipathetic to that aim. Such circles certainly existed, but the U.S. Administration is instructed by the President. On the other hand, the President does not control the American press; if he did, criticism of the administration would not exist" (Cablegram from Ambassador Glaspie to Secretary of State James A. Baker III, July 25, 1990).

[38] Woodward, *The Commanders*, p. 276. This and other allegations certainly merit a congressional investigation into the events leading to the war—the only way we are likely to find out what really happened.

[39] Interview with David Frost, March 27, 1991. Later, a dispute arose whether Schwarzkopf had disagreed with Bush's order to permit the rest of the Iraqi army to escape. But this was a subsidiary issue; there was no dispute about the substance of the order.

[40] See the valuable article, "The Arming of Saddam Hussein" by Fredric P. Smoler, *Dissent* (Summer, 1991). Smoler recalls the memorable lines of *The Resistible Rise of Arturo Ui:*

This is the thing that almost had us mastered
do not rejoice in his defeat you men
for though the world stood up and stopped the bastard
the bitch that bore him is in heat again.

[41] I am indebted here to Jean-Patrick Voudenay, "Les monarchies arabes sous protectorat US." *Le Monde*, August 5, 1991.

[42] Madison to Jefferson, May 13, 1798, *Letters and Other Writings of James Madison* (Lippincott, 1865), Vol. II, p. 141.

[43] Bruce Russett, *Controlling the Sword* (Harvard University Press, 1990), pp. 34, 37–38, 47.

COMMENDING PRESIDENT BUSH ON HIS U.N. SPEECH TO REPEAL RESOLUTION 3379

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, I did not want to let this occasion pass without commending the President of the United States for his remarks as they related to the U.N. resolution that was passed by the General Assembly in 1975, Resolution 3379.

The United Nations celebrated its 46th anniversary of its charter on June 26 of this year. Article 1 of the United Nations charter establishes the United Nations as a center for harmonizing the actions of nations.

On November 10 of this year, 16 years will have passed since the adoption of the United Nations General Assembly Resolution 3379 which formally declared Zionism to be a form of racism and racial discrimination. Zionism is a national movement of the Jewish people for self-determination, a legitimate and a moral aspiration characteristic of national groups in the modern world. And if there was ever any sense or feeling or example of that, it clearly has been demonstrated over the last 4 or 5 years, but particularly over the last several months with the explosion of the identity of national republics and peoples throughout what was formerly known as the Soviet Union.

The United Nations General Assembly Resolution 3379 has had as its overt purpose the delegitimization of the State of Israel. United Nations General Assembly Resolution 3379 has impeded the struggle against real forms of racial bigotry and had the incendiary effect of stimulating and encouraging anti-Semitism.

□ 1350

So I was very pleased to have watched the President just a few moments ago as he addressed the United Nations asking them to repeal this terrible act which was passed in a different time, under a different coalition.

The time for peace is ripe in the Midwest as it has been ripe for peace in many other areas of the world, and where we are seeing progress toward peace in regional conflicts throughout the world. Repealing this resolution, which has inflamed the worst in people, will be a positive step in moving in the direction of bringing together the peoples of the Middle East, the Israelis and their Arab neighbors and all of those who wish to live with dignity, with racial harmony, with peace in that most tortured part of the globe today.

Mr. Speaker, I commend the President, and I would say to my many Arab friends, and I have, I believe, many Arab friends, I would encourage them, I would implore them to use their influence to reach deep into their own souls and make the important leap, the important step toward peace by ridding the world community and the body which it so represents of this insidious resolution.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, on September 27.

Mr. GINGRICH, for 60 minutes, each day on October 7, 8, 9, 10, 11, 15, 16, 17, and 18.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. BACCHUS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONIOR, for 60 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. STEARNS) and to include extraneous matter:)

Mr. OXLEY.

Mr. LIVINGSTON.

Mr. MACHTLEY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. WAXMAN.

Mr. COLEMAN of Texas.

Mr. MARTINEZ.

Mr. STARK in three instances.

Mr. ANDERSON in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ in 10 instances.

Mr. KANJORSKI.

Mr. LUKEN.

Mr. MATSUI.

ADJOURNMENT

Mr. BONIOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 53 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 24, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2110. A letter from the Standards of Conduct Office, Department of Defense, transmitting a summary fiscal year report of a section omitted on the fiscal year 1990 Report of DOD and Defense Related Employment; to the Committee on Armed Services.

2111. A letter from the Assistant General Counsel, Department of Energy, transmitting notice of a meeting related to the International Energy Program by the Industry Advisory Board on September 26, 1991, at the Westin Hotel, Calgary, AB, Canada; to the Committee on Energy and Commerce.

2112. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under contract (Transmittal No. DTC-40-91, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

2113. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 91-44), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2114. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 91-45), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2115. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 91-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2116. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services (Transmittal No. 91-53), pursuant to 22 U.S.C. 2776(b); jointly, to the Committees on Foreign Affairs and Appropriations.

2117. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of delayed delivery of some of the defense articles covered in Presidential Determination 91-35 of May 26, 1991, pursuant to 22 U.S.C 2601(c)(3); jointly, to the Committees on Appropriations and Foreign Affairs.

2118. A letter from the Chairman, National Transportation Safety Board, transmitting a report on the Board's fiscal year 1993 budget, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

2119. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting Presidential Determination No. 91-53 relating to assistance to Jordan and a justification for the determination, pursuant to 22 U.S.C. 2601(c)(3); jointly, to the Committees on Foreign Affairs and Appropriations.

2120. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting a copy of the proposed Comprehensive Outer Continental Shelf [OCS] Natural Gas and Oil Resource Management Program for 1992-97; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2181. A bill to permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio; with an amendment (Rept. No. 102-211). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 363. A bill to authorize the addition of 15 acres to Morristown National Historical Park (Rept. No. 102-212). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. A report on the subdivision of budget totals for fiscal year 1992 (Rept. No. 102-213). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2370. A bill to expand the boundaries of Stones River National Battlefield, TN, and for other purposes; with an amendment (Rept. No. 102-214). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Pursuant to the order of the House on Sept. 17, 1991, the following report was filed on Sept. 20, 1991]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3300. A bill to enhance the financial safety and soundness of the Federal Agricultural Mortgage Corporation; with an amendment; referred to the Committee on Banking, Finance and Urban Affairs for a period ending not later than October 4, 1991 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(d), rule X (Rept. No. 102-210, Pt. 1). Ordered to be printed.

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. ENGLISH:

H.R. 3370. A bill to direct the Secretary of the Interior to carry out a study and make

recommendations to the Congress regarding the feasibility of establishing a native American cultural center in Oklahoma City, OK; to the Committee on Interior and Insular Affairs.

By Mr. BROOKS (for himself and Mr. SCHUMER):

H.R. 3371. A bill to control and prevent crime; to the Committee on the Judiciary.

By Mr. GORDON (for himself and Mrs. ROUKEMA):

H.R. 3372. A bill to amend the Higher Education Act of 1965 to revise the operation of the National Student Loan Data System; to the Committee on Education and Labor.

By Mr. BROOKS:

H. Con. Res. 206. Concurrent resolution to provide for the printing of the Constitution of the United States of America; to the Committee on House Administration.

By Mr. STEARNS (for himself, Mr. HENRY, Mr. FALEOMAVAEGA, Mr. TOWNS, Mr. EWING, Mr. FUSTER, Mr. LIGHTFOOT, Mr. SHAW, Mr. BENNETT, Mr. OXLEY, Mr. HORTON, Mr. IRELAND, Mrs. VUCANOVICH, Mr. SCHEUER, and Mr. MARTINEZ):

H. Con. Res. 207. Concurrent resolution commending the people of the Union of Soviet Socialist Republic and their democratically elected leaders for their continuing coverage and commitment to freedom; to the Committee on Foreign Affairs.

By Mr. ROBERTS:

H. Res. 224. Resolution requiring that check cashing at the Sergeant at Arms Bank of the House of Representatives be carried out in accordance with standard banking practices; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

278. THE SPEAKER presented a memorial of the House of Representatives of the State of Texas, relative to the Communications Competitiveness and Infrastructure Modernization Act of 1991; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 430: Mr. WEBER.

H.R. 606: Mr. HERGER.

H.R. 791: Mr. CONYERS.

H.R. 858: Mr. WHEAT.

H.R. 905: Mrs. VUCANOVICH.

H.R. 1188: Mr. PETERSON of Minnesota, Mr. DARDEN, Mr. TOWNS, Mr. PETRI, and Mr. BARNARD.

H.R. 1200: Mr. DURBIN, Mrs. VUCANOVICH, Mr. DERRICK, Mr. CRAMER, Mr. BEILENSON, Mr. RAY, Mr. RIDGE, Mr. SOLARZ, Mr. SPRATT, and Mr. BILIRAKIS.

H.R. 1389: Mr. ARMEY.

H.R. 1408: Mr. NEAL of North Carolina, Mr. ROHRABACHER, Mr. COX of California, and Mr. CAMPBELL of California.

H.R. 1414: Mr. WALKER and Mr. PETERSON of Florida.

H.R. 1426: Mr. NEAL of Massachusetts, Mr. RAVENEL, Mr. ABERCROMBIE.

H.R. 1429: Mr. HERGER and Mr. DORGAN of North Dakota.

H.R. 1456: Mr. JONES of Georgia.

H.R. 1472: Mr. HENRY, Mr. JOHNSTON of Florida, Mrs. LLOYD, Mr. SWETT, and Mr. GLICKMAN.

H.R. 1524: Mr. BORSKI, Mr. STUDDS, Mr. KANJORSKI, Mr. SHAYS, Mr. PERKINS, Mr. SWETT, Mr. DURBIN, Mr. MORAN, and Mr. SPRATT.

H.R. 1652: Mrs. NORTON, Mr. KOPETSKI, Mr. MCMILLAN of North Carolina, Mr. JEFFERSON, Mr. GEJDENSON, Mr. MAVROULES, Mr. WISE, Mr. EVANS, and Mr. FROST.

H.R. 1771: Mr. CAMP, Mr. CARR, Mr. HATCHER, Mr. KILDEE, Mr. MCDADE, and Ms. SNOWE.

H.R. 2086: Mr. BARNARD, Mrs. MORELLA, Mr. SIKORSKI, Mr. VOLKMER, Mr. ENGEL, Mr. KOLTER, Mr. MACHTLEY, Mr. JOHNSON of South Dakota, and Mr. RAHALL.

H.R. 2141: Mrs. UNSOELD, Mr. FROST, Mr. WILLIAMS, Mr. JEFFERSON, Mr. ROEMER, and Mr. NEAL of North Carolina.

H.R. 2248: Mr. DERRICK, Mr. SCHAEFER, Mr. MCCRERY, Mr. BACCHUS, Mr. DOWNEY, Mr. LAFALCE, Mr. SLATTERY, Mr. SOLOMON, and Mr. PETRI.

H.R. 2258: Mr. TORRES and Mr. WASHINGTON.

H.R. 2265: Mr. FEIGHAN and Mr. HALL of Ohio.

H.R. 2267: Mr. LEHMAN of Florida.

H.R. 2286: Mr. HERGER.

H.R. 2401: Mr. TALLON, Mr. BARRETT, Mr. BROWN, and Mr. EMERSON.

H.R. 2550: Mr. FRANKS of Connecticut, Mr. ESPY, Ms. KAPTUR, and Mr. BEREUTER.

H.R. 2768: Mr. BARNARD, Mr. GINGRICH, Mr. EMERSON, and Mr. JEFFERSON.

H.R. 2880: Mr. SANGMEISTER, Mr. FAZIO, and Mr. NEAL of North Carolina.

H.R. 2971: Mr. STEARNS.

H.R. 3049: Mr. HAMILTON.

H.R. 3070: Mr. DORGAN of North Dakota, Mr. COYNE, Mr. COX of Illinois, Mr. ACKERMAN, Mr. BROOKS, Mr. ANDREWS of Maine, Mr. KOSTMAYER, Mr. MCCANDLESS, Mr. BOUCHER, Mr. WHEAT, Mrs. KENNELLY, Mr. MACHTLEY, Mr. GILMAN, Mr. ROWLAND, Mr. TAYLOR of North Carolina, Ms. HORN, Mr. MCCRERY, Mr. ROE, Mr. PORTER, Mr. PETERSON of Minnesota, Mr. RUSSO, Mr. RAVENEL, Mr. LUKEN, Mr. MCDERMOTT, and Mr. KOPETSKI.

H.R. 3172: Mr. JEFFERSON, Mr. HORTON, and Mr. TOWNS.

H.R. 3222: Mr. BONIOR, Mr. HERTEL, Ms. WATERS, Mr. ESPY, Mr. JEFFERSON, Mr. EMERSON, Mr. GILLMOR, and Mr. SANDERS.

H.R. 3285: Mr. ESPY, Mr. GEJDENSON, Mr. GORDON, Mr. KOPETSKI, Mr. PETERSON of Minnesota, Mr. YATES, and Mr. NEAL of North Carolina.

H.R. 3296: Mrs. JOHNSON of Connecticut, Mr. FAWELL, Mr. LAGOMARSINO, Mr. HERTEL, Ms. SLAUGHTER of New York, Mr. KLECZKA, Mr. JONES of Georgia, Mr. BRUCE, Mr. HUGHES, Mr. LAFALCE, and Mr. MARTINEZ.

H.R. 3354: Mr. LAFALCE, Mr. LANCASTER, and Mr. FROST.

H.J. Res. 61: Mr. YOUNG of Florida.

H.J. Res. 67: Mr. PETRI, Mrs. COLLINS of Illinois, Mr. SHARP, Mr. MILLER of Ohio, Mr. GRANDY, Mr. LAUGHLIN, Mrs. UNSOELD, Mr. ATKINS, Mr. EVANS, Mr. CAMPBELL of Colorado, Mr. HALL of Texas, Mr. NAGLE, Mr. FLAKE, Mr. THOMAS of Georgia, Mr. FEIGHAN, Mrs. ROUKEMA, Mr. HOYER, Mr. DINGELL, Mr. ESPY, Mr. GINGRICH, Mr. SKEEN, Mr. BOUCHER, Mr. HANSEN, Mrs. LOWEY of New York, Mr. NATCHER, Mr. HAMILTON, Mr. CLINGER, Mr. SHUSTER, Mr. KLECZKA, and Mr. STALLINGS.

H.J. Res. 107: Mr. HOBSON.

H.J. Res. 175: Mr. PRICE, Mr. LIVINGSTON, Mr. BRUCE, Mr. FORD of Tennessee, Mr. PAYNE of New Jersey, Ms. DELAURO, Mr. SANDERS, Mr. SKELTON, Mr. MILLER of California, Mr. BERMAN, Mr. MAVROULES, Mr. ANDREWS of Maine, Mr. WHEAT, Mr. STUMP, Mrs. MORELLA, Mr. SUNDQUIST, Mr. OBERSTAR, Mrs. MINK, Mr. RAY, Mr. RHODES, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. SWETT, Mr. NAGLE, Mr. VISCLOSKY, Mr. PETRI, Mr. SPRATT, Mr. TAYLOR of North Carolina, Mr. ASPIN, Mr. TRAXLER, Mrs. PATTERSON, Mrs. COLLINS of Illinois, Mr. CRAMER, Mr. NUSSLE, Mr. FAZIO, Mr. ANNUNZIO, Mr. MRAZEK, and Mr. GOODLING.

H.J. Res. 177: Mrs. BENTLEY, Mr. PICKETT, Mr. GORDON, Mr. KOLTER, Mr. JEFFERSON, Mr. LEWIS of Georgia, Mr. COYNE, Mr. FASCELL, Mr. NEAL of North Carolina, Mr. YOUNG of Florida, Mr. SAVAGE, Mr. PAXON, Mr. ENGEL, Mr. ANNUNZIO, Mr. HERTEL, Mr. HATCHER, Mr. GALLO, Mr. EWING, and Mr. JACOBS.

H.J. Res. 227: Mr. MORRISON, Mr. COX of California, Mr. DICKS, Mr. DOOLITTLE, Mr. EWING, Mr. GUNDERSON, Mr. HOAGLAND, Mr. KOSTMAYER, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. OWENS of New York, Mr. PURSELL, Mr. MCCOLLUM, Mr. MORAN, Mr. SAWYER, Mr. SCHUMER, Mr. STUDDS, Mr. WEBER, Mr. YATRON, Ms. WATERS, Mr. BACCHUS, Mr. CRAMER, Mr. PAYNE of New Jersey, Mr. MCDERMOTT, Mr. RIGGS, Mrs. MORELLA, Mr. BONIOR, Ms. COLLINS of Michigan, Mr. YOUNG of Florida, and Mr. SCHULZE.

H.J. Res. 312: Mr. RANGEL, Mr. VANDER JAGT, Mr. DORNAN of California, Mr. INHOFE, Mr. MAZZOLI, Mr. BLILEY, Mr. PAXON, Mr. FASCELL, Mr. HORTON, Mr. SHAYS, Mr. HANSEN, Mr. MCDADE, Mr. TOWNS, Ms. OAKAR, Mr. FUSTER, Mrs. VUCANOVICH, Mr. GUARINI, Mr. CLINGER, Mr. ORTIZ, Mr. MCMILLEN of Maryland, Mr. LEHMAN of Florida, Mr. DOOLITTLE, Mr. SMITH of Florida, Mr. OXLEY, Mr. LANTOS, Mr. HUNTER, Mr. BROWN, Mr. BACCHUS, Mr. HYDE, Mr. LEWIS of Florida, Mr. WALSH, Mr. SKEEN, Mr. KASICH, Mr. CAMP, Mr. MAVROULES, Mr. ERDREICH, Mr. STARK, Mr. HUGHES, Mr. GALLEGLY, Mr. LIPINSKI, Mr. LAFALCE, Mr. POSHARD, Mr. EWING, and Mr. GILLMOR.

H. Con. Res. 190: Mr. WELDON.

H. Con. Res. 199: Mr. LAGOMARSINO, Mr. KOPETSKI, Mr. LEHMAN of Florida, and Mr. ROHRABACHER.

H. Res. 222: Mr. LAROCCO, Mr. BRUCE, Mr. SERRANO, Mr. LEACH, Mr. MARTINEZ, Mr. COX of Illinois, Mr. HORTON, Mr. MARTIN, Mr. TOWNS, Mr. KOPETSKI, and Ms. LONG.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 330: Mr. VALENTINE.

H.R. 1790: Mr. BEREUTER.

EXTENSIONS OF REMARKS

CURRENT BENEFITS OF FUSION ENERGY RESEARCH

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. STARK. Mr. Speaker, for over 40 years, scientists around the world have struggled to solve the mysteries of fusion energy. Their goal is to develop a new energy technology that is clean, affordable, and inexhaustible. One that is both economically sound and environmentally safe. If they are successful, the implications for the Nation and the world will be enormous.

Forty years is a long time to work toward a goal—even a goal as important as this one. The effort involves researchers in most of the industrial nations. The combined resources provided for fusion energy research are impressive. In the United States alone, the Federal Government spends about $500 million a year. Given the current budget problems, this outlay is substantial and must be justified. The public has a right and a duty to ask "What are we getting for our money?"

In answer to this question, I would like to share with you excerpts from an article published this year in the Journal of Fusion Energy and written by Dr. Alex Glass at Lawrence Livermore National Laboratory—an institution that is clearly a world leader in both magnetic fusion and inertial confinement fusion research. Dr. Glass believes, as I do, that the payoff from fusion research is continuous and that it has already begun.

The benefits derived from the fusion program are threefold. First, there are the scientific benefits. They include a new understanding of the physics which occurs in the interior of the Sun. This has enhanced our knowledge about the properties of materials at very high temperatures. Second, there are the technological benefits including the development of a new generation of lasers, optics, and magnetic materials which have had widespread applications in the commercial world. Finally, there are the societal benefits—the boost given to the importance of a technical education and the benefits of providing new challenges to students of applied physics.

Mr. Speaker, the investment we make in fusion energy research is a prudent one. On the journey from a science program to the final development of a practical energy technology, we enjoy dividends every step of the way. The fusion energy program deserves our support.

CURRENT BENEFITS OF FUSION ENERGY RESEARCH

(By Alexander J. Glass)

Fusion is a global effort, with active programs in most of the industrial nations. The U.S. spends about $500 million a year on fusion research. That sounds like a lot of money, but in the context of the overall R&D budgets, I would say that fusion expenditures are significant but they are not overwhelming. By that I mean that we spend about 10% of the energy R&D budget on magnetic fusion, and we spend about 8% of the nuclear weapons R&D budget on inertial fusion. However, in the current budget climate, as we all know, every expenditure has to be justified. The public has a right and Congress has the duty to ask, "What do we get for our money?" Those of us working in the fusion programs have to provide that answer. Furthermore, large facilities are contemplated in both programs. In the magnetic fusion program, design activities are underway for the Compact Ignition Tokamak; and in the inertial fusion program, the next large facility, the Laboratory Microfusion Facility, is under intensive review and study in the Department of Energy. Both of these are large and expensive facilities. Moreover, to embark on the next generation of facilities really means a renewed commitment to the goals and purposes of fusion. These facilities are of such a scale that they will take several years to build. Once built, they will operate from 5–10 years in order to realize their full scientific potential. So to take the next step means to buy into the programs for a couple of decades. It is thus appropriate, as we contemplate that next step, to review the return that the country gets for its continuing investment in fusion energy research.

We all recognize that the long-term goal of both programs is to develop an inexhaustible source of energy for all humankind for all time. It's hard to conceive of a more laudable purpose than that, a lofty goal comparable to a cure for cancer, or an end to war. But I want to concentrate on the more immediate benefits of fusion research, which may not be as fully appreciated. We need to recognize that the payoff from fusion research is continuous, and that it has already begun.

Fusion research in many ways is a paradigm of applied science. Much of what I say about fusion would be true about other areas of applied science. However, for reasons that I hope to make clear, I think that fusion has some unique attributes. Many of you in this audience require no convincing of the benefits of fusion research. However, I think that those of us working in the fusion program take too much for granted about what we're doing, and that we don't articulate those benefits well enough to the public at large. We neglect to tell others what we accept as an article of faith. We need to communicate these benefits more clearly to the public, to the technical community, and to government policy and decision makers, so that they can understand better the value of the fusion programs. I hope I can stimulate your thinking about how we should do this.

The benefits derived from the fusion program are on three levels: there are scientific benefits, technological benefits, and societal benefits. In this talk, I want to address all three, starting with the scientific benefits. In inertial fusion research, we explore the properties of matter under conditions of very high density and very high temperature. From a scientific point of view, these conditions simply are not accessible in the laboratory by any other means. This is not just esoteric physics. This is the physics which occurs in the interior of the sun and the stars and is therefore of astrophysical significance. It is also the physics which occurs in the interior of thermonuclear weapons, and thus has defense applications, as well. This has been recognized by the DOE and by Congress from the inception of the ICF program. It has been supported by Congress for the near-term benefit that it would provide in the form of support for the nuclear weapons program. Over the past year, experiments have been carried out at the Nova facility at the Lawrence Livermore National Laboratory, to increase our understanding of the properties of materials under conditions which are encountered in nuclear weapons program, not out of inertial fusion funds, in recognition of their direct benefit to the nuclear weapons program. Beyond that, there's a broader payoff from a scientific point of view, relating to the physics of high density, high temperature matter.

Similarly, in the magnetic fusion program, we obtain information energy transport in plasmas, questions of plasma instabilities, and other issues which have great relevance to astrophysical problems. More importantly, once ignition is achieved, particularly in magnetic fusion devices, we'll have the opportunity, for the first time ever, to study the physics of a burning thermonuclear plasma in the laboratory in a semiquiescent condition. Thus, from the point of view of physics benefits, we are going to learn a great deal from both programs.

Fusion physics also takes the scientist to the frontier between atomic and nuclear physics, which is of great interest in modern physics. Two areas of current interest in fusion research which involve the interface of atomic and nuclear physics are spin-polarized fusion fuel and muon-catalyzed fusion. Both areas are of technical interest for their potential benefit to effusion technology, as well as being of intrinsic interest as challenging and important physical problems.

The technological benefits of fusion are widely recognized. Fusion experiments require sophisticated experimental facilities. In fact, progress in fusion is paced by the availability of suitable experimental facilities. The technology of these large facilities is novel, very challenging, and very demanding. That's the reason why we are only on the threshold of ignition after 40 years of fusion research. Among the primary technologies associated with fusion are beams of particles and beams of light—lasers.

Lasers and particle beams are clearly technologies that are relevant to defense applications. But in a program like magnetic or inertial confinement fusion, the development of large-scale facilities requires the advancement of a large number of underlying or supporting technologies. These include technologies like pulse power (the high voltage electricity that's used to power fusion devices), magnetic materials, optical materials, and optical fabrication techniques. Thus, there are a great number of useful spinoffs from the primary programs to other areas of technical endeavor. The question of spinoffs is one that is greatly misunderstood

and misrepresented. For example, if you were going to build a Teflon-coated frying pan, you wouldn't start out with a space program, even though that's often claimed as one of the space program's peripherical benefits. Recently, a study appeared which purported to show that spinoffs from the SDI program had been greatly exaggerated. This study pointed out that lasers developed for ballistic missile defense are not really applicable in the operating room. That's true, you wouldn't build a $500 million laser to use for retinal attachment or laser surgery. But the level at which the technology transfer really occurs is at the supporting level. The optical and electrical technology developed en route to building the SDI laser may indeed revolutionize laser technology, even that used for medical applications. This is a point which is poorly understood by the general public, and even within the technical community. Because both fusion programs are continually pressing the limits of what can be built, they are continuously spinning off new and exciting beneficial technologies that have widespread applications both in defense and in commercial industry.

The experimental environment in which fusion experiments are carried out is very demanding in its own right. For example, fusion experiments are conducted in the presence of a very strong background of electromagnetic noise from either pulse power or from high electric currents. As a result, it is difficult even to make an unambiguous measurement in that environment. Consequently, one of the first places in which fiber optic signal pathways were used to convey optical signals from sensors back to a central control room was in the fusion programs. Now, of course, that's a fairly standard and widely applied technique. The fusion experiments themselves are very complex. If you have visited any of the fusion laboratories you are well aware of that. We are talking about big, complex facilities. To operate those facilities requires the latest techniques and technologies in control systems, in displays, in computer-augmented controls, and in alignment systems, with as much automation as is possible. Thus, these are also areas in which the fusion programs are advancing the technology. And when, in the next few years, we begin to burn thermonuclear fuel, we shall be forced to incorporate remote handling, remote maintenance, and the application of robotics to our experimental facilities. Our work in fusion will advance that technology as well. Fusion research entails large-scale experiments in a difficult environment, which challenges our scientists and our engineers to devise new technologies. In turn, these new technologies inevitably find wide application in other fields.

The third level of benefit on which I wanted to comment is what I would call societal benefits. First among these is the stimulus which a program like fusion gives to technical education. We all recognize the importance of technical education in our country today. In many ways, the fusion program is an ideal training ground for technical students. It is, of course, very challenging in terms of the physics involved. Fusion research is not just pure science, however. It is applied physics, and that's very important. The differences between applied physics and pure physics is that in pure physics, one can choose the problems on which to work. One is allowed to constrain the problem and say, "I'm not interested in that interaction, so I'm not going to worry about it." But in applied physics you have a goal in mind. Any obstacle that lies between you and that goal must be overcome. So you have to engage a much wider variety of problems. Applied physics training equips the student to tackle a great many more things than does specialization in pure physics.

As discussed, the physics of fusion is intellectually stimulating and it falls into an important regime of physics. Additionally, the end purpose is of great consequence to our society. For example, even the knowledge that practical fusion energy was 10–20 years away would change the future value of oil deposits, and have a profound effect on national energy policy. It is important that students working in science and engineering understand that there are societal consequences of the technologies that they develop. In fusion, one is never very far removed from consideration of those consequences. Thus, the student working in fusion is exposed to the larger issues that surround the science he or she is doing.

Fusion energy technology entails a great deal more than just consideration of how to achieve a thermonuclear reaction and how to contain it. One must consider the systems aspects, because the fusion device itself is part of a large power plant. It also entails the societal questions of overall energy supply, and of maintenance of the environment. In planning for the introduction of fusion energy, we must consider how society at large views the technology we are developing. Does the public view fusion as just another nuclear energy technology, and if so, can we avoid making the mistakes that were made in the introduction of nuclear fission? We also have to consider the changes that the technology we introduce will bring about in the society. Furthermore, any consideration of fusion energy must take into account the economic issues. It is clear that fusion is a very rich field for training students, not only in the physics and technology of fusion, but also in the implications for society at large.

It is somewhat shocking to realize that fusion is in its fifth decade. We think of ourselves of living in an era of rapid technological change. Consider the first half of the twentieth century, which was, of course, 50 years long. During that time, practical, powered human flight was developed—the airplane, and then the jet airplane. During the same period, the automobile was developed, along with radio, television, and a multitude of other new technological innovations. By comparison, we have spent 40 years already on fusion, and we have 20–30 years to go, by the most conservative estimates. If you want to find a parallel in the history of technology to the development of fusion energy, I submit that it would be the development of the steam engine. In the development of the steam engine, a new science had to be developed—a science called thermodynamics. A new technology had to be developed, called steel. The first operating steam engine, the Newcomen engine, operated on the wrong principles. Steam power did not become practical until the development of James Watt's engine. Right now, we may be struggling to achieve what would be the fusion equivalent of the Newcomen engine. I shouldn't be surprised if the first fusion devices we develop bear no more resemblance to the final fusion reactor than the Newcomen engine does to the modern steam engine. But we are developing a new science. And we are developing new technologies, we're stimulating thought, and changing the nature of our society.

The tokamak and the stellarator, the two leading approaches in magnetic fusion, were under development when I graduated from college 35 years ago. That's a sobering thought. Many people now in decision-making positions have been hearing about the promise of fusion all of their adult lives. It's not surprising that they are asking, "When and where is the payoff?" But I submit that the payoff is continuous and is already occurring. That is the message we in the fusion community must get across. We are making great progress in the science and technology of fusion, and we're on the verge of much greater advances. The next generation of facilities will take us across the threshold of ignition. When we cross that threshold, the scientific benefits will multiply, the technological benefits will increase many fold, and we shall have taken the first major step toward developing a practical fusion technology.

When we have achieved that practical fusion technology, when we have fusion power plants or other fusion applications, we won't have to explain why we did it. That will be generally understood. But in the meanwhile, it is imperative to recognize the collateral benefits of our endeavors and to make them more widely known.

THE 125TH ANNIVERSARY OF ST. ALOYSIUS GONZAGA PARISH

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. LUKEN. Mr. Speaker, it is my pleasure to announce the 125th anniversary of St. Aloysius Gonzaga Parish, formed in 1866 in the district I now serve.

On July 8, 1866, a small group of area Catholics met at the home of Dr. Peter Liedel to discuss plans for a new parish. The odds against them were great, since most area Catholics were farmers who were by no means wealthy. Finding a site, building a church and supporting the operations would be a challenge, but it was the spirit of empowerment displayed by our founders which gave rise to the birth of St. Aloysius parish. In 1867, the first Mass was celebrated in the home of Dr. Liedel by Father E. Stehle, who assisted the founders in organizing the parish.

Construction of the first church building began in 1867; much of it was done with volunteer labor. On November 3, 1867, Archbishop Purcell blessed the cornerstone, and the church was dedicated on November 1, 1868. Father George Vaith was appointed pastor.

The original building had a school on the first floor with the church on the second floor. The church also served as the priest's residence and a teacher's residence. To remedy these crowded conditions, Father Arnold Feldhaus, the second pastor, had the first rectory built in 1872.

During the remaining years of the 1800's, the parish grew both in faith and size. Father Bernard Muething and Father Christian Frensch pastored the parish during those years.

In 1896, a new era began at St. Aloysius with the appointment of Father Herman Ellerbrock as pastor. He served the parish for

24 years. In 1899, the Franciscan Sisters from Oldenburg, IN, sent three sisters to teach in the new school.

With the advent of the new century, the area's population grew and two new parishes were formed; St. Catherine in 1903 and St. Martin in 1911. More than half of the parish's members were lost to those new parishes.

In 1914, plans for a new church building were made, and the second church was dedicated in 1914. The church cost $50,000 to build, and served the parish well until 1961. The Gothic style church, with its graceful tower, became a landmark in Green Township.

Father William Spickerman became pastor in 1919 and presided over the modernization of St. Aloysius parish facilities. The original church building was remodeled into classrooms, while a temporary colony school was built to accommodate the increasing number of students.

Father William Schmitt was appointed pastor in 1929 and guided the parish through the difficulty days of the Great Depression and World War II. In 1937, a new school, consisting of four classrooms and a cafeteria; was built. Additions were made in 1941 and 1954 to meet the needs of the growing parish. St. Ignatius and Our Lady of Visitation were established in 1946 and 1947, temporarily relieving some of the pressure of increased school enrollment.

In 1952, the parish was saddened by the death of Father Schmitt and Father Clarence Graf became the new pastor. In 1955, the original church building was torn down and the present rectory was built on the site. While the school was again bursting at the seams, the founding of St. Jude in 1956 helped the situation with the transfer of more than 300 pupils.

In 1960, the second church building was found to be unsafe due to structural problems, and work began on plans for the present church. Masses were held in Powell's Garage, now Msgr. Schmitt Hall. Construction of today's church began in 1962, with the dedication in 1963. Ironically, the first mass held in the new church was the funeral mass for Father Graf.

Father Joseph Hageman succeeded Father Graf as pastor and guided the parish through the changes following Vatican II, including the replacement of Latin with English in the Mass, lay communion distributors, the formation of a parish council and various commissions. he served the parish for 16 years until 1979.

The new pastor was Father J.C. Allison and under his leadership, the St. Aloysius community developed a deeper faith as the laity became more involved in parish life. Unfortunately, Father Allison left St. Aloysius in July 1991, and he will be replaced by Father Paul Rehling. Father Rehling was a parishioner from St. Aloysius, and was ordained in 1956.

The history of St. Aloysius is too rich to be adequately covered in a few pages. it is more than the story of church buildings and the priests and sisters who have served so well. It is rather the story of thousands of people of faith, past and present, who worked together over the past 125 years to further the Gospel and life of Jesus in others.

My wish for this celebration is that the parish will be around for many, many years.

A TRIBUTE TO THE FLORIDA SMOKED FISH CO.

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, there are many fine companies operating in Miami but because we are such a young city, we look in awe at companies which have survived through decades. This is the case of the Florida Smoked Fish Co., a four-generation business enterprise which has annual sales of $25 million and employs almost 120 people in Miami. The following article, "From Pushcart Beginnings, Fish Firm Thrives in Miami," written by Jannice Reyes in the Miami Herald, highlights this company:

In the early 1920s, William Oxenberg sold smoked fish from a cart he wheeled around his New York neighborhood. From those humble origins evolved Florida Smoked Fish Co., a company that employs close to 120 people—and over the years has employed four generations of Oxenbergs.

Today, Harvey Oxenberg, 44, William's grandson, runs a 40,000-square-foot plant in Miami that can smoke up to 30,000 pounds of fish a day. The private company has annual sales of $25 million.

Florida Smoked Fish sells 13 varieties of smoked fish—salmon being the most popular. Supermarkets such as Publix and Winn-Dixie are its biggest market, following by independent delicatessens, cruise lines, hotels, and restaurants.

The company exports its fish to 30 states, says Harvey Oxenberg, president. In March, it began targeting summer resort areas in North Carolina and Georgia.

Bernard Oxenberg, Harvey's father, established Florida Smoked Fish in Florida in 1954 after several years of exporting its products from New York. "The area grew, and we grew with it," he says.

His grandson, Howard, 20, represents the fourth generation of Oxenbergs to work at Florida Smoked Fish. He helps out during summer breaks from college.

Eddy Gomez, seafood buyer for Royal Caribbean, says his company has been buying from Florida Smoked Fish for five years. Although other local companies offer similar products, Gomez says, he prefers Florida Smoked Fish.

"They have very good quality, the service is great and the prices are competitive with other companies," he says.

Although Florida Smoked Fish says its nearest competitors in size are located in Los Angeles and New York, in South Florida there is also ASF Foods. The company, based in Fort Lauderdale since 1974, sells smoked salmon and pickled herring under the RichMan's trademark:

Arnold Richman, president, says he opened his business here because of "Florida's growing Jewish population in the '70s."

Today, the producers note, smoked fish is consumed by a variety of ethnic groups, though it is traditionally a Jewish food. But while the companies located here to be near the markets they serve, most of the fish they process doesn't come from South Florida waters.

Importing fish from other parts of the United States is not a problem, Harvey Oxenberg says. The problem, he says, is competing with Norway.

For the past two years, Oxenberg says, Norway has been selling smoked salmon at prices below the American market. The Norwegian government, he says, is subsidizing its fishermen's costs to increase the quantity of salmon produced.

Concerned about the competition, 20 domestic companies, including Florida Smoked Fish, joined forces earlier this year to form the Smoked Salmon Alliance. The alliance, based in Washington, D.C., is investigating whether the situation constitutes an unfair trade practice.

Michael Coursey, attorney for the group, says the alleged "dumping" into the U.S. market has caused the country to be awash in smoked salmon. "The competition is good for consumers," he says, "except when the prices are destroying the competitors."

The competition has forced some companies out of business. But Havey Oxenberg says he is focusing on expanding his market and satisfying the increasing craving for salmon.

The Florida Smoked Fish Co. and the Oxenberg family have much to be proud of, not only in the success of their family business, but also in keeping William Oxenberg's aspirations alive.

JOURNALISM AT ITS JUVENILE WORST

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. OXLEY. Mr. Speaker, syndicated columnist Georgie Anne Geyer has written a thoughtful piece regarding the nature of political scandals in the Nation's Capital. I commend the following article to the attention of my colleagues:

SENATOR ROBB UNDER PRESS ATTACK—JOURNALISM AT ITS JUVENILE WORST

(By Georgie Anne Geyer)

WASHINGTON.—As the valiant peoples of the Soviet Union this very moment search heroically for new structures of free union, in much the same way as the earliest Americans, here in Washington we also are struggling for the "truth that sets man free."

The newest epiphany of our always-searching media occurred Wednesday at a bookstore in the nation's beautifully revamped Union Station. Before the star appeared who was to lead us to new insights, a line for her autographs stretched for 200 feet, around a corner and almost out the farthest doors into the main hall. Onlookers stood 10 to 12 deep. Fifty to 60 "news" cameras ground doggedly away, on the ready to inform not only America but the whole waiting world on what America is thinking today.

Then she came. Tai Collins.

Why are you looking at me like that? You don't know Tai Collins? You don't drool over her long white-blonde hair, her big nose, her strange skinny looks? You haven't stayed up nights wondering whether this veritable Renaissance woman—cheerleader, lingerie model, Miss Virginia, masseuse and now Playboy cover girl—really did or did not have an affair with Sen. Chuck Robb?

Never mind, her responses as she autographed copies of Playboy ("Did she sign her signature anywhere on her nudeness?" Beats me.) will receive any hesitation on your part.

"I was just like, wow!" Collins says in one of her more literary outbursts. "I've lost my

innocence in this ordeal," she said at the morning "press conference." She had "very compromising photos of Chuck Robb with two other women" and a photo of herself and Robb in a safe-deposit box. But she did not want to release them because "I don't want to exploit myself in that way." Finally, Tai revealed to us her own deepest thoughts. She is eager to "put it all behind me" and get on to all that women like her really want: a husband, children and a "career writing children's books."

Hey, what's not to love about a girl like that?

We all know by now that there is a malignant "Get him!" ebb tide in the American media today. I've been harping on it for several years, particularly since the vicious spring of 1989, when a hyperactive press "got" Jim Wright, John Tower and Tony Coelho, not to mention the earlier cases of Gary Hart and Joseph Biden.

University of Virginia professor Larry Sabato, in his fine new book on the subject, "Feeding Frenzy: How Attack Journalism Has Transformed American Journalism," says rightly that we have gone from the legitimate "watchdog press" of Vietnam and Watergate to the "junkyard dog press" of today.

But last week's Tai Collins Show reveals just how far we have come. It also illuminates what those in the press who have set themselves up as the judge and the jury, the Index and the Inquisition, the religious police of Riyadh and the nameless A, B and C commissars of the Khmer Rouge are really up to.

This case is important because it is unlikely that Chuck Robb, who was by all accounts a superb governor of Virginia and is one of our most eloquent, intellectual senators, did anything at all with Miss Tai except get a massage from her. This might not have been smart, but then the Grand Inquisitor would surely have had some mercy and not have sent him to the rack.

There is no proof that anything happened between them. None has ever been put forward. Isn't our entire system of "justice," most definitely including just intentions on the part of one's fellow citizens, supposed to protect American citizens from such wild and unsupported charges, which are at heart really threats?

And if Robb and Collins had had an affair, from the standpoint of the public interest of this nation conceived in liberty, so what? That is a question for his wife, for his church, for his conscience, for his marriage vows. To put a man of a distinguished career up to Wednesday's "Christians to the lions" carnival atmosphere is something quite else again.

We are in a new period, for this time, there is not even a whisper of real charges against the accused. This time, more and more of the journalists interviewed did not even make excuses for our profession's sordid and infantile behavior. That's just the way it is in politics, most said.

This time we showed what it is really all about—the cruel personal ambitions of many of the Yuppie-generation "me" journalists, a gnawing juvenile resentment of anyone in a position of authority, and a total derision of American institutions and what the "fun" of the witchhunt does to them.

I never in my life thought I would wish to be in Moscow.

MARKET INFORMATION AND SHAREHOLDER PROTECTION ACT OF 1991

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. BARNARD. Mr. Speaker, I recently introduced legislation to require investors to notify the Securities and Exchange Commission when they "sell short" at least 5 percent of a company's outstanding stock.

The bill would give the SEC authority to adopt such a reporting rule, and institutional investors who control more than $100 million in equity securities would have to report their "short sales" on a quarterly basis.

The goal of this legislation is to stop abusive investors who improperly use this legitimate trading method. All stocks listed on the NASDAQ system, not just exchange-listed stocks, would be subject to the provisions of this legislation.

The text of this legislation follows:

H.R. 3317

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Information and Shareholder Protection Act of 1991".

SEC. 2. STATEMENT OF PURPOSE.

Congress finds the following:

(1) Market pricing and the valuation of investor portfolios can be materially affected by the trading activity of individuals who buy or sell, or have the financial resources to buy or sell, such large quantities of shares of an individual equity security as are material in relation to the total outstanding shares of that issue.

(2) Therefore issuers, investors, and market makers, in order to make informed decisions for the efficient allocation of capital in the equities market, have a need and a right to know about the investment stakes taken, either long or short, by other investors whose respective individual investments in a single equity security exceed a certain material percentage of the total outstanding shares of that issue.

(3) Market fairness and the efficiency of capital allocation in the public equities market also depend on the availability of accurate information for investors about the business affairs of the issuers of equity securities and are harmed by the dissemination of false or misleading information about securities issuers.

SEC. 3. DISCLOSURE OF SIGNIFICANT SHORT POSITIONS.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end thereof the following:

"(i)(1) Any person who is or becomes, directly or indirectly, the beneficial owner of a short position equivalent to more than 5 percent of any class of equity security which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940 shall, within 30 days after enactment hereof or, if later, within 10 days after acquiring a short position equivalent to more than 5 percent of such class, send to the issuer of the securities at its principal executive office by registered or certified mail, send to each exchange or interdealer quotation system of a registered national securities association where the securities are traded, and file with the Commission a statement containing the following information, and such additional information as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors:

"(A) the background, identity, residence, and citizenship of, and the nature of such beneficial ownership by, such person and all other persons by whom or on whose behalf the short sales have been or are to be effected;

"(B) the number of shares of such security which have been beneficially sold short by such person, and the number of shares concerning which there is a right to sell, directly or indirectly, by (i) such person and (ii) by each associate of such person, giving the background, identity, residence, and citizenship of each such associate;

"(C) the person or persons from whom such equity securities were borrowed, including a description of the transaction and the names of the parties thereto, and the source and amount of the funds or other consideration used or to be used to provide margin for making the short sales and maintaining the short position, and to compensate the lender or lenders of the borrowed shares; and

"(D) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

"(2) If any material change occurs in the facts set forth in the statements sent to the issuer, the exchanges, and the registered national securities association and filed with the Commission, an amendment shall be transmitted to the issuer, the exchanges, and the registered securities association and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of selling short the securities of an issuer, such syndicate or group shall be deemed a 'person' for the purposes of this subsection.

"(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

"(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which have been beneficially sold short by him, the dates of their sale short, and such other information as the Commission may

specify, if it appears to the Commission that such short securities sales were made by such person in the ordinary course of his business and were not made for the purpose of and do not and will not have the effect of enabling him to profit from a subsequent price decline in the equity securities sold short.

"(6) The provisions of this subsection shall not apply to market makers and specialists with regard to any security in which they are registered or to which they are assigned to the extent that short sales effected by such market makers or specialists are transacted solely for bona fide market-making purposes in that security.

"(7) For purposes of this subsection, the term 'beneficial owner of a short position' means a person who has sold short a certain number of shares of an equity security, is obligated as a consequence of the short sale to repurchase or otherwise acquire the same number of shares for delivery to some other person, and is the beneficial owner of the cash proceeds received from the short sale.".

SEC. 4. REPORTING OF SHORT POSITIONS BY INSTITUTIONAL INVESTMENT MANAGERS.

Section 13(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "or short positions in equity securities" after "accounts holding equity securities"; and

(B) by inserting "or equity short position" after "for each such equity security" and after "of each such security";

(2) in subparagraph (A), by inserting "or equity short position" after "(other than an exempted security)";

(3) in subparagraph (E)(iii), by inserting before the semicolon at the end the following: ", and if a sale, whether the transaction was a short sale"; and

(4) by adding at the end thereof the following:

"An investment manager who exercises investment discretion with respect to accounts holding short positions in equity securities shall compute the 'aggregate fair market value' of such accounts by summing the value of all equity securities held long in such accounts together with the aggregate market value, expressed as a positive number, of all short equity positions in such accounts.".

SEC. 5. PROHIBITION AGAINST MANIPULATION OF SECURITY PRICES.

Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended—

(1) in subsection (a)—

(A) by inserting "or any interdealer quotation system of a registered national securities association" after "any national securities exchange"; and

(B) by striking "or for any member of a national securities exchange";

(2) in paragraphs (1), (2), and (6) of such subsection, by inserting "or listed on an interdealer quotation system of a registered national securities association" after "registered on a national securities exchange" wherever it appears;

(3) by striking paragraphs (3), (4), and (5) of such subsection and inserting the following:

"(3) To take any action for the purpose of inducing the purchase or sale of any security registered on a national securities exchange or listed on an interdealer quotation system of a registered national securities association, or for the purpose of affecting a decision regarding the purchase or sale of such security, long or short, by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.

"(4) To make, regarding any security registered on a national securities exchange or listed on an interdealer quotation system of a registered national securities association, or regarding any issuer thereof, for the purpose of inducing the purchase or sale of such security, or for the purpose of affecting a decision regarding the purchase or sale of such security, long or short, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading, or to circulate or disseminate any such statement.

"(5) To give a consideration of any nature, directly or indirectly, for the purpose of inducing the purchase or sale of any security registered on a national securities exchange or listed on an interdealer quotation system of a registered national securities association, or for the purpose of affecting a decision regarding the purchase or sale of such security, long or short, by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security, or to receive any such consideration.";

(4) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The term 'interdealer quotation system' means any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers."; and

(5) in subsection (e)—

(A) by inserting "(1)" after "(e)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The issuer of any security which is registered pursuant to section 12 of this title shall have standing to bring an action for equitable relief in any court of competent jurisdiction against any person who violates any provision of this section or any rules promulgated hereunder by the Commission.".

ARMS CONTROL IN THE MIDDLE EAST

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. LEVINE of California. Mr. Speaker, as Secretary Baker continues his efforts to bring a Middle East peace conference to fruition, it is more critical than ever to underscore the threat a continued arms race poses to peace and stability in that region. Messrs. Alan Platt, Michael Nacht, and Jay Winik rightly point out in their article, "What About Arms Control," Washington Post, September 22, 1991, that the time for curbing the Middle East arms race is now.

Unfortunately, rhetoric notwithstanding, the Bush administration has failed to put arms control on the top of its peace agenda. Rather than stemming the flow of arms to this explosive region, the administration has sold nearly $23 billion in arms to the Middle East since 1990. For the first time since 1983, the United States ranked first in arms transfer agreements with the Third World. This is a strange notion of arms control.

If we have learned anything from the mistakes of the past, it is that more weapons do not bring more peace and stability to the region. Rather than reverting to the practice of throwing arms at a region that is already armed to the teeth, we should take advantage of the spirit of international cooperation that characterized efforts in the Persian Gulf to enact a multilateral arms restraint regime now.

I strongly urge my colleagues to review the following article on this issue so essential to a lasting peace in the Middle East.

WHAT ABOUT ARMS CONTROL?

(By Michael Nacht, Jay Winik and Alan Platt)

In its headlong rush to convene the Middle East peace conference, the Bush administration is giving short shrift to arms control in the region. That is a serious mistake: Reducing the capabilities and incentives for states in the region to wage war is not only an urgent concern but one that can be usefully addressed even if a peace conference bogs down.

The administration has taken some initiatives to stem the flow of new ballistic missiles into the Middle East, and the President himself has stated that arms control should be priority. But these efforts have not received the sustained high-level attention and support required to produce results. And even if these efforts were successful, they would still be woefully inadequate.

The Middle East remains virtually the only region where war is still a legitimate and widely used means of achieving political ends and where all the major powers have important ties and interests. Even if all outside arms shipments to the region ceased tomorrow, the region would be the most heavily armed in the world today. What must be found are measures that inhibit and ultimately delegitimize aggressive war as an instrument of policy.

Virtually all observers of the Middle East have rightly noted that it will take years, if not decades, for deep-seated differences between Arabs and Israelis to be overcome. Even if the peace conference were successful—a big if—this sobering reality will not change. Israeli officials have quietly speculated that increased Syrian-Israeli tensions could result from a stalemated peace conference. Should the peace process fail, another war is likely. Whatever the outcome, in the absence of arms control, regional hostility will loom as a cloud threatening reconciliation in the region.

The notion of applying arms control to the Middle East, is often greeted with skepticism based upon three arguments: that arms control is a Western concept inapplicable in the Middle East; that there is no experience with arms control in the region; and that even after the Gulf War there is no evidence of support in the Middle East for such measures. All three arguments are erroneous.

It is true that modern arms control was conceptually developed in the United States and Great Britain in the late 1950s and early 1960s. But this does not make it ill-suited for the Middle East. East-West arms control has had to cover a far broader range of issues and

Uechnological esoterica than would be necessary in the Middle East, from strategic and theater nuclear arms to space weapons to a myriad of conventional systems.

The immediate requirements for arms control in the Middle East, however, need not be nearly so comprehensive and arcane. Rather, smaller attainable steps such as confidence-building measures, taken by the regional states themselves, hold far greater promise than they did in the U.S.-Soviet and European contexts.

The bitterness of the Arab-Israeli dispute is not necessarily a block to useful arms negotiations—no more than was the once bitter enmity between the West and the Soviet bloc. Indeed, arms control has often been more effective between adversaries than allies, because its potential payoff is most obvious and the interest of the parties is correspondingly intense. Particularly in times of crisis, arms control can prevent escalation of conflict from political miscalculations or the perception of one side that another has acquired new, first-strike weapons systems. At a minimum, arms control measures could delay or prevent a new round of qualitative weapons competition and military maneuvers which, if left unchecked, would likely bog down the peace process or serve as a catalyst for renewed conflict.

There is, moreover, greater experience with arms control in the Middle East than is commonly acknowledged. The disengagement-of-forces agreements concluded in 1974 and 1975 between Egypt and Israel and between Israel and Syria specified a number of quantitative and geographical limitations on weapons deployments. The 1979 peace treaty between Israel and Egypt also included many such provisions. Over the years, a series of tacit understandings about acceptable military actions has also evolved.

More importantly, arms control is today being accorded far greater attention in the region. United Nations Security Council Resolution 687, which is unprecedented in its scope, seeks to construct an elaborate arms control regime. It calls for the destruction of Iraq's weapons-grade nuclear material and chemical and biological weapons, research sites, equipment to develop weapons of mass destruction and all ballistic missiles with ranges exceeding 150 kilometers. Not unlike the European theater, a weapons data base is called for, as are intrusive methods of verification and rigorous measures to enforce compliance.

Both in Egypt and Israel, at the Al Ahram and Jaffe strategic study centers respectively, independent experts are, for the first time exploring regional arms control measures. And in terms of declaratory policy, Egyptian President Hosni Mubarak has called for the elimination of all weapons of mass destruction from the Middle East, while Israel has publicly supported the concept of a nuclear-free zone.

Agreement on a series of confidence-building measures must undergird any arms control regime. These would reduce the likelihood of war by fostering what experts call "transparency of capabilities and intentions."

The Middle East's historical record demonstrates that ambiguity about intentions has repeatedly led to war. In 1967 Egyptian troops massed againt Israel. Uncertain as to Egypt's intentions, Israel struck preemptively, thus beginning the Six Day War. In 1973, Egyptians and Syrians conducted deceptive maneuvers. Israel chose a wait-and-see attitude, only to be caught off guard when the combined Arab armies attacked. And in August 1990, Iraq employed similar tactics against Kuwait. In each of these cases, military action, whether defensive or preemptive, was seen as the only viable option for ending the crisis.

Among specific measures that should be considered are: hotline agreements; risk-reduction centers; establishment of keepout zones and demilitarization of critical terrain; and requirements for pre-notification and explanation of military exercises above agreed-upon limits. Clear violations would create a "political trip-wire" designed to bring immediate international pressure to bear before aggressive hostilities break out.

Collectively these measures would go a long way toward making the use of war a far more difficult course for resolving political differences. Over time, states in the region would have far greater confidence in the diplomatic process and would also have greater incentives to make concessions for peace. Moreover, in due course arms-reduction agreements that could lend further stability to the region would have a better chance of success.

While the administration has been slow to articulate a policy for arms control in the Middle East, this approach has already been endorsed by an international group of regional and security specialists. In a recent report published by the United States Institute of Peace, they state: "The Gulf War has created a rare opportunity for serious initiatives on arms control in the Middle East . . . Arms control measures should be pursued in parallel with the peace process."

The winter 1991 issue of Daedalus, the prestigious journal of the American Academy of Arts and Sciences, reflecting on 30 years of arms control, notes the imperative of disseminating the lessons of arms-control practice to the Middle East. Indeed, no less a hawk than Israel's Ariel Sharon has openly observed that arms control, not a continued arms race, could help bring peace to the Middle East.

What must be emphasized is that trust is not a necessary per-condition for effective arms control. Control does not automatically translate into arms reductions and disarmament, as is popularly believed. Nor should it necessarily be construed as meaning comprehensive arrangements that are often unattainable. Rather, arms control encompasses those measures that strengthen regional stability and diminish war as an attractive instrument of national policy whether by design or perceived necessity—precisely what is needed now.

A TRIBUTE TO GUS R. BILLY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. STARK. Mr. Speaker, I rise today to recognize a remarkable man, Mr. Gus R. Billy who has been a leader in the labor movement for over 40 years. His contributions have greatly benefited both California's Ninth Congressional District and the United Auto Workers nationally.

Gus Billy's accomplishments are many—he was a charter member of the New Oakland Committee; he helped organize the first consumer action organization in Alameda County and continues to serve this organization as chairman of the Northern Area CAP encompassing California, Oregon, and Nevada; assisted in the organization of the A. Phillip Randolph Institute and the Labor and Urban Studies program at U.C. Berkeley; was one of the regional organizers for the Dr. Martin Luther King, Jr., march on Washington; was policy chairman for the Emeryville branch of the NAACP; assisted in redistricting of schools in Oakland for open enrollment; was a delegate to the 1988 Democratic National Convention; campaigned for every Democratic Member of Congress since 1959; and served as bargaining representative with the United Auto Workers for 23 years.

Gus was born on January 23, 1928, in Donaldsonville, LA. In 1947, 17 days out of the U.S. Navy, Gus came to Oakland, CA. His first job was as a cherry picker in the orchards of Alvarado, now Union City, earning about $7 a day. He then got a job at Southern Pacific Railroad, as a gandy dancer, laying steel on the train tracks. He then became a longshoreman at the Navy Supply Center in Oakland. He left in 1951 to work in the automobile industry where he became involved in the UAW and has worked tirelessly for the union ever since.

After 10 months, Gus was asked by his coworkers to become a union steward. He refused the offer but was asked again in 2 weeks. After realizing that in order to be a union steward, one must be a union member for at least a year, Gus' fellow union members lobbied labor officials to appoint him at his 1 year tenure. Gus agreed and this was the beginning of 41 years of union commitment and community involvement.

Gus has always been a leader. He and others marched in Oakland to show support for those fighting for civil rights in the South even though African-Americans in California had access to lunch counters and other public facilities. In 1949, Gus was told to his face, "We don't hire blacks"—2 years later, he was petitioning management to hire more blacks. One of Gus' most memorable bargaining negotiations was the General Motors strike of 1970. The strike lasted 13 weeks nationally and 17 weeks locally.

Today, Gus is still a tough, yet fair negotiator after serving as a bargaining representative for 25 years. He continues to fight for such issues as the end of apartheid, the civil rights bill of 1991, universal health care, and women's rights. He turned down a position within the UAW national in order to remain effective in the local branch.

Mr. Speaker, I would like to take this opportunity to congratulate and to commend Gus R. Billy for over 40 years of dedication to both the United Auto Workers and to the community. He is a role model for us all.

THE 565TH "DAILY POINT OF LIGHT"

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. LUKEN. Mr. Speaker, I would like to take this opportunity to congratulate Steve Elliot and his student volunteers on being selected as the 565th "Daily Point of Light."

Mr. Elliot, a south social studies teacher at Finneytown High School, began a community service program 5 years ago. This program was to promote voluntarism among his students. In addition to visiting the Drop-In Center Shelter House to help rehabilitate alcoholics and the Lighthouse Shelter to council runaway children, the group also helped renovate downtown housing projects. The group also organized a senior-senior prom, a dance for senior citizens from local nursing homes. While taking homeless persons to school activities, including dances and plays, Mr. Elliot and the students gave to the community the most valuable resource of all—their time.

These students, under the guidance of Steve Elliot, have committed themselves to not just learning of the social ills that plague our society today, but rather to working for change, and for this they have gained both my respect and admiration. They are certainly deserving of this public thank you, and I hope their example inspires others to act the same and truly make 1991 the year of the volunteer.

A TRIBUTE TO FREDDY SOTOLONGO AND RENATO MARRERO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of my colleague and the public Freddy Sotolongo and Renato Marrero, the winners of my congressional district who placed first for the State of Florida in the Young Inventors' and Creators' Competition.

Freddy Sotolongo and Renato Marrero have a tremendous invention entitled "Buggy Lite" which is intended for transportation. Buggy Light is a lightweight, easily stored method of transportation for the elderly and temporarily injured. They should be proud of their achievement and I wish them much success as they compete at the national level.

George Washington Carver, Harriet Beecher Stowe, Linda Rondstadt, Eli Whitney, Steven Spielberg, the Wright Brothers, the Gershwin Brothers, and Philip Stevens are only a few of the inventors and authors, innovators and pioneers, composers and creators, men and women, whose vision and work have left a lasting mark on our Nation and our world during 200 years of U.S. patent and copyright laws.

One might ask, who will be the next generation to follow in their footsteps? Who will solve and discover solutions to societies crises and problems of today? It is the students of this generation who hold tomorrow in their hands.

The 1991 Young Inventors' and Creators' Competition, sponsored by the Foundation for a Creative America, is dedicated to helping achieve the critical goal of nurturing this new generation's talents.

The competition invites junior and high school students, their teachers, school principals, and parents to become partners with the U.S. Patent and Trademark Office, the U.S. Copyright Office, the National School Boards Association, the National Association of Secondary School Principals, corporate sponsors—including the 3M Co. Foundation and Merck & Co.—and the Foundation for a Creative America in this second annual Young Inventors' and Creators' Competition. Cultivating creative skills, expressing original ideas, and learning more about patent and copyright systems will encourage young inventors and young creators to blaze new trails in the next century.

A FEDERAL MANDATE FOR A RECOVERY SYSTEM FOR CHLOROFLUOROCARBONS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. PACKARD. Mr. Speaker, I submit the following resolution for the record:

RESOLUTION

A joint resolution from the Science, Space and Technology Committee of the 1990 Princeton University Model Congress

Whereas CFC-12, the most common Chlorofluorocarbon in usage, remains in the atmosphere for 108 years;

Whereas the United States sends 137 million kilograms of CFC-12 into the atmosphere annually;

Whereas there is 455 million kilograms of CFC-12 spewed into the world's atmosphere annually;

Whereas air conditioners, refrigerators, styrofoam products and some aerosols contain CFC-12;

Whereas CFC's are responsible in large measure for destruction of the ozone;

Whereas ozone is measured in Dobson units, and a normal measure is 350, the area over Antarctica is at an all time low of 109 units;

Whereas it is estimated that for every one percent of diminution of the ozone in the stratosphere there will be a two percent increase in the short wave ultraviolet radiation that will reach the earth's surface;

Whereas biologists fear that a substantial increase in high energy ultraviolet radiation could seriously disrupt the aquatic food chain, cause widespread skin cancer, and jeopardize other life forms;

Whereas there is currently no effective chemical substitute for CFC's in our industrial economy;

Whereas there is a widespread practice, in automobile wrecking yards and salvage businesses, of venting harmful Chlorofluorocarbons into the atmosphere from air conditioners: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a functional, operational recovery system of CFC's is hereby mandated. Gasses in air conditioning units are to be recovered and sold back to private industry. Heavy penalties will be inflicted for failure to comply.

TRIBUTE TO MANSFIELD HIGH SCHOOL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, I want to extend congratulations to the administration, teachers, students, and parents of students at Mansfield High School for the fact that Mansfield High School has been included as one of only 222 schools in the Nation to be selected as a "National Blue Ribbon School."

This award, which will be presented to the representatives of Mansfield High School at the White House on Wednesday of this week is well deserved and the people of Mansfield are entitled to feel very proud of their success.

The purpose of this program is to honor the best public and private schools in the United States. Mansfield's inclusion means that it has demonstrated its effectiveness in meeting the national educational goals recently established. A look at the criteria makes it clear that the participation of all of those involved in the schools have to have worked together well for a school to make this very selected list. All of those involved deserve our praise and our gratitude for what they have done.

HOORAY FOR THE WHIPS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. OWENS of New York. Mr. Speaker, during the week of August 18 to August 25, 1991, our planet experienced a revolutionary event which eclipsed even the symbolic wrecking of the Berlin Wall. This is the week when the people of the Soviet Union, one of the most populous and still militarily one of the most powerful nations on the globe; the people of the U.S.S.R. refused to remain the victims of their government. Certainly this was not the first such modern victory of a people over a set of legally entrenched leaders. But history will make it crystal clear that the defeat of the Communist Party coup was one of the most significant victories of its kind in the history of human kind.

Ordinary citizens can now see and understand that mammoth machines of oppression with intricate command structures, the most scientifically designed weapons and well-trained personnel; such death-threatening monsters can be effectively paralyzed by a few leaders offering reasonable alternatives in combination with a reasonable percentage of the troops and the people who refuse to obey orders. Of course those who refuse to obey orders are at the same time announcing their readiness to die.

All modern industrial powers should take heed. Governments and major political parties cannot treat their constituents with contempt and still retain power. A day of reckoning will come at a time and in ways that are least expected. Even our great American superpower must take heed. The patience of our people

may soon be exhausted by the slimy deals that are continually being made here in Washington: The Iran Contra whitewash; the Oliver North fix; the S and L bailout deals; the coming commercial bank deals; the insurance-pension plan thefts; the 39 Salomon Brothers-type firms which monopolize Federal securities; the BCCI fix; the Gates confirmation deal; the Clarence Thomas confirmation deal.

And worse than the deals are the failures to act in areas where the people of this Nation have clearly expressed a desire for action. Particularly in the areas of health care and education the public opinion polls have provided a clear mandate for action. I pray that the Democratic Party will end the paralysis and commence action soon on these two vital matters.

Mr. Speaker, we have spent a significant amount of time and energy recently on structural changes in the party's internal operations. I hope we are now all set for productive action. I wish to congratulate all of the new deputy whips and assistant whips. I have great respect for all of them. As a loyal Democrat I await their leadership and my marching orders. My great desire to be used productively is summarized by the following rap poem:

HOORAY FOR THE WHIPS

I got a whip
You got a whip
All of God's children
Got a whip
Whip for who
Whip for what
Don't spare the rod
I volunteer my butt
Are we
PAC asses for the classes
Or strong mules for the masses
Whip me hard
Whip me strong
I'll pull my plough
All day long
Whip hard
And make it pay
Where're the education oats
Where's the health care hay
Whip where
Do Democrats care
Whip for who
Whip for what
Our donkey brains
Seem stuck in a rut
Are we
PAC asses for the classes
Or strong mules for the masses
I got a whip
You got a whip
All of God's children
Got a whip
Whip for who
Whip for what
Do your duty
Please beat my butt
Whip hard
And make it pay
We need education oats
We need health care hay.

HISPANIC HERITAGE WEEK

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize this week as Hispanic Heritage Week. From September 15 through September 22, we gather to celebrate the cultures of people from South and Central America and the Caribbean.

Hispanic Heritage Week is of particular significance to Rhode Island since over 45,000 Hispanics live in the Ocean State, compromising the largest minority group in the area. Hispanics have much to contribute to the ethnic diversity of our State. Being the first State to practice religious freedom, Rhode Island welcomes the cultural variety that Hispanics bring to daily life. We also welcome a culture that holds family relationships dear. It is sometimes all too easy for us to neglect these relationships. Hispanic culture nurtures them.

Hispanic Heritage Week has featured many events to show the very special gift that these people have to offer all of us. Sculptures, collages and photographs display the true richness of Hispanic culture. Floats are prepared with great pride for the Puerto Rican parade and music is carefully chosen for the Hispanic Heritage Ball.

I welcome Hispanic Heritage Week to Rhode Island. It is indeed an honor to share in remembering a culture of greatness and diversity.

ADMINISTRATION'S PRESS RELEASE SPLASH VERSUS THE STUBBORN FACTS IN EDUCATION

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. MARTINEZ. Mr. Speaker, administration press releases are posing as policy. "U.S. Finds Schools Are Achieving Less While Costing More" announced the headlines about a recent study by the Department of Education. Or as summarized for the press by the Department's Dr. Ravitch: "Enrollment Is Up, Spending Is Up, Achievement Is Down." It makes a catchy press release.

It is also wrong:

FACT 1

Funding is down. Per pupil expenditures for education are down for elementary and secondary education if inflation is not ignored. Moreover, as a recent study by the Department of Energy's Sandia Labs pointed out, much of the State and local increase in spending has gone for students with disabilities who were once simply ignored. The increases in State and local education expenditures over the past decade have left teacher salaries roughly where they were in the 1970's.

As a result of lingering economic recession, the situation is disastrous in many areas. Schools are firing nurses and counselors, failing to fix roofs, failing to provide cooling needed to extend the school year, and firing teachers. In Los Angeles, the district has slashed about $700 million—almost 20 percent of its annual budget. Some 2,000 educational staff are expected to be laid off by Los Angeles schools alone. California already has some of the highest teacher/student ratios in the Nation. These cuts are expected to send Los Angeles class ratios in 1st through 8th grades from 27 to 37. The ratio in grades 10 through 12 is already 39.25. Some of these Los Angeles schools are so short on supplies that students can't take textbooks home to study when they are off on 6 week breaks in these year-round schools. This changes the focus of schools, breaks the momentum of reform. You're no longer trying to drive reforms—you're thinking about how to keep the classes going and just survive.

The filing for bankruptcy of some school districts that had been recognized by the administration for implementing its proposed education policies—such as Richmond, CA and Chelsea, MA—simply highlights that the bottom line is that many school reform experiments are being carried out in a threadbare, fiscally imperiled laboratory.

The President is not helping. Total Federal spending for education has fallen to 1.7 percent of all Federal spending, compared to 2.5 percent in 1980. Historically, the Federal Government has been concerned about equal educational opportunities. Between 1970 and 1987, the poverty rate for children increased nearly 33 percent. In 1989, close to 25 percent of children under age 6 lived in poverty. When multiple-risk factors such as poverty, family structure, and race are taken into account, as many as 40 percent of all children may be considered disadvantaged. Yet the President's budget did not ask for an increase in the Chapter I Federal Compensatory Program that helps disadvantaged children. And despite his lectures on competitiveness, the President proposed to eliminate the Foreign Languages Assistance Program and to slash funds for the Dropout Prevention Program.

A recent study found that one out of eight American children skip meals because of money. Hungry children can't concentrate on school textbooks. Since there is no such thing as a free lunch, it is curious that despite the President's expressed concern about the education of all children, funding for the School Lunch Program is roughly the same as a decade ago—serving 1.5 million fewer children. No matter how closely you read his lips, the President's actions speak louder than his words.

FACT 2

The widening chasm in earnings and job security between those with a high school degree or less and those with post secondary education is apparent to all. Displaced homemakers, dislocated workers, and students who were not stars in high school are going back to school because they know they need to continue their education. We must not fall into what the Washington Times termed "The SAT Trap." The proportion of students graduating from high schools and taking the SAT to go on to higher education has grown from 40 to 42 percent over the past year. A math test in English is a test of a student's command of English as well as of math skills. The proportion of SAT takers who don't speak English as

a first language is 16 percent this year, compared with 13 percent 5 years ago. In California, the figure is 34 percent.

Ever since enactment of the GI bill, this emphasis on access to quality continuing education for all students who can do the work is one of America's strengths. It is hardly surprising that widening access can cause aggregate scores to move. Studies of random samples—such as the field test for the PSAT—as well as analyses of SAT results indicate that as USA Today reported:

The percentage of students who score high has stayed consistent for a decade, the College Board says. But the low scorers are scoring even lower.

There are signs of progress: A recent NAEP study showed that virtually all high school students are literate—in the early 1970's, 13 percent of high school graduates could not pass a basic literacy test. While scores on SAT tests didn't change much over the past decade, but black scores rose 49 points and the scores of Hispanic and Asian kids rose by half that much. Thus, a quarter of the gap in performance between white and minority students has been eliminated.

While much improvement is needed to close the gap and to boost the performance of all students, this indicates that progress is being made. Evaluations of WIC, Head Start, Chapter I and other programs for the disadvantaged show that good programs make a difference in boosting educational achievement in the early grades as well.

I agree with Secretary Alexander that public complacency, with an attitude of "The nation's at risk, but I'm OK" is a major barrier to school reform. However, as tempting as it may be to shout "fire" from the bully pulpit, careless comparisons are not a sound basis for policy. Improvements in assessment and accountability are needed—but we must be clear about what we are doing. As Edward Demming, a father of modern quality control methods reminds us, inappropriate measures—or even good numbers used in silly ways—are worse than no numbers at all. Like the Vietnam body counts, inaccurate measurements of educational achievement—or even good measurements used badly—are dangerous.

Tests are to education as xrays are to health care. Xrays are helpful tools for detecting broken bones, identifying cancers, and so on. But sometimes more sophisticated tools, such as CAT-Scans and PET-Scans are needed. Balance is needed: Xrays cannot be a substitute for preventative care or doctors or antibiotics. Unnecessary xrays unnecessarily drive up total medical costs—and in time they kill the patient. In education, as in health care, the Hippocratic Oath's principle of "first, do no harm" should be foremost. We need accountability that ensures fair and appropriate use of high quality tests of student performance.

As a former President was fond of saying, "Facts are stubborn things." The simple truth is often missed by the headlines. For example, we hear the bluster of politicians on the campaign stump calling to get tough in education by raising the standards. More than 80 percent of black high school males in Milwaukee schools have grade point averages of "D" or below. It is not uncommon to have entire inner-city classes where the majority of students have repeated two or more grades—despite clear evidence—noted by the Wall Street Journal and others—that early intervention and timely remediation are both more effective and far cheaper than retention in grade. (In addition, being over-age in grade is the best single predictor of who will drop out of junior high or high school.) These rates of failure and retention are not ununsual in our great city schools.

"Get real" is the message: Silver bullets are at best a small part of the armory that defends us against ignorance. It's time to move from myths to sound methods for quality education for all. It's time to get smart. This includes research-based reform, not another round of crackpot ideas and ideological agendas. An important part of this is abandoning what doesn't work in education, as well as adopting what does.

The simple truth is that cumulative gains from simple things—like small classes with good teachers, especially for young students from disadvantaged backgrounds—matter. This is clearly shown by some of the results of school reforms in Tennessee.

I would like to draw the attention of my colleagues to an article in the August 31 issue of a British journal, the Economist. It points out that Tennessee's Project STAR—Student/Teacher Achievement Ratio—conducted a large scale experiment assessing the impact of class size on education of disadvantaged students. By age 6 students in small classes did significantly better on standardized tests—and the gains persisted in schoolwork. The gains for the most disadvantaged children were nearly twice those of children from more advantaged backgrounds.

[From the Economist, Aug. 31, 1991]

SMALL IS BEAUTIFUL

Since children are less convenient to manipulate than guinea pigs, educational research is often short of hard data. But a team of state officials and academics in Tennessee recently ran a large experiment, with impressive scientific rigour, to test a hypothesis that has always made common sense: that children learn more when there are fewer of them in the classroom. The results were as expected. Children in smaller classes learnt more. Black children were helped even more than white children. So only one question remains: how to pay for cutting the size of classes?

In Project STAR (which stood for Student/Teacher Achievement Ratio), Tennessee officials randomly assigned all the five-year-old children in 76 schools to one of three types of classroom: small (13 to 17 pupils), regular (22 to 25 pupils), or regular with an aide helping the teacher. Breaking the children into separate groups within each school helped compensate for differences between rich and poor districts, spending per pupil and policies. The small-class teachers did not get special training. Pupils stayed in the type of class they had been assigned to originally for four years, beginning in 1985. The experiment covered about 6,500 pupils.

By the age of six, children in the small classes did significantly better on standard tests than the others; on average, they were 1½ months ahead in reading and 2½ months ahead in mathematics. The classes with teacher's aides did not show a statistically significant boost in scores. An unexpected finding, which should rivet the attention of all who care about black children's schooling, was that the gains of black children in the small classes were twice as large as the white children's gains.

In Tennessee the small-class advantage persisted after four years, and even helped the small-class pupils after the end of the experiment, when all the children were mixed together. Tennessee has mailed stacks of its report all over the country. Yet Lamar Alexander, the secretary of education, has preferred to stress other reform ideas, even though STAR began while he was governor of Tennessee. The reason is probably money. Reducing class sizes from 30 pupils to 20 means hiring half again as many teachers, whose salaries are roughly 80 percent of school-district budgets. More classrooms are not a problem; fewer children are at school now than ten years ago.

Tennessee, however, both believes in its results and had found money to implement them. It is using Federal and State money to reduce class size in the 17 poorest school districts in the State. They include 43 schools and, parents hope, 7,000 little stars in the making.

REINTRODUCTION OF LEGISLATION TO IMPROVE QUALITY OF ANTIADDICTION TREATMENT PROGRAMS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. STARK. Mr. Speaker, I am today reintroducing H.R. 2456 of the 101st Congress. Portions of this legislation were endorsed by the President in his "National Drug Control Strategy" and were almost adopted in the last Congress, but died at the last minute in conference. I believe the bill is worth pursuing and hope it can make it through the legislative process in the 102d Congress.

Basically, the bill sets up a system to make sure that people seeking to fight their addiction problem are referred to the right type of treatment, that more treatment programs are available, and that we determine which types of treatment do in fact work and are worth paying for. The bill is described in detail in the CONGRESSIONAL RECORD of May 23, 1989, page E1827, and September 6, 1989, page H5382.

The administration seems to be losing interest in the antidrug effort, but while drug use may be down, it is still a devastating problem, particularly in our inner-cities. And we still do not know very much about how to ensure the successful rehabilitation of addicts. Hundreds of thousands of addicts go without treatment. But we pay fortunes for the often unsuccessful treatment of thousands of others—people who go through antiaddiction programs only to relapse into addiction. Indeed, some of the programs seem designed to conveniently use the exact amount of time covered by a person's or company's health insurance—rather than to meet a true clinical need.

If enacted, the bill will ensure that we develop a system to pay the appropriate amount for the most successful treatments possible—and thus help reduce the recidivism rate and crime rate on our Nation's streets.

NATIONAL IMMUNIZATION WEEK SEPTEMBER 21-29, 1991

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. WAXMAN. Mr. Speaker, glance through the newspaper, turn on the television, ask your local pediatrician, and you will hear the same, sad news: Although measles was nearly eradicated in the United States in the early 1980's, today, epidemics are breaking out in cities across the country. At the same time, outbreaks of rubella and whooping cough are on the rise. Fewer children are getting their immunizations when they need them, and unvaccinated children are getting seriously ill and dying from preventable diseases.

In the face of this growing crisis in children's health care, the American Academy of Pediatrics [AAP] has joined forces with the Hollywood-based Children's Action Network [CAN], a group of entertainment industry leaders, and the U.S. Surgeon General to launch a national immunization campaign to immunize children and focus the Nation's attention on improving children's health. AAP and CAN are also working closely with the Centers for Disease Control, community organizations, public health officials, and social service agencies to guarantee ongoing efforts to improve immunizations services.

The centerpiece of the immunization campaign is National Immunization Week—September 21-29, 1991. During this period, an intensive effort will be undertaken to vaccinate children most at risk in nine target areas: Los Angeles; Chicago; Houston; Dallas; Miami; Washington, DC; Huntington, WV; and Philadelphia. Such efforts are particularly welcome in my own home of Los Angeles where last year alone, 7,488 cases of measles were reported and at least 35 infants and children died of complications related to this disease. Those figures represent, respectively, one-quarter of the total number of measles cases and one-third of the total number of measles-related deaths for the country in 1990.

Although immunization rates are close to 98 percent among school-age children, more than one-quarter of American preschoolers are not fully immunized. In some inner cities, as many as 50 percent of 2-year olds do not have their appropriate vaccines. Parents face many barriers to getting their children immunized, including inaccessible clinic locations, insufficient clinic hours, policies that require advance appointments, and inadequate health insurance coverage. Increased Federal funding and support for the Childhood Immunization Program are also necessary to improve immunizations levels among American children.

Lack of public awareness is an additional barrier which must be addressed if we are to reverse this devastating trend of falling immunization status. A recent Gallup poll showed that a large percentage of parents had little knowledge about how many shots their children need or when they should be given—30 percent did not know how many measles shots should be given and 43 percent did not know at what age the rubella vaccine should be given. Many parents mistakenly believe that children do not need to be vaccinated until they start school or that today's healthier environment and lifestyles have reduced the need to immunize their children. Most Americans would be surprised to know that levels of immunization in this country are lower than most countries in the Western Hemisphere, including Colombia.

The national immunization campaign, through its National Immunization Week activities and additional nationwide media and public awareness events, is bringing this important message straight to parents. The campaign's theme says it best: "Before it's too late, vaccinate." Local campaign coalitions will sponsor events, distribute educational materials and provide immunization screenings and vaccinations to children at designated health care sites, as well as provide information about preventive health care services.

I applaud the American Academy of Pediatrics and the Children's Action Network for their efforts in developing this campaign. I urge my colleagues to endorse the campaign's efforts to immunize children in their districts and to support Federal efforts to expand the existing childhood immunization program.

HISPANIC HERITAGE MONTH

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in commemoration of Hispanic Heritage Month which officially began September 15, 1991. When Christopher Columbus stumbled upon America in 1492 a new people with a new culture was born, a culture replete with unique traditions and art, politics and literature, religion and economics. This culture, the Hispanic culture, has now existed for almost half a millennium and it has existed in our midst. We have yet to properly recognize it and pay it true homage.

I want to pay it homage by paying tribute to the contributions of one individual, a Hispanic pioneer, Felix Martinez, who lived in my hometown of El Paso at the turn of the century.

In 1897, Mr. Martinez moved from New Mexico to El Paso. He soon established himself in the business community there and went on to become a local leader helping to make decisions as to where public works such as Elephant Butte Dam should be located and how the irrigation system should be organized. He helped build Paso del Norte, a central building downtown and the White House stores, a locally owned department store. Martinez was also active in local as well as State level financial institutions and at one point sat on the boards of El Paso's First National Bank and the Federal Reserve Bank of Dallas.

In 1915, Martinez's business acumen and leadership qualities caught the eye of President Woodrow Wilson who appointed Martinez to serve as chairman of the U.S. Commission to South America. In other words, Mr. Martinez served as a diplomat, an official representative of the United States to South America.

In 1916, Mr. Martinez died of pneumonia at the age of 58. However, during his 19 year tenure in El Paso he made small as well as large contributions on the city, State, and Federal levels.

Felix Martinez, like many other Hispanics who have made significant contributions to American society, has been an unsung hero for too long. Hispanic Heritage Month is an appropriate time to recognize and honor the Hispanic people and their contributions of yesterday and today, just as we do others. During this month I would like all Americans to look around you and discover how much of our history, culture, literature, art, and traditions have been enhanced by Hispanic culture and people like Felix Martinez. Let us reconcile ourselves with our Hispanic past, present, and future. Perhaps through a sincere acknowledgement of the Hispanic thread which has woven its way into the tapestry of American society, we will see that we have grown together and that we are really one. The achievement of this understanding is crucial in order for us to shed our reluctance and misunderstandings about one another and proceed on to the future.

I would like to conclude with a quote from the Mexican poet and Nobel Literature Prize winner, Octavio Paz, who has given us words which illuminate the future and remind us of our ability to change: "We console ourselves by saying that everything has happened as it should not have happened. But it is we who are mistaken and not history. We must learn to look at reality in the face; if necessary, we must invent new words and new ideas for these new realities that are challenging us."

REV. KENNETH R. CARDER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. KANJORSKI. Mr. Speaker, I would like to take this opportunity to recognize Rev. Kenneth R. Carder for his service as president of VISION—Volunteers In Service In Our Neighborhood—and for his strong commitment to those who are less privileged.

Reverend Carder's dedication to the community is very admirable, indeed. In addition to his founding and serving as president of VISION, he is chairman of the Methodist Urban Ministry of Wilkes-Barre, vice chairman of the board of ordained ministry, chairman of the Wyoming Valley Habitat for Humanity and the founder of an antidrug and alcohol and crime prevention program in Wilkes-Barre.

He is always available to those in need. It was a pleasure and privilege for me to work with him on the Habitat for Humanity project in Plymouth recently, If everyone in our society were to look after one another as Reverend Carder does, we would make great strides toward the elimination of hunger and homelessness in this country.

Reverend Carder's life is made complete by his loving family—his wife, Judith, his children and grandchildren. On behalf of his friends, neighbors, and members of the northeastern Pennsylvania community, I take special privilege in acknowledging Rev. Kenneth Carder for his good works.

TRIBUTE TO LT. TIMOTHY P. MATTHEWS

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 23, 1991

Mr. LIVINGSTON. Mr. Speaker, Lt. Timothy P. Matthews, USN, will be completing his tour of duty at the Navy Congressional Liaison Office. I would like to take this opportunity to recognize and thank him for his service to Congress. Hailing from the First District of Louisiana, Tim attended the United States Naval Academy and graduated in 1983 with a bachelor of science degree in mechanical engineering. Upon graduation, he was selected to attend nuclear propulsion school and was later qualified as a nuclear engineering officer.

Tim has been serving in the Department of Navy's congressional liaison office House of Representatives with distinction since May 1989. He was selected for this sensitive assignment based on his qualification as a surface warfare officer and his exemplary performance as reactor mechanical division officer while serving aboard the nuclear powered cruisers, USS *Long Beach* [CGN–9] and USS *South Carolina* [CGN–37].

During his tenure as a congressional liaison officer, Tim has been instrumental in maintaining the flow of information between the Navy and Congress. He has orchestrated and flawlessly executed dozens of congressional delegation trips within the United States and around the world. In addition, Tim was always prompt and straightforward in answering literally thousands of congressional inquiries. Tim has provided invaluable guidance to both junior naval officers and congressional staff.

Lt. Tim Matthews possesses the intellect and drive to do great things. Tim's talent and integrity will be missed by both the Navy and those of us on Capitol Hill. Tim, Louisiana is proud of you. We all wish you "fair winds and following seas."

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 24, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 25

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.

SD–342

10:00 a.m.

Foreign Relations

To hold hearings to examine START and the future of arms control in relation to the Soviet democratic revolution.

SD–419

12:00 p.m.

Select on POW/MIA Affairs

Business meeting, to consider pending committee business.

S–116, Capitol

2:00 p.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on S. 1650, to revise the national flood insurance program to provide for mitigation of potential flood damages and management of coastal erosion.

SD–538

Finance

Medicare and Long-Term Care Subcommittee

To hold hearings to review the Secretary of Labor's Coal Commission report on health benefits for retired coal miners, and to examine the status and financial condition of the United Mine Workers of America Health and Retirement Funds.

SD–215

Joint Economic

To resume hearings to examine the current poverty situation in the United States.

2359 Rayburn Building

SEPTEMBER 26

8:45 a.m.

Office of Technology Assessment Board

meeting, to consider pending business.

EF–100, Capitol

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Robert L. Clarke, of Texas, to be Comptroller of the Currency, Department of the Treasury.

SD–538

Joint Economic

To hold hearings to discuss current economic issues.

2359 Rayburn Building

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1495, to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and S. 1528, to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico.

SD–366

Foreign Relations

European Affairs Subcommittee

To resume hearings on consolidating free-market democracy in the former Soviet Union.

SD–419

Judiciary

To hold hearings on pending nominations.

SD–226

SEPTEMBER 27

9:30 a.m.

Governmental Affairs

To hold hearings on consumer protection issues at the Food and Drug Administration, Department of Health and Human Services.

SD–342

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 1364, to revise the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans.

SD–215

SEPTEMBER 30

10:00 a.m.

Finance

Health for Families and the Uninsured Subcommittee

To resume hearings on proposals to reform the health care system, focusing on ways to control health care costs and improving access to health care coverage.

SD–215

OCTOBER 1

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 452, to authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, S. 807, to permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years, S. 1182, to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, S. 1183, to reduce the restrictions on the lands conveyed by deed to the city of Kaysville, Utah, S. 1184, to direct the Secretary of the Interior to conduct a study to determine the nature and extent of the salt loss occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources threatened by such salt loss, and S. 1185, to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36).

SD–366

OCTOBER 2

9:30 a.m.

Governmental Affairs

To hold hearings to examine government regulation of reproductive hazards.

SD–342

Special on Aging
To hold hearings to examine older Americans concerns relating to fraud and abuse in the Medicare program.
SD-628

Joint Economic
Education and Health Subcommittee
To hold hearings to examine ways to reform the American health care system.
Room to be announced

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Ming Hsu, of Arizona, to be a Federal Maritime Commissioner.
SR-253

OCTOBER 3

9:30 a.m.
Rules and Administration
Business meeting, to mark up S. 289, to authorize an extension of the National Air and Space Museum at Washington Dulles International Airport, S. 1345, National Film Preservation Act, S. 1415, to provide for additional membership on the Library of Congress Trust Fund Board, S. 1416, to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services, S. 239, to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in Washington, D.C., and H. Con. Res. 172, providing for the printing of a revised edition of the booklet entitled "Our American Government."
SR-301

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of Richard Clark Barkley, of Michigan, to be Ambassador to the Republic of Turkey, James F. Dobbins, of New York, to be U.S. Representative to the European Communities, with the rank of Ambassador, and John Christian Kornblum, of Michigan, for the rank of Ambassador during his tenure of service as Head of Delegation to the Conference on Security and Cooperation in Europe (CSCE).
SD-419

OCTOBER 4

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to examine the status of Great Lakes Federal programs.
SD-342

OCTOBER 8

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings to examine whether the Federal government is making environmentally conscious decisions in its purchasing practices.
SD-342

11:00 a.m.
Foreign Relations
To hold hearings on the nomination of David A. Colson, of Maryland, for the rank of Ambassador during his tenure of service as Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, and on the International Convention on Salvage, 1989 (Treaty Doc. 102-12), and the International Convention on Oil Pollution Preparedness, Response and Cooperation (Treaty Doc. 102-11).
SD-419

OCTOBER 23

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the Report of the Commission on the Future Structure of Veterans Health Care.
334 Cannon Building

9:30 a.m.
Governmental Affairs
To resume hearings to examine the employment and promotion opportunities in the Federal Government for women and minorities.
SD-342

CANCELLATIONS

SEPTEMBER 25

9:30 a.m.
Joint Economic
Education and Health Subcommittee
To hold hearings to examine ways to reform the American health care system, focusing on the contrast in administrative costs in the U.S. and Canadian health care systems.
2359 Rayburn Building

POSTPONEMENTS

SEPTEMBER 24

9:30 a.m.
Small Business
Business meeting, to markup S. 1426, to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.
SR-428A